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

**Luxembourg**

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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 Luxembourg was held at the 4th meeting on 2 December 2008. The delegation of Luxembourg was headed by H.E. Mr. Nicolas Schmit. At its meeting held on 4 December 2008, the Working Group adopted the present report on Luxembourg.
2. On 8 September 2008, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Luxembourg: Canada, Slovenia, and Bangladesh.
3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of Luxembourg:
  - (a) A national report submitted / written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/3/LUX/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.6/3/LUX/2);
  - (c) A summary prepared by OHCHR, in accordance with paragraph 15 (c) (A/HRC/WG.6/3/LUX/3).
4. A list of questions prepared in advance by the Czech Republic, the United Kingdom of Great Britain and Northern Ireland, Sweden and Denmark was transmitted to Luxembourg 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. At the 4th meeting, on 2 December 2008, H.E. Mr. Nicolas Schmit, Delegate Minister for Foreign Affairs and Immigration and representative of Luxembourg introduced the national report. In his presentation, he reported that Luxembourg held consultations with Government officials and civil society during the preparation of the national report. The Government exchanged views in several meetings with associations and organizations engaged in the promotion and protection of human rights. Beyond its national interest on human rights issues, Luxembourg was also engaged in and concerned about the human rights situation worldwide.
6. The representative thanked delegations for providing Luxembourg with advance questions. In his replies, he explained that the National Consultative Commission on Human Rights was a governmental consultative body responsible for assisting the Government on all human rights issues in the country. It makes proposals on measures and programmes of action aimed to protect and promote human rights, in particular in schools, universities and work places.
7. On detention conditions, the Government is aware that they were not perfect, particularly owing to prison overcrowding and the absence of a prison for minors. The number of prisoners has increased in recent years, even though there is now a certain degree of stabilization in numbers, which are close to maximum capacity. There are plans for a second prison to be constructed to address this problem. To date, some asylum seekers whose requests have been

refused while they await their removal from the country are detained in the State prison owing to the lack of a detention centre for them. The Government is fully aware that this is not a perfect situation and it is for that reason that the State is endeavouring to build a new holding centre. Luxembourg attaches great importance to a humanitarian approach within this holding centre. The Government is also planning to build a closed security unit for minors by 2010. With regard to children and minors whose parents are prisoners, Government policy puts the interests of the child first and the authorities treat very rare cases on a case-by-case basis. There is also a specialized service that allows for visits for children whose parent or parents have been incarcerated. The representative also stated that continuous learning programmes were organized for prison personnel on behaviour techniques, deontology, the fight against racism and conflict settlement. With regard to the rights of children, these are subject to special monitoring by the Ombuds-Committee for the rights of the children, an independent body connected to the Ministry for Family Affairs.

8. Concerning women's rights, the representative recalled that, at the invitation of the Government, members of the Committee on the Elimination of Discrimination against Women visited Luxembourg in October 2008. The visit, the first of its kind, helped enhance the Government's endeavours to implement the Convention on the Elimination of All Forms of Discrimination against Women. Regarding traditional attitudes and roles, efforts were made, including through a project on public communications, to prevent stereotyped images and texts by the Government. A number of measures, particularly with regard to violence against women, prevention of prostitution and trafficking were subsequently being put in place. For example, coherent strategies and plans of action will be integrated into the second national plan on equality 2009-2013 to implement the recommendations of the Committee on the Elimination of Discrimination against Women and the Beijing Platform. There had also been an improvement in the area of gender equality and employment. The most recent figures on salaries show that the gap is now 14 per cent and thus the objective of equality has not yet been reached. The Government continues its efforts on this issue.

9. Concerning the rights of the child, reform on education was being prepared to ensure equal opportunities and a reform of professional training was adopted in November 2008. On the concerns of the Committee on the Rights of the Child about the fact that migrant children were disadvantaged by education programmes, the representative affirmed that a study undertaken in this area revealed that the factor "social and professional category" was prominent to the factor "nationality" with regard to school success. The Government offers welcome and special language classes for post-primary teaching.

10. The representative stressed that, in the framework of Luxembourg's policy for development cooperation and humanitarian action, the ultimate goal of efforts is to ensure good governance, democracy and the eradication of poverty. The Government is placing its activities under the heading of the Millennium Development Goals and supporting the efforts of its partner countries, to ensure greater respect for and enjoyment of economic, social and cultural rights of their citizens.

11. Luxembourg is a highly multicultural country; some 43 per cent of those living in the country are foreigners. Approximately 140,000 foreign workers cross the border every day to work in Luxembourg, which is a major challenge in terms of social cohesion. With regard to asylum-seekers, there was a support programme instituted by the Government for those persons who were denied asylum. Recently, the Government adopted a new law on immigration which aimed at enhancing the enjoyment of rights for immigrants residing in Luxembourg.

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

12. During the interactive dialogue, statements were made by 30 delegations, a number of which praised Luxembourg for the high quality of its presentation and for its national report.
13. Australia noted the concerns that have previously been expressed over the persistence of xenophobia and intolerance in Luxembourg. It drew special attention to paragraphs 18 and 19 of the compilation prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR), which set out the concerns of the Committee on the Elimination of Racial Discrimination and the Committee against Torture relating to racist and xenophobic incidents and discriminatory attitudes towards ethnic minorities, as well as reports that foreign detainees are subject to arbitrary behaviour and racist or xenophobic insults by law enforcement and prison personnel. Australia asked for further information on the efforts made to combat racism. It noted that Luxembourg has signed, but not ratified, the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, and asked if the country could give an update on when it expects to ratify the Convention and report on the main challenges to implementing it.
14. Germany welcomed the efforts made by Luxembourg to combat gender-related discrimination outlined in its National Action Plan on gender equality, an effort also noted with appreciation by the Committee on the Elimination of Discrimination against Women in 2008 and set out in the United Nations compilation. Nonetheless, Germany noted that, according to a report of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe in 2003, and a subsequent report of the Committee against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment in 2007, the treatment of detained persons, especially those of foreign descent, by prison personnel might be problematic in some cases. Germany would be interested in receiving information on how the authorities of Luxembourg follow up on these comments from treaty bodies. Noting the mention in the presentation of the construction of a new detention centre and measures for police training, Germany further asked what additional administrative measures to address possible problematic treatment of detainees Luxembourg intends to take.
15. Cuba noted that special attention should be given to the efforts to draft policies to eliminate all forms of discrimination on the basis of gender. Cuba also recognized the work by the authorities to protect the interests of boys and girls of migrants and disabled people. Cuba recognized the assistance given by Luxembourg to disabled people for them to receive vocational training and enter the job market. It commended Luxembourg's actions in education, including the institutionalization of free compulsory and universal education for all children up to the age of 18. It stressed that Luxembourg is one of the very few developed countries that has consistently upheld its international commitment to allocate 0.7 per cent of its GNP to official development assistance, and has set an example to follow and a model in achieving international solidarity. Cuba urged Luxembourg to continue upholding its international commitment to contribute 0.7 per cent of GNP to official development assistance and to encourage their partners in the European Union and in the Organization for Economic Cooperation and Development to replicate this good practice.
16. France noted that the Committee on the Elimination of Discrimination against Women expressed its concern at the persistence of violence against women, in particular in the immigrant community. France requested additional information on the implementation of the law on domestic violence. It recommended that Luxembourg consider adopting an overall strategy to eliminate violence against women, which would include a preventive component. France noted

that no laws in Luxembourg explicitly ban any form of corporal punishment within the family. It asked if any steps have been taken to penalize such practices. France recommended that necessary measures be taken to ban this practice. It asked for further information on the building of a security centre for minors. It encouraged Luxembourg to think about how the detention conditions of minors can be improved, including counselling services. France asked for further details on the treatment of asylum-seekers and the incorporation of the principle of *non-refoulement* into Luxembourg's legislation. It recommended that Luxembourg take all necessary steps to accelerate enforcement of law regarding the acceptance and integration of foreigners.

17. The Russian Federation noted that, according to the compilation prepared by OHCHR, Luxembourg has replied to 2 out of 12 thematic questionnaires received from special procedures. It asked for the reason for such a modest rate of reply. It also noted that, according to the compilation prepared by OHCHR, the Committee on Economic, Social and Cultural Rights had voiced concern at the situation of prisoners working for private businesses. The Russian Federation requested more information on the extent of such practices and the action taken to follow up on the recommendations by the Committee to ensure that such work is voluntary, and that there is an appropriate level of payment for it. It noted the significant efforts made by Luxembourg to improve the rights of women and children. It recommended that further steps be taken, and also recommended the implementation of the recommendations of the Committee on the Elimination of Discrimination against Women, as formulated in 2008 on drafting strategies and programmes to combat prostitution. It called on Luxembourg to continue its efforts to fight the sexual exploitation of children for commercial ends, and to continue to take effective measures to protect children from violence, racism and pornography.

18. Brazil welcomed the important steps taken by Luxembourg and its commitment to the full realization of human rights. It recognized the adoption by Luxembourg of a legal and regulatory framework to foster the internalization of international human rights instruments. It recognized the measures taken by Luxembourg to face human rights challenges, especially those described in the national report as key areas, such as freedom of expression, women's rights, combating human trafficking, the rights of the child, the rights of persons with disabilities, the administration of justice, immigration, combating all forms of discrimination and related intolerance. Brazil asked for more details about the policy, steps taken and forward-looking measures regarding human rights of migrants, the fulfilment of the rights of the child, and human trafficking, with special attention to the sexual exploitation of women and children. It also requested more information on steps taken and the shortcomings identified by Luxembourg refugees and asylum-seekers. Brazil recommended that Luxembourg attain the human right goals set by the Human Rights Council in its resolution 9/12. It recommended that Luxembourg consider ratifying the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities as well as Optional Protocol to the Convention against Torture. It recommended that Luxembourg further develop its laws on migrants, refugees and asylum-seekers in line with the principle of *non-refoulement*. It also recommended that Luxembourg consider strengthening policies on human rights and mental health, with special attention to the area of child psychiatry.

19. Algeria shared the conviction of Luxembourg on the need for an approach based on the primacy of international law, and multilateral cooperation among equal and sovereign States, with a view to collectively working towards peace and development, the respect of human rights and the resolution of all international problems. Algeria welcomed the efforts of the Government of Luxembourg to adapt and improve its policy on immigration. It welcomed the innovation introduced into the legislative system following the adoption of a new law on foreigners in July

2008. However, as paragraph 31 of the summary of the civil society contribution refers to discrimination on jobs against migrants that are not nationals of the European economic area when it comes to family reunification, Algeria asked for clarification on existing provisions on family reunification for migrant workers, especially for non-members of the European economic area. Algeria recommended that Luxembourg accede to the International Convention on the Protection of the Rights of All Migrant Workers and Member of Their Families.

20. Azerbaijan commended Luxembourg's approach to the promotion and protection of human rights. However, it noted that Luxembourg is not party to some human rights instruments and asked the country to sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Member of Their Families, and ratify the International Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention against Torture. Azerbaijan asked how the Government intends to tackle the question of incidents of racism and xenophobia, in particular against Arabs and Muslims, indicated by the Committee on the Elimination of Racial Discrimination. It also asked comments on the statement of the Committee against Torture indicating that Luxembourg legislation does not defend the principle of *non-refoulement*. Azerbaijan noted that the underrepresentation of women, forced marriages and the wage gap between men and women are global phenomena. It commended the Government for its efforts in addressing those issues. Azerbaijan recommended that it intensify efforts to combat human trafficking and applauded Luxembourg's large contribution to the budget of international organizations.

21. Italy congratulated Luxembourg on its comprehensive national report and asked whether it intends to proceed with the ratification of the Optional Protocol to the Convention on the Rights of Child on the sale of children, child prostitution and child pornography. While welcoming the legislative and institutional initiatives taken by the Government of Luxembourg to strengthen the fight against all forms of racial discrimination, Italy recommended that the Government transmit to the Committee on the Elimination of Racial Discrimination its overdue national reports, in order to share the experience of Luxembourg in this domain.

22. Malaysia commended the adoption of new legal and policy measures by the Luxembourg Government aimed at strengthening the protection of the human rights not only of its people, but also those of foreigners and asylum-seekers. Malaysia also noted with approval Luxembourg's serious efforts to ratify the Optional Protocol to the Convention on the Rights of Child on the sale of children, child prostitution and child pornography. Malaysia was also interested in knowing what has been done to address the issues of the persistence of stereotypical attitudes towards women, mentioned in the observations of the Committee on the Elimination of Discrimination against Women in 2008, as well as of racist and xenophobic incidents, particularly against Arabs and Muslims, and discriminatory attitudes towards ethnic minorities by public officials, quoted in the Committee's observations in 2005. Malaysia recommended that the recommendations of the Committee on the Elimination of Racial Discrimination be adopted, in particular those calling for all officials coming into contact with minority groups to receive human rights training and the recommendation that any organization promoting or inciting discrimination should be declared illegal and prohibited, and recognition that participation in such organizations is an offence punishable by law.

23. In response to comments and questions put forward by various delegations, Luxembourg mentioned that, regarding conventions which Luxembourg has not yet ratified, a draft law was tabled on 13 March 2008 for the ratification of the Optional Protocol to the Convention against Torture, and that the draft law provides for the creation of a general external control mechanism

for places of detention and grants particular competence in this area to the mediator, an independent institution with prerogatives to address the Government when rights have not been respected. The mediator has also a function of monitoring prisons. This draft law will be adopted in the next few months. With regard to the Optional Protocol to the Convention on the Rights of Child on the sale of children, child prostitution and child pornography, the Government will ratify it at the same time as the Convention on Protecting Children against Sexual Abuse and Exploitation of the Council of Europe. The draft law is being elaborated and will be brought to the Parliament soon. Part of the Optional Protocol to the Convention on the Rights of Child on the sale of children, child prostitution and child pornography is also covered by the law on human trafficking, which has already been tabled in 2008.

24. With regard to racial discrimination, the delegation said that Luxembourg fully applies the European directives in this area, calling for sanctions in cases of racial discrimination and has a monitoring body for all questions of discrimination, which is ensuring that such practices do not occur. With regard to questions relating to discriminatory practices against prisoners of foreign nationality, Luxembourg mentioned that the training of staff, in particular prison guards and law enforcement officials, is designed specifically to preclude all discriminatory practice. This is particularly important for a multicultural society like Luxembourg.

25. With regard to violence against women, the delegation mentioned that Luxembourg had made major efforts over the last 15 years and that cultural elements need to be countered. A refuge for women and children threatened by violence and a service for psychological assistance to violent husbands have been set up. Also, training is provided to police officers who intervene in cases of violence against women. In order to coordinate all these initiatives, an inter-ministerial committee was established to improve procedures, submit an annual analysis report and ensure follow-up of expulsions, in particular of violent husbands from their homes.

26. With regard to discrimination against migrant children, Luxembourg stressed that school programmes and welcome and support classes were organized to help them in their studies, particularly children who had language problems. Luxembourg indicated that a new law on assistance to children prohibiting corporal punishment, including in the home, was adopted on 20 November 2008.

27. Luxembourg indicated that it is modernizing and expanding a detention centre for minors and that psychological follow-up for minors already exists and could be improved. The Government fully respects the principle of non-refoulement enshrined in the 1951 Geneva Convention. A new law on integration was adopted recently and an action programme is being prepared over a number of years to implement the law and to ensure greater solidarity and integration of non-Luxembourg citizens into society. Luxembourg stated that a number of reports from treaty bodies are being drafted and committed itself to producing the overdue report to the Committee on the Elimination of Racial Discrimination as soon as possible. Regarding the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, there are problems of compatibility between the Convention and European community law. The Convention is a good framework and the delegation said it will try to propose a more in-depth study within the European Union to determine whether it might be possible to find a solution for the ratification of this Convention. Luxembourg attached considerable importance to child psychology and to reforming the psychiatric system in the spirit of open psychological follow-up, ensuring that people are brought out of closed institutions.



28. Luxembourg stated that to fight against human trafficking, there is the legislation on immigration, and two new draft laws, reforming notably the criminal code. Cooperation is ongoing with the Organization for Security and Cooperation in Europe to combat human trafficking. With regard to family reunification, European Union legislation was transposed, which gives each citizen residing in Luxembourg, under certain conditions, the right to family reunification. Overall, Luxembourg said it was not aware of any acts of discrimination that are offensive to persons of Arab or Muslim origin in the country.

29. Argentina recognized that Luxembourg had ratified the majority of international instruments pertaining to human rights. It noted that Luxembourg has not ratified the Convention on the Rights of Persons with Disabilities, the Optional Protocol to the Convention against Torture and the Convention on Enforced Disappearance. Argentina asked Luxembourg to consider ratifying these conventions and to accept the competence of the Committee on Enforced Disappearances. Argentina noted that the Committee on the Elimination of Discrimination against Women has called attention to persistent stereotypical attitudes with regard to the traditional role of women. It also noted that continued cases of discriminations against ethnic and religious minorities and in particular Muslims and people of Arab origin. Argentina asked what measures Luxembourg has taken to eliminate discrimination against women and discrimination against ethnic and religious minorities.

30. The Czech Republic expressed appreciation for the national report of Luxembourg as well as for the very informative introductory statement. It asked what specific measures are available to protect the rights of children of detainees/prisoners and of children and juveniles alleged to have infringed criminal law. Luxembourg was also asked to elaborate further on measures taken to ensure compliance with the rule of *non-refoulement* and whether there have been any recent changes in rules on maximum time detainees may be held in solitary confinement. While welcoming the fact that Luxembourg signed the Optional Protocol to the Convention against Torture, the Czech Republic recommended its early ratification and the establishment of its national preventive mechanism accordingly.

31. Mauritius noted that, as French-speaking countries, Luxembourg and Mauritius have both signed the Bamako Declaration, which reaffirms the attachment of French-speaking countries to democratic values and their respect. Mauritius expressed its support for Luxembourg's commitment to the respect of human rights not only in the country but also around the world. It particularly noted the measures to promote equality between men and women, the fight against human trafficking, the launching of a modern immigration policy and the training of State personnel in the area of human rights. Mauritius noted that Luxembourg has problem related to delays in access to justice and asked for more information on the progress achieved in this area.

32. The United Kingdom of Great Britain and Northern Ireland welcomed the emphasis given by the Government of Luxembourg to human rights issues and was pleased to note the consultation of numerous stakeholders in the production of the national report. It recommended that Luxembourg continue this process of consultation in its follow-up to these reports. The United Kingdom asked if Luxembourg plans to reconsider its policy regarding the persistence of stereotypical attitudes towards women, and the difficulties experienced by immigrant women, in particular their integration and participation in the labour market. It recommended that the CPD and the Optional Protocol to the Convention against Torture be ratified by the Government of Luxembourg in the near future.

33. Egypt expressed its appreciation to Luxembourg for the presentation and the national report. Luxembourg was commended for its well developed institutional and human rights infrastructure and Egypt was interested in having further information on the National Council for Foreigners and Mediator, and on the Ombuds-Comité relating to the rights of children. Egypt also applauded Luxembourg for its commitment to multilateral cooperation, to interculturalism and the protection of children in armed conflict. In this regard, Egypt expressed its appreciation for the contributions by Luxembourg to the financing of the United Nations Relief and Works Agency for Palestine Refugees and for the fact that Luxembourg is one of the few States to allocate more than 0.7 per cent of GDP to development assistance. Egypt was interested in having further information on the policy of the Government of Luxembourg with regard to migration, combating racism and xenophobia, in particular what has been done in the area of education and media. Egypt recommended that Luxembourg consider adhering to the ICRMW, and effectively address the difficulties experienced by migrants, particularly migrant women. It also recommended that it ratify the OP-CRC-SC; strengthen efforts to combat human trafficking and sexual exploitation, strengthen efforts to combat racism, racial discrimination, xenophobia and related intolerance, and implement the recommendation of the Committee on the Elimination of Racial Discrimination in this regard.

34. Canada, as part of the troika, commended Luxembourg's proactive approach on the international scene, which reflects its commitment to the respect for human rights. Canada welcomed Luxembourg's efforts in combating racism and xenophobia, including the recent adoption of a law making discrimination and racism aggravating circumstances. Canada noted that, despite such efforts, certain behaviours persist in Luxembourg and recommended that Luxembourg provide improved training for officials on human rights, including racial discrimination and xenophobia issues. While recognizing Luxembourg's efforts to provide adequate protection to refugees seeking asylum, Canada expressed its concerns, in line with the Committee against Torture, at Luxembourg's policy of detention of asylum-seekers. Canada recommended that Luxembourg bring its policy into line with paragraph e of the conclusion 7 of the conclusions on international protection for refugees, which recommends that expulsion measures should not include detention unless for national security reasons or public order. Canada took note of the concerns raised by the Committee on the Rights of the Child and the Committee against Torture concerning human trafficking, and encouraged Luxembourg to continue efforts in combating human trafficking. Canada recommended implementing all relevant provisions of the Protocol to prevent, repress and punish those who are guilty of human trafficking, especially trafficking women and children. Canada also expressed its disappointment at certain terminology, which tends to exclude women and children. It recommended that Luxembourg adopt in French, as this is the case with the two other official languages, terminologies which truly reflect common values related to equality between men, women and children.

35. Burkina Faso commended Luxembourg for the measures taken in recent years with a view to strengthen the fight against all form of discrimination and encouraged Luxembourg to continue in this direction. In this respect, the creation of the centre for equal opportunity in the work place and the work market is very welcomed. Burkina Faso asked for further information on the solutions Luxembourg intends to find for the problem of family reunification, which is of particular concern for migrant workers who are not members of the European economic area.

36. Chile noted that the reports prepared by OHCHR show that Luxembourg has taken into account the majority of observations and recommendations made by treaty bodies, special procedures and non-governmental organizations. Chile particularly welcomed measures to

promote the rights of women, namely the National Action Plan for gender equality. It noted that the Committee on the Elimination of Discrimination against Women observed that not all sectors of the Government were able to implement the plan fully. Chile requested more information on the implementation of the plan. Noting that the Committee recognized efforts to eradicate violence against women and recommended the adoption of strategies and an action plan to fight this phenomenon, Chile asked what Luxembourg intends to do in the future. Chile asked for further details on the fight against prostitution. It also asked what safeguards Luxembourg is adopting to prevent a person from being deported to a country where they may be tortured. Chile requested more information regarding the new law adopted in July 2008 on immigration, which, according to the human rights advisory committee, contains general provisions affecting human rights, the execution of which might be governed by decree.

37. The Islamic Republic of Iran shared the concerns expressed by various United Nations treaty bodies on a number of issues, including the difficulties experienced by immigrant women, racist and xenophobic incidents, in particular against Arabs and Muslims, violence against women, trafficking of human beings, child pornography and disadvantaged foreign children in educational programmes. It also raised particular cases that need elaboration of measures by the Government of Luxembourg. It recommended that Luxembourg take appropriate measures to tackle practically the problem of trafficking for sexual exploitation in a comprehensive manner. With regard to domestic violence, it recommended that Luxembourg promote the strengthening of the foundations of the family and its associated values in society through appropriate ways and means. Iran also recommended that Luxembourg revisit relevant policies and practices to create a better condition of work in the benefit of workers and their families.

38. China appreciated the achievements and advanced practices made by the Government of Luxembourg in all aspects of human rights, especially new legislative and administrative measures taken in nationality policy, women's right, trafficking in human beings, and protection of the rights of the child. China noted that in the protection of the rights of the child, Luxembourg has a very special parental assistance programme, half way houses, parent helpers and comprehension programs which China has great interest in. China asked for more details on the operation-model of the program. It also noted that in recent years Luxembourg has taken a series of active measures in preventing and combating discrimination including the establishment of a centre for equal treatment in 2006. China asked if the initial expectation for this centre was met, what was the major achievements made, and the problems encountered.

39. In reply to some questions, Luxembourg said that competent ministries are studying the Convention on the rights of persons with disabilities and a bill for its ratification is being drafted. On the question on the representation of women in politics and political bodies, Luxembourg indicated that it was not enough to have 23 per cent of women in parliament and some women ministers and that further efforts needed to be done. There's no quota system provided for in the legislation. Participation of women in politics means balancing professional and private life. In this regard, Luxembourg is trying to develop child care facilities for families at working times and has introduced a service encouraging parents to put their children in day care services.

40. Luxembourg included aggravating circumstances in the case of a crime coupled with discriminatory behaviour and a 1997 law included a provision of prison sentence of up to two years for any person belonging to an organization aiming at inciting to discriminatory and racist behaviour. Luxembourg is making efforts to deal with the slow pace of the justice system and has increased its judicial staff. Luxembourg stressed that not all asylum seekers are detained; it's only in specific cases of non cooperation by the asylum seeker that detention is provided for by

the law. A bill is currently being drafted for a specific detention centre separate from prison. No minors may be held in this detention centre for more than 72 hours. With regard to the new immigration law, one single permit allows migrants from non EU countries to reside and work in Luxembourg. There is an ongoing reflection and a debate in the parliament on how to better fight against phenomena like human trafficking and prostitution.

41. As regard to the question of detainees who work in the private sector, there are indeed some cases where people who are on parole are allowed to work. They have the same social rights. They are allowed to work outside the prison, they have a legal contract, a salary and social security benefits. There is no discrimination against people who are in partial detention or who are on parole. There is also a washroom in the prison that is ran cooperatively with the private sector and people who work in the washroom are payed wages. Luxembourg noted that there is a mediation system for minors in detention and efforts are made to reintegrate them in society, as they have the possibility to be trained and to work. Respect for equality between girls and boys is an educational principle and children are taught about non-violence within the school system.

42. Ukraine noted that Luxembourg has an institutional framework for the rule of law which guarantees the human rights and which forms an integral part of the social, political and civil well-being. The Government of Luxembourg was commended for the active cooperation with many international mechanisms in order to implement human rights at all level of its society and participate in almost all core human rights treaties. Ukraine welcomed the fruitful cooperation between Luxembourg authorities and non-governmental human rights organisations, particularly in the context of assistance to aliens in administrative detention and asked for more information regarding the contributions of the Centre for Equal Treatment to the promotion of equal treatment.

43. Sweden, while acknowledging that the state of human rights in Luxembourg is generally good, was concerned by the insufficient detention capacities and overcrowding in prisons. Sweden welcomed the announced plan to construct a second prison in the country and noted this will be accomplished by 2010, and recommended that the Government of Luxembourg intensify the efforts to secure detentions conditions, including care of children and youngsters deprived of their liberty that fully meets international human rights standards. Sweden also welcomed the new legislation abolishing the use of corporal punishment against children.

44. Turkey asked if the ratification of the CPD and the possible accession to the ICRMW were considered by Luxembourg. Turkey was pleased that the principle of equality between men and women has been included in the constitution revised in 2006 and encouraged Luxembourg to continue the implementation of its action plan which is in line with the Beijing Declaration and programme of action and to take into account the Committee on the Elimination of Discrimination against Women recommendations concerning the persisting violence against women. It encouraged Luxembourg in its efforts to ensure that prison services have the necessary resources.

45. Slovenia noted many impressive positive developments and highlighted the fact that Luxembourg allocates more than 0.7 per cent to the official development assistance. Slovenia was interested to learn whether Luxembourg is considering introducing temporary special measures to increase involvement of women in political and public life and to receive information on the state of play with regard to the adoption of the draft law reforming divorce. It asked questions, also as a mean of recommendations, on the provision made for alternatives to

custody, both pre-trial and in sentencing and on the measures implemented to protect the best interests of babies and children affected by parental detention or imprisonment. Slovenia also recommended including a gender perspective into the UPR follow-up process in a systematic and continuous manner.

46. Belgium welcomed progress made in a number of areas, including economic, social and cultural rights and in increasing prison capacity, health care and social mobility. It asked the delegation about the follow-up to the Mediator's recommendation to set up a judge for sentence enforcement and a general directorate for penitentiary administration that is both autonomous and decoupled from the Attorney general. Belgium requested clarifications regarding the concern that certain criteria and conditions for the conclusion of the convention provided for in article 22 of the Constitution could lead to discrimination against various religions or belief systems. It recommended that the Government of Luxembourg actively ensure that all religious and belief communities are treated without any discrimination.

47. Portugal commended the invitation of the Committee on the Elimination of Discrimination against Women to its first ever follow up visit to a State party and noticed that Luxembourg has begun implementing the Committee's recent recommendations. Portugal requested further information on the National Action Plan on Gender Equality and recommended that the implementation of this Action Plan continue to be fully assumed by all sectors of the Government. Portugal welcomed the draft law on the legal age of marriage and requested further information on its current status.

48. Mexico commended the policy to integrate foreigners living in the country by offering them Luxembourg nationality without requiring them to renounce their nationality of birth as well as provisions for Luxemburg nationals born or living abroad not to lose their nationality. Mexico was concerned about the prisons and detention centres, in particular the detention centre for irregular immigrants. It was confident that the Government in establishing guidelines for the new detention centres would uphold all of its international human rights obligations. Mexico requested further information about measures adopted to address the important challenge of stereotypical traditional perceptions about the role of women in the society. Mexico recommended to the Government of Luxembourg to ratify the ICRMW; cooperate closely with and strengthen the role of the Advisory Commission on Human rights; provide training to security forces with special attention to issues of migration, asylum and refugees and stop the practice of releasing at the border offending minors in special situation and with no family members; and review the criteria for issuing visas for night club performers with a view to preventing human trafficking.

49. Ghana appreciated initiatives taken by the Government of Luxembourg such as the legislation to assist children in distress, the introduction of intercultural mediators in schools, training programmes for prison staff and the establishment of a centre for equal treatment. It requested the delegation to share, if any, the experiences the centre has acquired through its studies on matters related to discrimination and recommended that the Government strengthen measures to grant foreign children and children of asylum-seekers equal access to the same standard of services in the field of education. It also recommended that in addition to build a new prison and holding centres, the Government should also consider non-custodial ways of addressing the problem of pregnant convicted women and the children of convicted mothers, particularly when the mothers are foreigners or illegal residents, both during the pre-trial and post sentence periods.

50. Uruguay thanked Luxembourg for the consulting process undertaken for the elaboration of the report. Noting the rise of the carceral population, Uruguay asked what the explications for the increase of crime rate are. It also asked if Luxembourg plans to apply non custodial sentences, in the view to ease prison overcrowding.

51. Senegal noted that the significant progress made on the protection of children, women, and persons with disabilities, as well as the legal arsenal that Luxembourg has for human rights matters illustrate Luxembourg commitment in improving the situation. Senegal encouraged Luxembourg to enhance its efforts in education for human rights. Human rights education is the cornerstone for any lasting success in promoting and protecting human rights. As to intercultural dialogue, Senegal asked for more information on approach and methodology used and envisaged.

52. In responding to questions, Luxembourg considered that more progress still needed to be done on the issue of deprivation of liberty. Prisons needed to be built when necessary, but other systems have been introduced like the electronic bracelet, a law allowing for the release of persons on probation was adopted and a law sets in many instances, fines, as an alternative to imprisonment. On the reform of the divorce legislation, currently before the parliament, it does, inter alia, modernize the legislation and establish equal age limits for men and women to marry. The Center for Equal Treatment, the prerogatives and activities of which are described in the national report, was just installed and no assessment of its experience could be done yet. Monitoring sentences would be an innovation in Luxembourg's legislation and the recommendation to establish a judge for sentence enforcement is being examined. Luxembourg thanked the participants for the constructive dialogue and affirmed that the UPR exercise was showing its utility. It reminded delegations that they all have the same goal, the continuous fight for universal respect for human rights laid 60 years ago with the adoption of the Universal Declaration of Human Rights.

## II. CONCLUSIONS AND/OR RECOMMENDATIONS

53. In the course of the discussion, the following recommendations were made to Luxembourg:

1. To consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Algeria, Egypt, Mexico), the International Convention for the Protection of All Persons from Enforced Disappearance (Brazil, Argentina) and the Convention on the Rights of Persons with Disabilities, as well as the Optional Protocol to the Convention against Torture (Brazil, Argentina, United Kingdom); to recognize the competence of the Committee on Enforced Disappearances (Argentina); to ratify the Optional Protocol to the Convention against Torture and establish the national preventive mechanism related to it (Czech Republic); to complete the ratification of the OP-CRC-SC (Egypt);
2. To continue the consultation of numerous stakeholders in its follow-up to universal periodic review reports (United Kingdom); to cooperate closely with and strengthen the role of the Advisory Commission on Human Rights (Mexico);
3. To consider strengthening policies on human rights and mental health, with special attention to the area of child psychiatry (Brazil);

4. To further develop its law on migrants, refugees, and asylum-seekers in line with the principle of *non-refoulement* (Brazil); to stop the practice of releasing minors at the borders (Mexico); to bring the policy on detention of asylum-seekers in compliance with paragraph (e) of conclusion N° 7 of the conclusions on international protection of refugees, which recommends that expulsion measures should not include detention unless for national security reasons or public order (Canada);
5. To transmit to the Committee on the Elimination of Racial Discrimination its overdue national reports, in order to share the experience of Luxembourg in this domain (Italy); to adopt the recommendations of that Committee, particularly those calling for officials coming into contact with minority groups to receive human rights training and the recommendation that any organization promoting or inciting discrimination should be declared illegal and prohibited, and the recognition that participation in such organizations is an offence punishable by law (Malaysia); to strengthen its efforts on combating racism, racial discrimination, xenophobia and related intolerance, and implement the recommendations of the Committee in this regard (Egypt); to provide an improved training for officials regarding human rights, including racial discrimination and xenophobia issues (Canada);
6. To consider creating an overall strategy to eliminate violence against women, which would include preventive component (France); to promote the strengthening of the very foundation of the family and its associated values among the society through appropriate ways and means (Iran (Islamic Republic of)); to ensure that the implementation of the National Action Plan on Gender Equality continues to be fully assumed by all sectors of the Government (Portugal);
7. To take further steps to improve the rights of women and children; to implement the 2008 recommendation of the Committee on the Elimination of Discrimination against Women on drafting strategies and programmes to combat prostitution; to continue its efforts to combat sexual exploitation of children and continue to take effective measures to protect children from violence, racism and pornography (Russian Federation);
8. To intensify its efforts to combat human trafficking (Azerbaijan, Egypt) and sexual exploitation (Egypt) or prevent human trafficking (Mexico); to implement all provisions of the Protocol aiming to prevent and punish human trafficking, in particular trafficking of women and children (Canada); to take appropriate measures to tackle practically the problem of trafficking for sexual exploitation in a comprehensive manner (Iran (Islamic Republic of));
9. To adopt in French, as this is the case with the two other official languages, terminologies which truly reflect common values related to equality between men, women and children (Canada);
10. To include a gender perspective into the review follow-up process in a systematic and continuous manner (Slovenia);

11. To ensure that all religious communities are treated without discrimination (Belgium);
12. To take the necessary measures to ban the practice of corporal punishment within the family (France);
13. To find ways on how to improve the detention conditions of minors, including counselling services (France); to intensify efforts to secure detention conditions, including care of children and youngsters deprived of their liberty that fully meets international human rights standards (Sweden);
14. To adopt provisions regarding alternatives to custody (Slovenia); to look into measures to protect the best interests, needs and physical, social and psychological development of babies and children affected by parental detention or imprisonment (Slovenia); in addition to building new prisons and holding centres, to consider non-custodial ways of addressing the issue of mothers in detention or imprisonment, both during pre-trial and post-sentence periods, particularly when mothers are foreigners or illegal residents (Ghana);
15. To take all necessary steps to accelerate the enforcement of the law regarding the acceptance and integration of foreigners (France); to strengthen measures to grant foreign children and children of asylum-seekers equal access to the same standards of services in the field of education (Ghana);
16. To effectively address the difficulties experienced by migrants, particularly women migrants (Egypt); to revisit relevant policies and practices to create a better work conditions to the benefit of workers and their families (Iran (Islamic Republic of));
17. To attain the human rights goals set by the Human Rights Council in its resolution 9/12 (Brazil);
18. To continue applying its commitment to allocate 0.7 per cent of GDP to official development assistance and encourage its partners in the European Union and OECD to replicate this good practice (Cuba).

54. These recommendations will be examined by Luxembourg, which will provide responses in due time. The response of Luxembourg will be included in the outcome report, to be adopted by the Human Rights Council at its tenth session.

55. 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 Luxembourg was headed by H.E.Mr. Nicolas Schmit and composed of 10 members:

Monsieur Nicolas Schmit, Ministre Délégué aux Affaires Etrangères et à l'Immigration, Luxembourg ;

Monsieur Jean Feyder, Ambassadeur, Représentant Permanent du Grand-Duché de Luxembourg auprès de l'Office des Nations Unies à Genève ;

Madame Maddy Mulheims, Première Conseillère de Gouvernement, Ministère de l'Égalité des Chances, Luxembourg ;

Monsieur Mill Majerus, Premier Conseiller de Gouvernement, Ministère de la Famille et de l'Intégration, Luxembourg ;

Monsieur Jean-Paul Reiter, Conseiller de Direction 1ère classe, Ministère des Affaires Etrangères et de l'Immigration, Luxembourg ;

Monsieur Vincent Theis, Directeur, Centre Pénitentiaire de Luxembourg ;

Monsieur Jean-Paul Lehnens, Président de la Commission Consultative des Droits de l'homme, Luxembourg ;

Monsieur Olivier Baldauff, Conseiller de Légation, Ministère des Affaires Etrangères et de l'Immigration, Luxembourg ;

Madame Christine Goy, Représentant Permanent adjoint du Grand-Duché de Luxembourg auprès de l'Office des Nations Unies à Genève ;

Monsieur Laurent Thyès, Attaché d'administration, Ministère de la Justice, Luxembourg.

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