

FORMAT FOR AARHUS CONVENTION IMPLEMENTATION REPORT

The following report is issued on behalf of Turkmenistan in accordance with decision I/8.

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IMPLEMENTATION REPORT

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I. PROCESS BY WHICH THE REPORT HAS BEEN PREPARED

1. This National Report (“the Report”) has been prepared by the Ministry of Nature Protection of Turkmenistan in collaboration with representatives of the *Mejlis* (parliament), the Ministry of Justice, the Ministry of Foreign Affairs and the Turkmen National Institute for Democracy and Human Rights under the President, and with the participation of Turkmen NGOs, including the Turkmen Environmental Protection Society and other civil-society associations. All suggestions were received in writing and are reflected in the report.
2. The fourth Report is based on materials used to prepare national reports on other environmental conventions to which Turkmenistan is a party, national reports by the Ministry of Nature Protection and also materials from various environmental projects.
3. Consultations were held with environmental experts and materials from the national media and internet sites were widely used. (The last draft was produced on 24 September 2010.) The majority of recommendations and suggestions were taken into account in the report.

II. PARTICULAR CIRCUMSTANCES RELEVANT FOR UNDERSTANDING THE REPORT

4. Presidential Decision No. 4091 of 1 March 1999 created the state commission for the fulfilment of obligations arising from UN environmental conventions and programmes. Nine working groups were set up in the framework of the Commission, one of which focuses on the implementation of the Aarhus Convention.
5. In accordance with article 6 of the Constitution, Turkmenistan recognises the primacy of generally recognized norms of international law, meaning that the provisions of international agreements ratified by Turkmenistan are implemented in national legislation and prevail over national law.
6. This constitutional principle has been incorporated in national legislation since the adoption of the Constitution and, accordingly, is implemented in practice. If Turkmen laws do not comply with recognized norms of international law, the norms of international legal instruments are applied.
7. Finance does not present an obstacle to the implementation of the Convention.

III. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE GENERAL PROVISIONS IN PARAGRAPHS 2, 3, 4, 7 AND 8 OF ARTICLE 3

Article 3, paragraph 2

8. Turkmen legislation as a whole, including environmental legislation, requires state authorities and officials to provide environmental information to the public and to help the public gain access to environmental information. The effective implementation of the public’s environmental rights to a large extent depends on the decisions and concrete actions of the competent authorities and officials.
9. The Act on Citizens’ Communications and their Consideration of 14 January 1999 grants Turkmen citizens the right to submit in writing or orally suggestions for improving performance, applications or complaints to state, civil-society or other bodies, enterprises, organizations and institutions of any form of ownership. If a communication requests environmental information, the state, civil-society or other bodies and their officials, the heads and officials of enterprises, institutions and organizations of any form of ownership are obliged to consider the communication promptly, objectively and comprehensively, check the facts contained in it, take decisions in compliance with current legislation, ensure their fulfilment, and inform citizens of outcomes of consideration of communications. The response giving the outcome of consideration of the communication must be provided by the body, enterprise, organization or institution which received the communication and which is competent to resolve the questions raised in the

communication.

10. A refusal to grant the request must be presented to the citizen in writing, with a reference to current legislation and a statement of the grounds and reasons for the refusal, as well as an explanation of the procedure and time frame for appealing the decision.

11. Responses giving the outcomes of the consideration of communications must be signed by the head of the relevant body, enterprise, organization, or institution or by an official authorized by them (article 8).

12. Under the State Statistics Act of 15 September 1998, state statistical bodies must ensure users access to statistical information, including environmental information (article 16).

13. A similar obligation is placed on civil servants who, in accordance with the Civil Service Act of 12 June 1997, must observe the rights and lawful interests of citizens in the circumstances prescribed by law and under the procedure for supplying citizens information on their work. Such work may include environmental matters (article 8).

14. The Citizens' Health Protection Act of 25 October 2005 contains a specific article on the right of citizens to information relating to health protection, including information on public health security at their place of residence, radiation levels of food, the quality of products and services and their compliance with sanitary rules and standards. This information is provided through the media or directly to citizens at their request under the procedure established by the Cabinet of Ministers (article 29).

15. The Public Health Code of 21 November 2009 requires state bodies, local self-government bodies, enterprises, institutions and organizations to inform bodies and institutions of the State Disease Prevention and Control Service ("sanitary-epidemiological service") in a timely manner of disasters, halts in production, and breaches of engineering procedures that create a risk for the public health security of the population, which in their turn must alert the public. (The right of citizens to receive information [article 15] and the right of state authorities and administrative bodies, local government and self-government bodies and legal and natural persons with regard to ensuring the public health security of the population [article 16.]).

16. The Prevention and Management of Emergencies Act of 15 September 1998 also contains a provision specifying that "information on emergencies" consists of information on the risk of the occurrence of an emergency situation, including a radiation, chemical, biological, ecological or other impact on the population or the environment, fires or explosions at potentially dangerous sites, and emergency situations that have occurred and their consequences.

17. State authorities and administrative bodies, local government and self-government bodies, the heads of enterprises, organizations and institutions, regardless of their form of ownership, are obliged to promptly and accurately inform the population through the media and communications and warning systems of the likelihood of the occurrence of emergencies, emergencies that have occurred, measures being taken to ensure security and the methods and means of protecting the population from the risk or occurrence of emergencies (article 7).

Article 3, paragraph 3

18. Environmental laws and regulations cover environmental education and awareness raising in various contexts. These issues are most developed in the Environmental Protection Act of 12 November 1991. This law first and foremost provides for environmental awareness raising and environmental education at all levels of state administration.

19. With the aim of fostering a culture of environmental responsibility in society and raising the standard of vocational training, the State provides universal, continuous and accessible environmental education that covers pre-school institutions, schools, vocational courses for specialists, specialist secondary and higher educational institutions, and continuing training.

20. All specialist secondary and higher educational institutions, regardless of their profile, teach compulsory courses on the environment and the fundamentals of environmental protection.

21. The heads of ministries and government departments, enterprises, institutions and organizations, and other officials and specialists that deal with activities that affect the environment must know about environmental protection.

22. The state education and environmental authorities and other state bodies, civil-society associations and the media must spread environmental knowledge and raise awareness of environmental legislation through the media (article 32).

23. Under article 30 of the law, environmental NGOs and other public organizations and associations carrying out activities relating to the environment have the right to design and approve environmental programmes, publicize them in the press or on radio and television, protect the population's rights and interests with regard to the environment, contribute to building a culture of environmental responsibility among the population, and engage citizens in environmental activities on a voluntary basis.

24. As state bodies and officials have duties relating to environmental education, so citizens have the right to environmental education (article 28).

25. The Act on the Protection and Efficient Use of Animals of 12 June 1997 grants local government bodies [i.e. local branches of the central government] authority as regards the environmental education of the population and the dissemination of knowledge of the protection and efficient use of animals (article 7).

26. The Public Health Code of 21 November 2009 grants state bodies, local self-government bodies, and enterprises, institutions and organizations authority as regards the dissemination of knowledge of hygiene and the hygiene education of the population with the aim of building a culture of hygiene and healthy living (article 19).

27. Various means are used to provide the public with information on the state of the environment and environmental protection and increase environmental awareness, including the media and specially targeted initiatives, forums, seminars, training sessions, meetings and so on. The international scientific and practical journal *Problems of Desert Reclamation* is published in Turkmenistan; scientific and popular scientific books, brochures, pamphlets, textbooks and manuals on environmental protection are regularly published; other environmental information is disseminated; and the TV programme *Turkmenistan's Nature* is broadcast. These publications and programmes include material about Turkmenistan's fulfilment of its international environmental obligations.

Article 3, paragraph 4

28. The Aarhus Convention requires parties to recognize associations, organizations or groups working to protect the environment and to provide them with support. The Turkmen Constitution and legislation provide legal guarantees with respect to the creation and operation of civil-society associations of citizens, including those with an environmental focus.

29. Article 30 of the Constitution enshrines the right of citizens to create political parties and other civil-society associations that are valid under the Constitution and statute.

30. The Civil-society Associations Act of 21 October 2003 aims to give effect to citizens' rights to form civil-society associations, sets out the legal and organizational principles for the creation, activity, reorganization and winding up of civil-society associations and also governs interactions in this area. Thus, article 14 of the Act forbids interference by state bodies and their officials in the Activities of civil-society associations as well as interference by civil-society associations in the activities of state bodies and their officials, with the exception of circumstances enumerated by the Act.

31. Issues relating to the interests of civil-society associations, in the circumstances specified in legislation, are decided by state bodies with the participation of the relevant civil-society associations or in agreement with them.

32. The law provides civil-society associations with a long list of rights, including the right to:

- disseminate information about their activities;
- take part in decision-making by state bodies under the procedure and to the extent specified by the Act and other legislation;
- organize meetings, rallies, demonstrations and marches under the procedure specified by legislation;
- found media and carry out publishing activities in accordance with legislation;

- represent and protect their rights, the rights and lawful interests of their members and participants, and of other citizens in state bodies and civil-society associations;
- take initiatives as regards social issues and submit suggestions to state bodies;
- take part in electoral campaigns (on the condition that the civil-society association has an article on participation in elections in its articles of association).

33. Civil-society associations may cooperate with international NGOs, maintain international contacts and links and conclude corresponding agreements with the involvement of the Ministry of Foreign Affairs (article 21).

34. The registration of civil-society associations as an important guarantee of their recognition by the State is covered by laws and regulations.

35. Apart from the Civil-society Associations Act, these issues are also regulated by the Civil Code of 17 July 1998 and the Rules on the Registration of Civil-society Associations, approved by the Presidential Decision of 14 January 2004.

36. Article 57 of the Civil Code covers the registration of civil-society associations and foundations in detail. In particular, civil-society associations and foundations begin to function as legal entities from their registration. The Ministry of Justice is in charge of registering civil-society associations and foundations, and must take a decision on registration within a month of receiving an application.

37. A refusal to register an association must be justified, state that appeal is possible and outline the appeal procedure. A refusal may be appealed in court.

38. The rules for registering civil-society associations lay out detailed procedures for registering civil-society associations and their options in the event of a refusal to register them. A civil-society association may be denied registration in the circumstances and under the procedure prescribed by current legislation. Refusals to register a civil-society association on the grounds that they are not worthwhile are not allowed.

39. Applicants are informed in writing of a refusal within 10 days, with an indication of the legislative provisions that were infringed, resulting in the refusal.

40. Documents submitted as part of a written application for registration are returned to the civil-society association. The Ministry of Justice retains a copy of all documents present in the file when registration was refused.

41. A refusal to register a civil-society association does not prevent a repeated submission of documents for registration on the condition that the reasons leading to the refusal have been rectified.

42. The Ministry of Justice examines a repeat application and issues a decision under the procedure specified by legislation.

43. A refusal to register a civil-society association may be challenged in court.

44. The Civil-society Associations Act specifies that state bodies and their officials may be held liable for actions that cause harm to civil-society associations through the breach by these bodies and their officials of the provisions of the Act (article 29).

Article 3, paragraph 7

45. The application of the Convention's principles in international decision-making processes on environmental matters is enshrined in a host of environmental laws. In particular, practically every law has an article on international cooperation or international agreements which Turkmenistan has signed. For example, the Environmental Protection Act has a special article (article 42) on "International agreements in the sphere of environmental protection", the Flora Act has a similar article (article 29) and so on. Turkmenistan hence actively participates in international cooperation on environmental matters, including in the framework of international organizations.

46. The NGO Forum of Turkmenistan provides an example of international cooperation. RIOD working groups on the UN Convention to Combat Desertification in Turkmenistan and Central Asia have been set up at the Forum. In addition, at the second national forum representatives of the NGO Society, the Environment and Sustainable Development founded the

National Public Council and the Youth Environment Network, which are successfully implementing the provisions of the Aarhus Convention in Turkmenistan.

Article 3, paragraph 8

47. An important aspect of the implementation of the Convention is the obligation of parties to ensure that people exercising their rights under the Convention are not penalized, persecuted or harassed.

48. Turkmenistan has a fairly strong regulatory framework that ensures compliance with this provision. It is important to note that such issues are covered at the highest level, in the Constitution. The Constitution guarantees equality of human and civil rights and freedoms within the country as well as the equality of people and citizens before the law regardless of their nationality, race, sex, origin, property or official status, place of residence, language, attitude to religion, political convictions, party membership or lack of party membership. Moreover, citizens are guaranteed judicial protection of their honour and dignity and of the personal and political human and civil rights and freedoms enshrined in the Constitution and by statute. Complaints can be made in court about *ultra vires* actions of state bodies and civil-society associations and their officials that breach the law and infringe the rights and freedoms of citizens. Citizens also have the right to receive compensation in legal proceedings for material and non-material (“moral”) damage caused to them by the unlawful actions of state bodies, other organizations, their employees and private individuals.

49. In order to ensure that people exercising their rights under the Convention are not penalized, persecuted or harassed, current legislation sets forth certain norms and guarantees. In particular, Turkmenistan passed the Act on court appeals against the actions of state bodies, civil-society associations, local self-government bodies and officials that have infringed the constitutional rights and freedoms of citizens of 6 February 1998, under which every citizen whose constitutional rights and freedoms have been breached or infringed by the actions or decisions of state bodies, civil-society associations, local self-government bodies or officials has the right to appeal in court. Foreign citizens and stateless persons have the right to appeal to court under the procedure set forth by the Act, unless otherwise specified by the legislation or international agreements of Turkmenistan (article 1).

50. Moreover, under the Act on Citizens’ Communications and their Consideration, Turkmen citizens, in accordance with the Constitution and statute, have the right to submit in writing or orally to state, civil-society and other bodies, enterprises, organizations and institutions of all forms of ownership suggestions for improving their performance or to make applications or complaints (article 2).

51. Anyone found guilty of non-compliance with the procedure for consideration of citizens’ communications, superficial or non-objective consideration of the questions raised in them, excessive bureaucracy, unethical behaviour in their relations with applicants, an unfounded refusal to resolve the communication and persecution of a citizen in connection with the submission of communications be subject to disciplinary, administrative, confiscatory or criminal penalties, as provided under legislation (article 13).

52. The liability of officials for infringing citizens’ rights is also covered in the Civil-society Associations Act of 21 October 2003 and the Criminal Code (new version) of 10 May 2010.

53. Under article 29 of the Civil-society Associations Act, state bodies and their officials that cause harm to civil-society associations as a result of the breach by these bodies or their officials of the Act and other laws on specific types of civil-society associations shall bear liability as provided under legislation.

54. In its turn, the Criminal Code provides that (1) Direct or indirect infringement or restriction of human and civil rights based on sex, race, nationality, language, origin, property or official status, place of residence, attitude to religion, convictions or membership of a civil-society association shall be punished by a fine of between five to ten average monthly salaries or correctional labour for up to one year. (2) If the same acts entail serious consequences, they shall be punished by correctional labour for up to two years or imprisonment for up to two years (article

145 Criminal Code).

IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 3

55. Turkmenistan has not encountered any obstacles in the implementation of article 3.

V. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE GENERAL PROVISIONS OF ARTICLE 3

56. Turkmenistan is adopting new laws, including environmental laws, that enshrine the provisions of the Convention, within the framework of a large-scale legislative reform programme aiming to bring legislation into line with the prevailing conditions in society and international norms and agreements. As part of this initiative, the participation and influence of civil society institutions on lawmaking, decision-making processes and so on is being broadened.

57. In this connection, it is not coincidental that in his speech on constitutional reform, the President emphasized commitment to citizens' rights and freedoms, legality and transparency, sustainable development and compliance with international norms and standards.

58. This fully applies to the process of introducing democracy into environmental matters. Resolution of today's environmental problems is unthinkable without "activating the human factor", by involving broad layers of civil society. This can be achieved by consistently implementing the Aarhus Convention in national environmental legislation.

59. For the purposes of implementing the Convention, Turkmen representatives took part in the following projects:

- the TACIS project "Strengthening public participation and civil society support to implementation of the Aarhus Convention" (May – July 2008);
- the European Commission project "NGO capacity building in the field of access to justice" (August – October 2008);
- the UNEP project "Analyzing and improving legislation on the ozone layer" (October 2008 – March 2009);
- the German Company for Technical Cooperation (GTZ) project "Sustainable use of forestry in Turkmenistan" (July 2009 – July 2011);
- the UNDP and Ministry of Nature Protection project "Legal aspects of the development of ecotourism in and around specially protected natural areas" (April 2009 – March 2010);
- the INOGATE project "Enhancement of environmental protection measures in the oil/gas industry of Central Asia" (November 2009 – April 2010);
- the project "Conservation and sustainable use of biological diversity in the Hazar State Reserve", which widely involved the public and local communities from the area covered by the reserve (October 2007 – November 2010).

VI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3

www.natureprotection.gov.tm

www.undptkm.org

VII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO ENVIRONMENTAL INFORMATION IN ARTICLE 4

60. In Turkmenistan, information is public and accessible to all, except for information with "restricted access". The rules for categorizing information as a state or official secret are clearly set out in the Protection of State Secrets Act of 24 November 1995. In this process, in accordance

with article 10 of the Act, information relating to the rights, freedoms and legitimate interests of citizens and to the exercise of these rights, together with information whose classification as secret could endanger the personal safety and health of citizens, may not be so classified, and officials who take decisions to classify information of this kind shall be held liable, under the law of Turkmenistan, for any resulting harm to society, the State and its citizens. As for trade secrets, the legal principles for the disclosure, use, dissemination, storage and protection of information constituting a trade secret are set out in the Trade Secrets Act, adopted on 19 December 2000. Article 8 of the Act lists information that cannot be classified as a trade secret. Information on environmental pollution is one of the items on that list.

61. Currently, the main environmental law governing the constitutional right of citizens to obtain environmental information is the Environmental Protection Act, adopted on 12 November 1991. Article 28 of the Act states that Turkmen citizens have the right to seek and obtain timely and reliable information about the state of the environment and measures for its protection. In addition, environmental civil-society organizations the members of which are Turkmen citizens include among their powers the right to demand the provision of timely, complete and accurate information about the state of the environment and sources of pollution; about the focuses of environmental work and about government plans, programmes and activities related to the environment; and to receive information of interest to them (art. 30).

62. The Act not only establishes people's right to receive information about the state of the environment of interest to them, but also reaffirms the obligation of the State to provide information of this kind. Article 31 sets out safeguards for the rights of citizens and civil-society organizations in the area of environmental protection, and states that government environmental agencies and other duly authorized bodies are obliged to ensure the transparency and accessibility of information on the ecological state of the environment, on all types of pollution and on the results of environmental impact assessments and promptly to inform the public about environmentally hazardous accidents and other situations.

63. The same article stipulates the liability of individuals who hinder citizens and civil-society organizations in the exercise of their rights (including the right to environmental information) pursuant to the Act, or who deliberately distort or conceal information about the state of the environment. Article 34 contains more precise provisions on this point and indicates the administrative, criminal or other liability under the current legislation of Turkmenistan incurred by persons who refuse to provide timely, complete and reliable information on the state of the environment and the use of its resources, and also on sources of pollution, or who fail to report above-limit emissions of pollutants and other harmful effects on the environment resulting from accidents.

64. Other statutes in the environmental law of Turkmenistan also contain provisions on access to environmental information, in particular the Public Health Code of Turkmenistan of 21 November 2009. Further examples of rules currently in effect in Turkmenistan which govern the handling of environmental information may be found in articles 9 and 43 of the Protection and Efficient Use of Animal Resources Act of 12 June 1997; articles 9 and 28 of the Ambient Air Quality Act of 20 December 1996, and others.

65. Under the Constitution and the legal system of Turkmenistan, citizens, and also foreign nationals, enjoy the right to have access to and to receive information, including environmental information. Article 28 of the Constitution affirms the right of citizens of Turkmenistan to obtain information unless it is a state or other secret protected by law.

66. Under article 8 of the Constitution and article 3 of the Legal Status of Aliens Act, foreign citizens enjoy the same rights and freedoms as Turkmen citizens, including access to information, *inter alia* information on the environment. The definitions set out in the country's law conform with the provisions of article 2 of the Convention.

Article 4, paragraph 1

67. The law of Turkmenistan guarantees the right of all citizens to environmental information and contains no requirement for the applicant to state his or her interest. Under the Environmental Protection Act, Turkmen citizens have the right to submit letters, complaints and applications on environmental matters, and to seek and obtain timely and reliable information about the state of the environment and measures for its protection. There is no requirement in the Act that citizens should also be required to indicate the grounds for their interest.

68. The procedure for consideration of communications from citizens, including applications for the provision of environmental information, is governed by the Act on Citizens' Communications and their Consideration. Under article 4 of the Act, which sets out the procedure for the reception and consideration of such applications, no explanation need be given of the grounds for seeking the information. The Act states that the reception and consideration of communications may not be refused on the grounds of race, sex, age, social or property status or other characteristics. Under article 5 of the Act, foreign nationals and stateless persons have the same right to submit applications as Turkmen citizens. In accordance with the law, the information may be provided orally or in writing.

Article 4, paragraph 2

69. The Act on Citizens' Communications and their Consideration sets a time limit of 15 days for the consideration of applications. In cases where such consideration necessitates special checks or the examination of a large amount of material, the person in charge of the body responsible for considering the application stipulates the time limit for its processing and informs the applicant accordingly. At the same time, the total period for the processing of any given application may not exceed 45 days.

70. As stipulated in article 13 of the Act, failure to comply with the prescribed procedure for the consideration of applications shall render the responsible parties liable to disciplinary, administrative, confiscatory or criminal penalties.

Article 4, paragraphs 3 and 4

71. In Turkmenistan, requests for information may be refused only on the grounds prescribed by the Act on Citizens' Communications and their Consideration. Thus, information may be withheld:

- a. If the information is a state or other secret protected by law (article 26 of the Constitution);
- b. If the information sought has a bearing on international relations, public security or national defence;
- c. In cases where the requested information relates to circumstances which are in the process of being verified as part of criminal investigations, where the verification is being conducted by the central authorities or where the information is the subject of judicial proceedings;
- d. Where the information concerns confidential matters protected by law and relating to commercial, financial or industrial activities;
- e. If the information, as defined by law, relates to personal details and could affect the honour and reputation of individuals, or the interests of third parties bound by corresponding legal obligations.

Article 4, paragraph 5

72. In cases where the public authority concerned does not have at its disposal the requested information, including environmental information, under the provisions of the Act on Citizens' Communications and their Consideration, it shall notify the applicant of the public authority to which the applicant is entitled to apply or shall itself forward the application to the authority which may be able to provide the information sought. The applicant is informed of the measures taken.

Article 4, paragraph 6

73. Under the provisions of the Act on Citizens' Communications and their Consideration, decisions to refuse applications for information shall be notified to the applicant in writing, with a reference to the legislation applicable and an indication of the grounds and justification for such refusal, together with an explanation of the procedure and the time limits for the lodging of appeals against such decisions (article 8 of the Act).

Article 4, paragraph 7

74. Turkmen legislation does not at the moment require payment for the provision of environmental legislation.

VIII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 4

75. Under the conditions currently prevailing, there are no obstacles to the implementation of any of the provisions of article 4.

IX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 4

76. There is no statistical data on the number of requests for information on environmental protection and the use of natural resources or on the number of refusals.

X. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 4

No information was provided under this heading.

XI. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON THE COLLECTION AND DISSEMINATION OF ENVIRONMENTAL INFORMATION IN ARTICLE 5

Article 5, paragraph 1

77. Legislation requires ministries and government departments, enterprises, organizations and institutions of all types and forms of ownership to present environmental information on their activity to state statistics bodies.

78. All information is submitted in the form approved by the national statistics authorities. This information includes reports detailing uses of natural resources which have an impact on the environment, and also activities to protect the environment. Responsibility for ensuring that the information is correct and complete rests with those in charge of ministries, departments and organizations.

79. The information provided is based on official materials from the statistical reporting system, which follows parameters developed by the national statistics authorities and draws on data provided by ministries, departments and organizations whose activities are related to the use of natural resources, environmental monitoring and environmental protection. Information is provided on the state of the environment, uses of natural resources which have an impact on the environment and measures taken to protect the environment. Responsibility for ensuring that this information is correct and complete rests with those in charge of ministries, departments and organizations.

80. Rules on the immediate distribution of information in the event of emergencies are laid out in the Prevention and Management of Emergencies Act (article 7).

Article 5, paragraph 2

81. Measures to ensure transparency in the provision of environmental information by state bodies to the public and to ensure access to this information are reflected in legislation as well as

in the practice of state bodies when they apply the law.

82. The Environmental Protection Act obliges public authorities to ensure the transparency and accessibility of information on the ecological state of the environment and effectively inform the public about environmentally hazardous accidents and situations. It also establishes the liability incurred by persons who obstruct citizens and civil-society organizations in giving effect to their rights to receive information.

Article 5, paragraph 3

83. The Ministry of Nature Protection now has its own official web site where it posts various information, including regulatory information.

Article 5, paragraphs 4 and 5

84. Much is being made to disseminate environmental information. In accordance with the Environmental Protection Act and other legislation, environmental information is distributed through the media, including electronic media, and through specialist publications.

85. Turkmenistan has regular publications providing factual information about the environment and highlighting problems whose solution requires action at the government level with the participation of civil-society institutions.

86. In addition, environmental information is disseminated through a range of workshops and round tables organized by the Ministry of Nature Protection and its regional offices, by the National Institute of Deserts, Flora and Fauna and by such civil-society organizations as the Environmental Protection Society.

Article 5, paragraph 6

87. The Ministry of Nature Protection encourages all sorts of measures to encourage operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products;

Article 5, paragraph 7

88. All environmental information is widely published in newspapers and journals such as *Neutral Turkmenistan*, *Science and Technology of Turkmenistan*, and *Economy of the Golden Age*. A large number of separate publications focus on the environment. Weekly programmes and round table discussions are broadcast on TV and radio on the environment. Every six months, the Ministry of Nature Protection approves a schedule for the production of articles, materials and TV programmes for the media on environmental issues. The Ministry's web site is regularly updated.

Article 5, paragraph 8

89. In accordance with the Quality and Safety of Food Products Act of 18 April 2009, one of the main focuses of state policy with regards to the quality and safety of food products, materials and equipment is "giving effect to the right of citizens to consume good quality and safe food products" and "the organization of public information and education on the quality and safety of food products" (article 4). Under article 13 of the Act, "Civil-society associations have the right to monitor compliance with established rules and standards for the quality and safety of food products, in accordance with their articles of association and legislation". Moreover, the law has a special article (article 24) "Information on the quality and safety of food products" which specifies that: 1. Legal and natural persons carrying on activities relating to the production and sale of food products or the provision of services in the field of trade and public catering are obliged to present full and accurate information on the quality and safety of food products, materials and equipment and compliance with established requirements to purchasers or consumers, and state inspection and compliance bodies, local government bodies and local self-government bodies. 2. State inspection and compliance bodies shall provide state authorities and administrative bodies, local government authorities, local government and self-government bodies, legal and natural persons with information on the quality and safety of food products, on

compliance with the requirements of standards and technical documents during their production and sale and provision of services in the field of trade and public catering, on the state registration and certification of food products, as well as on standards documents and measures to prevent sale of low quality food products that are dangerous to human life and health.

Article 5, paragraph 9

90. Most environmental legislation contains provisions on inventories for the corresponding area of ecology. In particular, the Forestry Code of 12 April 1993, the Land Code, the Water Code and others require inventories to be created. Attempts are currently being made to ensure that every environmental law has a separate article about an inventory.

XII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 5

91. No obstacles were encountered in the implementation of any of the provisions of article 5.

XIII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 5

92. No statistics are available on this topic.

XIV. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 5

No information was provided under this heading.

XV. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON PUBLIC PARTICIPATION IN DECISIONS ON SPECIFIC ACTIVITIES IN ARTICLE 6

93. As a fundamental legal text, the Constitution provides the fundamental framework for the implementation of the Aarhus Convention as regards public participation in decision-making on environmental matters.

94. Public participation in decision-making on specific types of activity is provided for by the Environmental Protection Act, the Ambient Air Quality Act, the Hydrocarbon Act and the State Environmental Review Act as well as the Regulations on the Conduct of State Environmental Review and other laws and regulations.

95. The Public Health Code states that every citizen has the right, either directly or through a representative, civil-society associations or by other means, to participate in the preparation, implementation and monitoring of the implementation of decisions taken by bodies and officials, collectively or individually, which have an impact on public health and the environment (article 11).

96. The Environmental Protection Act grants citizens the right to take part in discussions of draft environmental legislation and other regulations; to take part in drafting decisions that are related to restoring the environment and the conduct of public environmental reviews; and to submit suggestions regarding the annulment of decisions on the location, planning, building, reconstruction or operation of environmentally hazardous sites, and the restriction, suspension or cessation of the activities of legal entities having an adverse impact on the environment and human health (article 28).

97. The Land Code enshrines involvement of interested parties in the preparation of proposals on the efficient use and protection of land as a state-backed guarantee (article 5).

98. The State Specially Protected Natural Areas Act requires state bodies responsible for the administration and monitoring of activities on state specially protected natural areas to comprehensively consider suggestions from civil-society organizations and citizens on the

protection and efficient use of these areas when carrying out their activities (article 7).

99. The same provision is reflected in the State Environmental Review Act, which includes “consideration of public opinion during preparation of a conclusion of state environmental review” as one of the fundamental principles of state environmental review (article 5). The act specifies that the public must be involved at the earliest stages of discussion of documents relating to investment, economic and other projects (article 53).

XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

100. No obstacles were encountered in the implementation of any of the provisions of article 6.

XVII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 6

101. No additional information is available.

XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6

No information was provided under this heading.

XIX. PRACTICAL AND/OR OTHER PROVISIONS MADE FOR THE PUBLIC TO PARTICIPATE DURING THE PREPARATION OF PLANS AND PROGRAMMES RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7

102. Turkmenistan has created the necessary legal basis and mechanisms for the public to participate in the formulation of state environmental policy and the preparation of plans and programmes. Under the Constitution and laws mentioned above, all civil-society organizations, including environmental NGOs, have the right to influence the state’s environmental policy by presenting their suggestions and recommendations during discussions of environmental strategies, plans and programmes.

103. As regards the practical implementation of such provisions, the Ministry of Nature Protection and the Institute of Deserts, Flora and Fauna invite representatives of environmental NGOs and individual citizens (specialists and scientists) to discuss such issues as well as draft environmental laws and regulations. In addition, NGO representatives are included in various working groups preparing various documents on environmental protection.

XX. OPPORTUNITIES FOR PUBLIC PARTICIPATION IN THE PREPARATION OF POLICIES RELATING TO THE ENVIRONMENT PROVIDED PURSUANT TO ARTICLE 7

No information was provided under this heading.

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

104. No obstacles were encountered in the implementation of any of the provisions of article 7.

XXII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 7

105. No further information is available.

XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF

ARTICLE 7

No information was provided under this heading.

XXIV. EFFORTS MADE TO PROMOTE PUBLIC PARTICIPATION DURING THE PREPARATION OF REGULATIONS AND RULES THAT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 8

106. In Turkmenistan the practice of submitting the most important legislation to nationwide discussion is widespread. For example, draft laws (including environmental laws) are published in national and local newspapers and other media and programmes are broadcast on various TV channels.

107. NGO representatives are included in a host of different commissions and working groups set up by Parliament, ministries and government departments to discuss and prepare documents relating to environmental protection and the use of natural resources. Hence, the public actively participates in discussions of regulations issued by state bodies that have direct executive force and generally applicable legal instruments that may have a substantial environmental impact.

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

108. No obstacles were encountered in the implementation of any of the provisions of article 8.

XXVI. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 8

109. No further information is available.

XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8

No information was provided under this heading.

XXVIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO JUSTICE IN ARTICLE 9

110. An analysis of Turkmen legislation regarding the access of civil society and citizens to justice identifies over 10 legally binding instruments. First and foremost, there is the Constitution, which guarantees citizens judicial protection of their honour and dignity and of human and civil personal and political rights and freedoms. The actions of state bodies, civil-society organizations and officials committed in breach of the law and *ultra vires* that infringe the rights and freedoms of citizens can be challenged in court.

111. A host of legislation has been passed on the basis of the Constitution's provisions on citizens' rights and freedoms. The Act on Citizens' Communications and their Consideration of 14 January 1999 allows citizens to submit communications without initiating court proceedings if their rights are infringed. Under article 2 of the Act, citizens, in accordance with the Constitution and laws, have the right to submit in writing or orally to state, civil-society and other bodies, enterprises, organizations and institutions of all forms of ownership suggestions about improving their performance or to make applications or complaints.

112. State, civil-society and other bodies and their officials and the heads and officials of enterprises, institutions and organizations of all forms of ownership are obliged to promptly, objectively and comprehensively examine communications from citizens, check the facts contained in them, take decisions in accordance with current legislation, ensure these decisions are fulfilled and inform citizens of the outcomes of consideration of communications.

113. A response on the outcome of consideration of a communication must be given by the body, enterprise, organization or institution that received the communication and which is competent to resolve the issues raised in the communication.

114. A decision to refuse to comply with the communication must be given to the citizen in writing, citing current legislation and giving the grounds and reasons for the refusal, as well as an explanation of the procedure and time frame for appealing the decision.

115. Responses on the outcomes of the consideration of communications must be signed by the head of the relevant body, enterprise, organization or institution or an official authorized by them (article 8).

116. Turkmenistan has a special law, the Act on court appeals against the actions of state bodies, civil-society associations, local self-government bodies and officials that have infringed the constitutional rights and freedoms of citizens of 6 February 1998, which grants every citizen the right to appeal to court if his rights have been infringed (article 1).

117. One of the aims of the Civil Procedure Code is to ensure the proper and timely consideration and resolution of civil cases with a view to defending property, the socio-economic, political and personal rights and freedoms of citizens guaranteed by the Constitution and laws, the lawful interests of citizens and the state, and the rights and lawful interests of enterprises, institutions, organizations, their associations and civil-society organizations (article 2).

118. The Civil Procedure Code states that any interested party has the right, under the procedure established by law, to defend in court rights that have been infringed or challenged and lawful interests. Refusals to allow someone to bring a case are invalid (article 3).

119. A host of provisions in the Code allow the public to participate in court proceedings (article 149), in cassational proceedings (article 295-1) and in the enforcement of court decisions (article 358).

120. The provisions of the Aarhus Convention on access to justice are also reflected in the Criminal Procedure Code. In particular, the Code requires proceedings to be public, with the exception of instances where this would jeopardize state secrets. Verdicts are always announced publicly (article 27). The lawful interests of a suspect, an accused, a defendant or a victim may be defended by an advocate or by representatives of civil-society organizations – in cases involving their members (article 81).

121. Close relatives, lawful representatives, advocates, NGO representatives or other parties permitted by a decision of the judge, court or pre-trial investigator may represent the victim or a claimant or respondent in a claim for civil damages instituted as part of criminal proceedings (article 89).

122. Article 145 of the Criminal Code provides an important guarantee of public access to justice. It states that a direct or indirect infringement or limitation of human and civil rights and freedoms, regardless of sex, race, nationality, language, origin, property or official status, place of residence, attitude to religion, conviction or membership of a civil-society organization shall be punished by a fine equivalent to five to 10 average monthly salaries or corrective labour for a period of up to one year. If they entail serious consequences, the same actions shall be punished by corrective labour for a period of up to two years or imprisonment for one to two years.

123. The Environmental Protection Act enshrines a wide range of guarantees on the access of the public and citizens to justice. First, when carrying out economic, administrative and other activities affecting the environment, executive and administrative bodies, legal entities and citizens must be guided by the principles of ensuring the real rights of citizens to an environment that is favourable to life, transparency in the performance of environmental tasks and close links with civil-society organizations and the population (article 1). Second, environmental NGOs and other NGOs performing functions relating to the protection of the environment have the right to file claims to courts or economic courts for compensation for damage to the environment or health or property of citizens or civil-society organizations, caused by infringements of environmental legislation, including claims against state bodies for environmental protection (article 30). And third, Turkmenistan guarantees citizens and civil-society organizations involved in environmental protection the exercise of the rights granted to them in the field of environmental protection in

accordance with current legislation.

124. State environmental protection bodies and other specially authorized bodies must provide comprehensive assistance to citizens and environmental NGOs in the exercise of their rights and duties as regards environmental protection, take all measures necessary to examine suggestions regarding the organization of activity to protect the environment and to ensure transparency, access to environmental information, information on pollution of all types, and the results of expert environmental reviews, and inform the population of environmentally hazardous disasters and situations in an effective manner.

125. Anyone who hinders the exercise by citizens and civil-society organizations of their rights and duties arising from this act or who deliberately distorts or conceals environmental information shall be held accountable in accordance with current legislation (article 31).

126. The Land Code includes protection of the rights and lawful interests of landowners, land users and land tenants among its guarantees (article 5).

127. Legislation on the registration of civil-society organizations also contains provisions on this issue. In particular, the Civil-society Associations Act states that a refusal to register a civil-society association may be appealed in court under the procedure established by legislation (article 19). A similar provision is contained in the Civil Code (article 57, paragraph 5) and the Rules on the Registration of Civil-society Associations, approved by the Presidential Decision of 14 January 2004 (paragraph 21). Moreover, this paragraph lays out in concrete terms the procedures to be followed in the event of a refusal to register civil-society organizations (subparagraphs 18-20).

XXIX. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 9

128. There are no obstacles in access to justice by citizens and the public.

XXX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 9

129. As noted above, there is no statistical data on the public's participation in decision-making or on individual applications to courts relating to breaches of environmental rights. This data is not deliberately collected by statistics agencies. Such issues are as a rule decided by ministries, government departments and local government. In other words, infringements of environmental rights are mostly examined and rectified by government bodies on every level – ministries, government departments, *hakimliki* (municipalities), local self-government and so on – rather than by the courts.

XXXI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 9

No information was provided under this heading.

XXXII. GENERAL COMMENTS ON THE CONVENTION'S OBJECTIVE

130. The Convention's provisions on citizens' access to justice facilitate protection of every person's right to life are an important and effective element. Article 9 covers practically all circumstances for every citizen to exercise his right to access to justice and to apply to a court. In this respect, the Convention's provisions provide a solid basis for developing national legislation. In Turkmenistan, environmental legislation that fulfils the Aarhus Convention has been formulated and is in operation.

131. In the future, Turkmenistan plans to continue its work to develop national legislation with wide involvement from the public, with the aim of bringing it into compliance with international

conventions and agreements to which Turkmenistan is a party.

132. Work will also continue to build capacity among civil servants to carry out obligations under international environmental conventions and programmes. A special place will be reserved in this process to cooperation with authoritative international organizations, in particular UN agencies such as the UNECE, UNEP, ESCAP, UNDP and others.

**XXXIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING
THE PROVISIONS ON GENETICALLY MODIFIED ORGANISMS PURSUANT TO
ARTICLE 6bis AND ANNEX I bis**

No information was provided under this heading

**XXXIV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF THE
PROVISIONS OF ARTICLE 6bis AND ANNEX I bis**

No information was provided under this heading.

**XXXV. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE
PROVISIONS OF ARTICLE 6bis AND ANNEX I bis**

No information was provided under this heading.

**XXXVI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF
ARTICLE 6bis**

No information was provided under this heading.