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PERMANENT MISSION OF JAMAICA
GENEVA

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The Permanent Mission of Jamaica to the Office of the United Nations and its Specialized Agencies at Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR) and has the honour to refer to the Group of Latin American and Caribbean Countries' (GRULAC) Intergovernmental Regional Preparatory Meeting for the Durban Review Conference which will be held in Brazil from 17-19 June 2008.

The Permanent Mission of Jamaica has the further honour to transmit herewith, the response of the Government of Jamaica to the Questionnaire prepared by the OHCHR pursuant to Decision PC.1/10 of the Preparatory Committee for the Durban Review Conference.

The Permanent Mission of Jamaica to the Office of the United Nations and its Specialized Agencies at Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights (OHCHR), the assurances of its highest consideration.

Geneva, 13 June 2008

Office of the High Commissioner for Human Rights (OHCHR)
Geneva



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**UNITED
NATIONS****A****General Assembly**Distr.
GENERALA/CONF.211/PC.2/2
9 January 2008

Original: ENGLISH

DURBAN REVIEW CONFERENCE
Preparatory Committee
First substantive session
Geneva, 21 April-2 May 2008

**QUESTIONNAIRE TO MEMBER STATES PREPARED BY THE
OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER
FOR HUMAN RIGHTS, PURSUANT TO DECISION PC.1/10 OF
THE PREPARATORY COMMITTEE OF THE DURBAN REVIEW
CONFERENCE AT ITS FIRST SESSION (A/62/375)**

Explanatory note on the questionnaire

1. In accordance with decision PC.1/10 adopted on 31 August 2007 by the Preparatory Committee of the Durban Review Conference at its first session, the Office of the United Nations High Commissioner for Human Rights drafted the attached questionnaire, the purpose of which is to facilitate the Durban Review Process.
2. The present questionnaire has been designed to obtain information from Governments and consists of six core questions drafted on the basis of the objectives of the Durban Review Conference, as contained in Preparatory Committee decision PC.1/13.
3. The annex to the questionnaire has been designed to allow Governments to describe policies, programmes and projects which have been undertaken to implement the Durban Declaration and Programme of Action including, for example, constitutional, legislative, administrative, affirmative action measures, development of national action plans, creation of governmental bodies and/or awareness-raising activities.

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Core questions

Question 1: Can you assess the implementation of the Durban Declaration and Programme of Action in your country?

Jamaica remains committed to working towards the full implementation of the Durban Declaration and Programme of Action, and will continue our assessment of the progress being made at the national level in preparation for the 2009 Durban Review Conference. Please see also response provided below to Question 4 concerning UN General Assembly resolutions 61/19 and 62/122. Both resolutions were the initiative of Jamaica and other CARICOM countries, and were in keeping with paragraphs 101 and 102 of the Durban Declaration aimed at countering the legacy of slavery and contributing to the restoration of the dignity of the victims of slavery and the slave trade. At the national level, the Jamaica National Bicentenary Committee was established to mark the 200th anniversary of the abolition of the Trans-Atlantic Slave Trade.

Question 2: Can you assess contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance as well as initiatives in this regard with a view to eliminating them in your country?

The Government of Jamaica is not aware of manifestations of racism, racial discrimination, xenophobia and related intolerance in the country. In addition, please see response provided to Question 1 of the Annex concerning the rights enshrined in the Constitution of Jamaica.

Question 3: Please identify concrete measures and initiatives for combating and eliminating all manifestations of racism, racial discrimination, xenophobia and related intolerance in order to foster the effective implementation of the Durban Declaration and Programme of Action.

See response to Question 2 of the Annex detailing the provisions for protecting fundamental rights and freedoms in Jamaica.

Question 4: How would your Government assess the effectiveness of the existing Durban follow-up mechanism and other relevant United Nations mechanisms dealing with the issue of racism, racial discrimination, xenophobia and related intolerance in order to enhance them?

Jamaica is encouraged by initiatives being taken at the regional and international levels to promote implementation of the Durban Declaration and Programme of Action. Jamaica is also pleased with the adoption by the UN General Assembly of resolutions 61/19 and 62/122 in 2006 and 2007, respectively which, *inter alia*, designated 25 March as an annual International Day of Remembrance of the Victims of Slavery and the Transatlantic Slave Trade, and invited interested parties to contribute to the voluntary fund for the erection of a permanent memorial at the UN in acknowledgement of the tragedy and in consideration of the legacy of slavery and the transatlantic slave trade.

Question 5: What are the steps taken by your Government to ratify and/or implement the International Convention on the Elimination of All Forms of Racial Discrimination and give proper consideration of the recommendations of the Committee on the Elimination of Racial Discrimination?

Jamaica is a party to the International Convention on the Elimination of All Forms of Racial Discrimination. Efforts are also being made to ensure the timely submission of periodic reports to the Committee on the Elimination of Racial Discriminations, and to the consideration of the recommendations made by the Committee.

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Question 6: Please identify and share good practices achieved in the fight against racism, racial discrimination, xenophobia and related intolerance in your country.

Please see response to Question 17 of the Annex concerning the role of the Office of the Public Defender.

Annex**Measures of prevention, education and protection aimed at the eradication of racism, racial discrimination, xenophobia and related intolerance at the national level**

1. What measures have been taken to prohibit racial discrimination in all its forms and to guarantee the right of everyone without distinction, to equal enjoyment of human rights, notably of the rights listed below:
 - (a) Equal treatment before tribunals and all other organs administering justice;
 - (b) Equal rights to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;
 - (c) Equal rights to participate in the political process;
 - (d) Equal rights to freedom of religion and belief;
 - (e) Equal rights to remuneration for work of equal value;
 - (f) Equal rights to adequate housing;
 - (g) Equal rights to highest attainable standard of physical and mental health. Equal rights to quality public health, medical care, social security and social services;
 - (h) Equal rights to all levels of quality education and training;
 - (i) Equal participation to cultural life; and
 - (j) Equal rights of access to places or services?

Provision is made in Chapter 3 of the Constitution of Jamaica for the grant and protection of fundamental rights and freedoms irrespective of race, place of origin, political opinions, colour, creed or sex. These rights and freedoms are granted subject to respect for the rights and freedoms of others and for the public interest. No distinction is made between persons in the grant or safeguarding of these rights and freedoms. In fact, the Constitution makes specific provision in section 24 against discrimination on the basis, *inter alia*, of race. Among the rights and freedoms enjoyed by Jamaicans are equal treatment before the courts; freedom of religion; security of the person; protection of the law; and participation by eligible persons in the political process. Discrimination on the basis of race in the delivery of health care, provision of education, remuneration for work of equal value and access to social benefits is contrary to the laws of Jamaica.

Legislative, judicial, regulatory, administrative and other measures to prevent and protect against racism, racial discrimination, xenophobia and related intolerance

2. Has your Government adopted and implemented or strengthened any national legislation and/or administrative measures that expressly and specifically counter racism and prohibit racial discrimination, xenophobia and related intolerance, whether direct or indirect, in all spheres of public life, in accordance with their obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, ensuring that their reservations are not contrary to the object and purpose of the Convention and/or amended national legislation and administrative provisions that may give rise to such forms of discrimination?

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As indicated in response to question 1 of this Annex, the Constitution of Jamaica grants and protects the fundamental rights and freedoms of all Jamaicans irrespective, *inter alia*, of race. The Constitution safeguards these rights and freedoms by entrenching the provisions relating thereto. This means, therefore, that any amendment to these rights and freedoms would require a two-thirds majority of both Houses of Parliament. As another protective measure the Constitution provides an avenue for redress when these rights have been infringed. In such circumstances, the person who alleges an infringement may bring the matter before the Supreme Court, Court of Appeal and, ultimately, the Judicial Committee of the Privy Council. Additionally, the Office of the Public Defender is entrusted with the responsibility of protecting and enforcing the rights of Jamaican citizens where these rights may have been infringed.

Equal participation in political, economic, social and cultural decision-making

3. Please indicate measures taken to ensure that your Government's political and legal systems reflect the multicultural diversity within your society and improve democratic institutions so that they are fully participatory.

Discrimination on the basis, *inter alia*, of race is unconstitutional. Jamaicans of all races and ethnic origins are guaranteed access to the nation's political and legal systems.

Establishment and reinforcement of independent specialized national institutions and mediation

4. Has your Government established, strengthened, reviewed and/or reinforced the effectiveness of independent national human rights institutions working on issues of racism, racial discrimination, xenophobia and related intolerance? Has your Government provided them with the competence and capacity for investigation, research, education and public awareness activities to combat these phenomena? Please specify their mandates.

There are independent human rights groups in Jamaica that are actively engaged in matters concerning human rights in general. These groups have utilized avenues, including the judicial system, to address human rights concerns.

Policies, practices and strategies

Action-oriented policies and action plans, including affirmative action to ensure non-discrimination

5. Has your Government established and/or implemented a national action plan to promote diversity, equality, equity, social justice, equality of opportunity and the participation of all? Please provide the High Commissioner for Human Rights with such action plan and other relevant materials on the measures undertaken in order to implement the provisions of the Durban Declaration and Programme of Action or any other action considered.

The Government of Jamaica, in keeping with the Constitution, encourages diversity, equality, equity, equal opportunity and participation of all.

6. Has your Government established national programmes, including affirmative or positive measures, to promote equal access of individuals and groups of individuals who are or may be victims of racial discrimination to social services, employment, housing, education, health care, etc.?

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Discrimination on the basis of race in the provision of social services, employment, housing, education and healthcare is unconstitutional.

7. Has your Government adopted or strengthened national programmes for eradicating poverty, underdevelopment, marginalization, social exclusion and economic disparities taking into account the needs of victims of racism, racial discrimination, xenophobia and related intolerance?

The Government of Jamaica remains committed to poverty eradication, social and economic growth and development, and the advancement of the Jamaican people. National programmes have been developed in this regard, including the National Development Plan – a 25 year Plan which is expected to put the country in a position to achieve developed country status by 2030. Several strategic priorities have been identified as critical elements in fulfilling the objectives of the National Development Plan. These are the development of human resources, international competitiveness, environmental sustainability, health, social protection, science, technology and innovation, effective governance and law and order.

8. What steps have been taken to tackle multiple discrimination based on the grounds of race, colour, descent or national or ethnic origin as well as on other related grounds such as sex, language, religion, political or other opinion, social origin, property, birth or other status?

Jamaicans are constitutionally guaranteed rights and freedoms, including freedom of religion and expression, irrespective of their race, place of origin, political opinions, colour, creed or sex. Any person who alleges discrimination in one or more of these forms is able to seek redress as provided for within the framework of the Constitution.

9. What measures have been taken to combat racial discrimination against women and girls and to ensure the incorporation of race and gender analysis in the implementation of all aspects of the Programme of Action and your national plan of action?

Jamaica remains committed to promoting and protecting the rights of women, as well as those of girls, and to promoting gender equality and development. The Government of Jamaica is now reviewing a National Gender Policy that takes into account acts of violence against women. Additionally Jamaica, in accordance with its Constitution, does not support any discrimination against women and girls on the basis of race.

Data collection and disaggregation, research and study

10. Does your Government collect and analyse statistical data at the national level on the situation of victims of racism, racial discrimination, xenophobia and related intolerance broken down by economic and social indicators, in order to monitor the situation of marginalized groups, evaluate legislation and elaborate development policies?

Jamaica continues to enjoy harmonious race relations and integration.

Education and awareness-raising

11. Please indicate ways your Government has taken to increase the level of awareness about the scourges of racism and promote the values of acceptance, tolerance and cultural diversity. In this connection, how effective are the measures, in the fields of teaching, anti-racism education, including programmes addressed to young people, culture, information, media campaigns and

sports which have been undertaken to combat racism, racial discrimination, xenophobia and all manifestations of related intolerance?

The Jamaican culture is one of racial tolerance, acceptance and diversity. It should be noted that the Ministry of Education, in collaboration with UNESCO, is currently observing the Decade for Culture of Peace and Non-Violence in Schools (2001-2010). There is also a Peace and Love Programme in Schools (PALS) aimed at incorporating a nationwide conflict resolution curriculum in the primary education system.

12. Please indicate the measures taken to strengthen anti-racist and gender-sensitive human rights training for public officials, including personnel in the administration of justice, particularly law enforcement, judicial, correctional, prison and security officials, as well as among health-care, school, immigration and border officials.

In light of its culture of racial tolerance, acceptance and integration, the Jamaican experience has been one of racial harmony. With respect to gender-sensitive human rights training for public officials the Government of Jamaica, through the Bureau of Women's Affairs, conducts gender-based violence workshops in a number of organisations, schools, communities and churches across the island. The groups that have been sensitised include students, community members, police officers, guidance counsellors, social workers, and members of the justice system and service clubs.

Information, communication and the media, including new technologies

13. While taking all necessary measures to guarantee the right to freedom of opinion and expression, what steps have been taken to declare an offence punishable by law all acts of racial violence or incitement to such acts as well as the dissemination of ideas based upon racial superiority or hatred and, particularly through new information and communications technologies, including the Internet?

The rights and freedoms granted under the Constitution, including freedom of expression, are guaranteed and protected subject to respect for the rights and freedoms of others and of the public interest. It should be noted that the programme content of local radio and television stations is monitored by the Broadcasting Commission of Jamaica.

Ratification of and effective implementation of relevant international and regional legal instruments on human rights and non-discrimination

14. If your country is not yet party to the International Convention on the Elimination of All Forms of Racial Discrimination and to any other international instrument listed in paragraphs 77 and 78 of the Durban Programme of Action, please indicate:
- (a) What are the considerations which may have prevented its ratification or its accession to the instruments?
 - (b) What steps have been taken or are being planned with a view to ratification of or accession to the instruments?

Jamaica is a party to the following Instruments:

- (a) **International Convention on the Elimination of All Forms of Racial Discrimination;**
- (b) **International Covenant on Civil and Political Rights;**

- (c) **International Covenant on Economic, Social and Cultural Rights;**
- (d) **Convention on the Elimination of All Forms of Discrimination against Women;**
- (e) **Convention on the Rights of the Child and the Optional Protocol on the Involvement of Children in Armed Conflict. Jamaica has signed the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography**
- (f) **International Labour Organisation Migration for Employment Convention (Revised)**
- (g) **Convention relating to the Status of Refugees of 1951, and its 1967 Protocol**
- (h) **International Labour Organisation Discrimination (Employment and Occupation) Convention**
- (i) **Convention against Discrimination in Education**
- (j) **United Nations Convention against Transnational Organised Crime and its 3 Protocols**
- (k) **Convention on the Prevention and Punishment of the Crime of Genocide**

Jamaica has signed the Rome Statute of the International Criminal Court of 1998.

15. If your country has not yet made the declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, please indicate what are the considerations which may have prevented making the declaration.

The Constitution of Jamaica provides the framework within which any person who alleges that his or her Constitutional rights have been infringed on the basis of race may seek redress.

Strengthen partnerships with civil society

16. What steps have been taken to strengthen cooperation and develop partnerships with non-governmental organizations and all other civil society actors to harness their experience and expertise combating racism, racial discrimination, xenophobia and related intolerance?

Given its culture of racial tolerance and acceptance, as well as the level of integration of the various races found there in all spheres of life, the Jamaican experience has been one of racial harmony.

Provision of effective remedies, recourse, redress and other measures at the national level

17. What measures exist to investigate and prosecute unlawful acts of racism and racial discrimination and to combat impunity for crimes with a racist or xenophobic motivation?

Provision has been made in the Constitution of Jamaica to safeguard all the fundamental rights and freedoms it guarantees, including its prohibition of discrimination on the basis of race. Additionally, the Office of the Public Defender is charged with ensuring the protection of these rights and freedoms where infringed.

18. What judicial and other remedies exist for persons against any acts of racial discrimination which violate their human rights and what evidence is there to consider that these remedies are effective and adequate?

The Constitution of Jamaica provides for redress through the Supreme Court, the Court of Appeal and the Judicial Committee of the Privy Council.

19. Has your Government taken any measures to eliminate "racial profiling" understood as the practice of police and other law enforcement officers relying, to any degree, on race, colour, descent or national or ethnic origin as the basis for subjecting persons to investigatory activities or for determining whether an individual is engaged in criminal activity?

"Racial Profiling" is not a practice of the Jamaican Constabulary Force or any other law enforcement agency. Race discrimination is in contravention of the Jamaican Constitution.

Victims of racism, racial discrimination, xenophobia and related intolerance

People of African descent

20. What measures has your Government taken to facilitate the participation of people of African descent in all political, economic, social and cultural aspects of society and in the development of the society?

The Jamaican population is largely made up of persons of African descent who are fully integrated in the political, economic, social and cultural aspects, and in the development of the society as citizens of Jamaica.

21. What measures has your Government taken to provide additional investments in the health-care system, education on public health, electricity, drinking water and environmental control, as well as other affirmative or positive action initiatives for people of African descent?

Please see response to question 20. Additionally it should be noted that the Government of Jamaica seeks to ensure that all the citizens of the country have access to health-care, drinking water and other essential services. It is not the policy of the Government of Jamaica to discriminate on the basis of race or place of origin in its provision of these services.

Indigenous peoples

22. What constitutional, administrative, legislative, judicial and other measures has your Government taken, to guarantee the full exercise of human rights and fundamental freedoms of indigenous peoples and/or amended national Constitution, laws, legal systems and policies to be in conformity with relevant international human rights instruments, norms and standards?

The Constitution of Jamaica grants fundamental rights and freedoms to Jamaicans irrespective of race or ethnic background.

23. Has your Government taken any measure to ensure consultation with indigenous representatives in the process of decision-making concerning policies and measures that directly affect them?

The Constitution of Jamaica facilitates the integration and participation of all Jamaicans irrespective of racial origin.

Migrants

24. Has your Government reviewed and, where necessary, revised its immigration laws, policies and practices which may be inconsistent with international human rights instruments with a view to eliminating all discriminatory policies and practices against migrants?

The Jamaican immigration laws do not discriminate against migrants on the basis of race.

Refugee, asylum-seekers and displaced persons

25. What measures has your Government taken to comply with their obligations under international human rights, refugees and humanitarian law relating to refugee, asylum-seekers and displaced persons?

The Government of Jamaica is committed to ensuring that it adheres to its obligations under the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees. The Government of Jamaica has taken the necessary steps to ensure the adequate protection of the basic human rights of refugees and asylum seekers, including through the provision of adequate food and shelter; and the safety and security of individuals and their personal property. There is a process under which applications for asylum are considered by an Eligibility Committee. Refugees are allowed to remain in Jamaica while the Government works with the UNHCR to resettle them in a third country. While under the care of the Jamaican Government, every effort is expended to ensure that refugees and asylum seekers are treated according to internationally recognised human rights standards, including the granting of access by representatives of human rights groups and other NGOs operating in Jamaica.

Other victims

26. What steps have been taken to guarantee the rights of persons belonging to minorities, including Roma/Gypsy/Sinti, to enjoy their own culture, to profess or practise their own religion, to use their own language and to participate effectively in the cultural, social, economic, and political life in order to protect them from any form of racism, racial discrimination, xenophobia and related intolerance they are or may be subjected to?

In Jamaica all racial and ethnic groups enjoy and promote their respective heritage. As indicated previously, discriminating on the basis of race or place of origin is unconstitutional. Jamaicans of all racial and ethnic groups are fully integrated into cultural, social, economic and political life.

27. Have measures been taken to counter anti-Semitism, anti-Arabism and Islamophobia and the emergence of movements based on racism and discriminatory ideas concerning these communities?

The Jamaican authorities have not detected the emergence of movements based on racism and discriminatory ideas concerning anti-Semitism, anti-Arabism and Islamophobia.

28. Has your Government devised, enforced and strengthened measures to prevent, combat and eliminate all forms of trafficking in women and children, in particular girls?

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Jamaica ratified the Transnational Organized Crime Convention and its three (3) Protocols, which include the Protocol to Prevent, Suppress and Punish the Trafficking of Persons, especially women and children in September 2003. In addition domestic legislation, in the form of the Prevention, Suppression and Punishment of Trafficking in Persons Act, was passed by Parliament in March 2007.

Other legislation in effect which criminalize the offence of trafficking in one form or the other, include the:

- a. Child Care and Protection Act
- b. Offences against the Person Act
- c. Juveniles Act
- d. Employment Act
- e. Child Pornography Act

Persons who commit or facilitate the offence of trafficking in persons are liable on conviction to a fine or a custodial sentence or both.