(Translated from Arabic)

Permanent Mission of the Kingdom of Saudi Arabia to the United Nations Office at Geneva

I. The cases of Ali Bin Mohamed Al-Nimr, Abdullah Bin Hassan Al-Zaher and Dawood Bin Hussein Al-Marhoon

- The individuals in question were arrested on suspicion of committing terrorist offences consisting of involvement in stirring unrest; disrupting security and social peace; using firearms with intent to disrupt internal security; making Molotov cocktails and other explosives which were used against citizens, residents and law enforcement officials and caused several deaths and injuries as well as the destruction of public and private property; and carrying out robbery and theft.

- The allegations contained in this communication that the individuals in question were subjected to torture and ill-treatment during their detention are untrue and incorrect. They were treated well during their detention, in a manner that preserves their dignity and guarantees all their rights, just like other detainees and prisoners. They were visited by representatives of the Human Rights Commission, who confirmed that they were being treated well and allowed to exercise the rights guaranteed to them in accordance with the law. They did not make any complaints during that visit. They confessed of their full free will before the investigation authority and confirmed their confessions to the charges against them before the courts, in accordance with article 101 (2) of the Code of Criminal Procedure. They had full legal capacity and, when they appeared before the courts, they did not claim that they had been coerced or subjected to ill-treatment.

In this regard, it should be emphasized that Saudi laws criminalize and punish torture and include a series of guarantees and measures to ensure that no detainee or prisoner is subjected to torture, ill-treatment or other cruel, inhuman or degrading treatment or punishment. Under article 2 of the Code of Criminal Procedure, it is prohibited to inflict physical or mental harm on arrested persons or to subject them to torture or degrading
treatment. Article 36 of the Code states that arrested persons must be treated with dignity, not be subjected to any physical or mental harm, be informed of the reasons for their arrest and be permitted to communicate with a person of their choosing. Article 102 of the Code of Criminal Procedure requires the interrogation of accused persons to be conducted in a manner that does not influence their will to make statements. They must not be required to take an oath or be subjected to coercive measures, and they may not be interrogated outside the premises of the investigating authority unless the investigator deems such action to be necessary.

Article 28 of the Imprisonment and Detention Act establishes that prisoners and detainees may not be subjected to any form of assault and provides for disciplinary action against civil or military officials who commit such acts, without prejudice to any criminal penalties to which they may be liable. Under article 8 (2) of Royal Decree No. 43 of 1958, it is prohibited for anyone acting in an official capacity to engage in ill-treatment and coercion involving, for example, torture, cruelty, confiscation of assets or denial of personal freedoms. This includes in addition the imposition of exemplary punishment or fines, imprisonment, expulsion, compulsory residence in a specific location, and unlawful entry to homes. The penalty for such acts is imprisonment for a term of up to 10 years.

All prisons and detention facilities in the country are supervised and inspected, and steps are taken in the event of any violation. Moreover, members of the Public Prosecution Service supervise the professional conduct of law enforcement officers pursuant to article 25 of the Code of Criminal Procedure.

In the interest of further enhancing oversight and of safeguarding in turn the rights of prisoners and detainees, the Human Rights Commission, pursuant to article 5 (6) and (7) of its Statute, may visit prisons and detention centres at any time without authorization from the competent authority, receive and verify human rights-related complaints, and take corresponding legal measures. The National Society for Human Rights, which is a civil society association, also visits prisons and detention facilities and receives complaints. Offices of the Public
Prosecution Service have been opened in several prisons, together in some cases with offices of the Human Rights Commission and the National Society for Human Rights, so that prison conditions can be closely monitored and complaints received on the spot. State institutions have a legal obligation to ensure that all individuals are treated fairly, regardless of their religion, race, gender or nationality. If any of those institutions or their representatives, or anybody else, violates a person’s rights, there are a number of mechanisms that provide effective safeguards. These include the courts and governmental and non-governmental human rights institutions.

Saudi Arabia is committed to the human rights treaties that it has ratified, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which are deemed to constitute part of national law. This is in line with the country’s human rights obligations.

- The allegations that they were denied access to a lawyer during their trials are untrue and incorrect. They had legal representation by lawyers and representatives of their families and others, and some of them were assigned lawyers at the expense of the State at their request to defend them and plead their cases. These legal representatives were provided with the necessary facilities and sufficient time to provide legal assistance to the individuals concerned. Saudi laws guarantee the right of the accused to have access to a lawyer or representative during the investigation and trial stages to defend them and to have a lawyer assigned to them at the expense of the State, in accordance with articles 4 (1) and 139 of the Code of Criminal Procedure. According to article 19 of the Statutes of the Bar Association, the judiciary and the investigating authorities must give lawyers the facilities they need to carry out their duties; they must be allowed to examine the case documents and to be present during the investigation, and none of their requests may be refused without a legal justification. Additionally, the Charter of the Saudi Bar Association contains provisions to support the role of lawyers in promoting and protecting human rights.
With regard to the communications received from a number of special procedures mandate holders since 2015, it should be noted that the Kingdom of Saudi Arabia cooperates with all the various United Nations human rights mechanisms, responds to their inquiries and requests and fulfils the international obligations arising from its accession to human rights conventions. Its procedures are in line with its obligations under international human rights law and relevant international standards. All allegations received are reviewed and the relevant facts clarified. Responses have been provided to the communications concerning these individuals.

With regard to the release of Ali Al-Nimr and Abdullah Al-Zaher and the request to consider the release of Dawood Al-Marhoon, a royal order was issued in March 2020, which suspended the implementation of death penalties against juveniles and provided for the application of the penalties set forth in article 15 of the Juveniles Act for all crimes without exception. That article provides that if the crime committed by a juvenile is punishable by the death penalty, the sentence shall be a term of imprisonment of not more than 10 years in a detention facility.

Pursuant to that royal order, the enforcement of the death sentences handed down against the individuals in question was suspended, the Public Prosecution Service referred their case files to the competent court, and the prosecutor requested a review of their previous sentences and that they be punished in accordance with article 15 of the Juveniles Act. They were retried in accordance with the established procedures and were able to present a defence and be assisted by legal representatives. They were sentenced to 10 years' imprisonment, in accordance with the aforementioned article, starting on the date of their arrest, in line with article 215 of the Code of Criminal Procedure, which states that: "If a convicted person is sentenced to a term of imprisonment and has already served part of that term while being detained in connection with the case that has been adjudicated, the period of such detention shall be deducted from prison term." These rulings were subject to judicial review before a higher court. They were released at the end of
their sentences. Ali Al-Nimr was released on 27 October 2021, Abdullah Al-Zaher was released on 14 November 2021, and Dawood Al-Marhoon was released on 2 February 2022.

- With regard to the recommendation to uphold the universal prohibition against torture and ill-treatment, and to provide compensation and redress to the individuals concerned, it should be emphasized that, as stated previously, Saudi law prohibits, criminalizes and punishes torture and ill-treatment. The Public Prosecution Service investigates offences in accordance with the mandate entrusted to it under its Statute. In accordance with its Statute, the Public Prosecution Service is independent and part of the judiciary, and no one has the right to interfere in its work. It should be emphasized that Saudi Arabia is committed to the human rights treaties to which it is a party, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Under article 47 of the Basic Law of Governance, citizens and residents have an equal right to seek judicial remedies. Persons who have suffered harm are entitled to seek compensation on the basis of articles 153 and 215 of the Code of Criminal Procedure. Any person whose rights have been violated may lodge a complaint using the available legal remedies, and State institutions have a legal obligation to ensure that all individuals are treated fairly, regardless of their religion, race, gender or nationality. If any of those institutions or their representatives, or anybody else, violates a person’s rights, there are a number of mechanisms that provide effective safeguards. These include the courts and governmental and non-governmental human rights institutions. This is consistent with article 5 of the Universal Declaration of Human Rights and with articles 1, 2 and 16 of the aforementioned Convention.

II. The case of Abdullah Bin Sayed Al-Howaiti

- A response was previously submitted to joint communication No. 4/2021 UA SAU of 23 February 2021 concerning this individual's
case, presented by a number of special procedures mandate holders of the Human Rights Council, including the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Working Group on Arbitrary Detention, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. That communication addressed most of the allegations and claims raised in the appeal currently under consideration. Those allegations were reviewed, the facts were clarified in detail and the relevant national laws and steps taken in connection with the case were explained, showing that they were in accordance with international human rights principles and standards. It was clarified that the information contained in the communication was inaccurate and included false allegations and claims that are based on information received from the source that is devoid of any evidence or proof. Those details were provided in response No. 413/1359 of 1 April 2021 submitted by Saudi Arabia to the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights, which should be reviewed. Saudi Arabia also submitted a response within the established deadline to the allegations and inquiries of the Working Group on Arbitrary Detention contained in communication WGAD/SAU/2021/CASE/3 of 18 August 2021 concerning the case in question.

- After reviewing the case file that had been submitted to it and examining the request for an appeal in cassation, the Supreme Court issued a judgment to overturn the death sentence handed down against this individual and to send the case back to the court of first instance for reconsideration by different judges, in accordance with articles 11 and 202 of the Code of Criminal Procedure. A number of court hearings were held before different judges of the court of first instance, during which the usual procedures were followed, attended by the public prosecutor, the defendant and his lawyer, and a representative of the Human Rights Commission. The case is still under judicial review.

- With regard to the call to ensure that he is retried in full compliance with international norms, it should be noted that the
measures and safeguards taken in this case are in line with international standards for a fair trial and due process as well as with the international standards that protect the rights of persons facing the death penalty, including those set out in United Nations Economic and Social Council resolution 50/1984 of 25 May 1984.

III. The case of Ali Bin Hassan Al-Rabie

- A response was previously submitted to joint communication No. 1/2021 UA SAU of 15 January 2021 concerning this individual's case, presented by a number of special procedures mandate holders of the Human Rights Council, including the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Working Group on Arbitrary Detention, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. That communication addressed most of the allegations and claims raised in the appeal currently under consideration. Those allegations were reviewed, the facts were clarified in detail and the relevant national laws and steps taken in connection with the the case were explained, showing that they were in accordance with international human rights principles and standards. It was clarified that the information contained in the communication was inaccurate and included false allegations and claims that are based on information received from the source that is devoid of any evidence or proof. Those details were provided in response HRC/NONE/2021/SP of 12 March 2021 submitted by Saudi Arabia to the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights, which should be reviewed.

- After the Supreme Court issued a judgment overturning the death sentence handed down against this individual and returning the case to the court of first instance for reconsideration by different judges, his case was reviewed by another judicial chamber, following the usual procedures. The hearings took place in the presence of the prosecutor, the defendant and his lawyer, who was appointed at the expense of the State at his request. The court
issued its judgment only after it had heard statements from all the parties, after the submission of all oral and written defence pleas, after the parties had confirmed that they did not wish to make any additions thereto, after the evidence and the evidence-collection records had been examined, after the closing arguments had been presented in his presence and that of his lawyer, and after all relevant documentation had been scrutinized. This is consistent with article 172 of the Code of Criminal Procedure, which stipulates that: “Any of the parties may provide the court with written information regarding the case for inclusion in the case file.” It is also consistent with article 173 of the Code, which stipulates that: “The court shall first hear the prosecutor’s indictment and then the response of the defendant or his legal representative or lawyer and shall then hear the petition of the civil party, followed by the response of the accused or his legal representative or lawyer. Each of the parties is entitled to comment on the statements of the other parties, the defendant being the last to address the court. The court shall then deliver its judgment, either of acquittal or of conviction with the imposition of a penalty, and in both instances the court shall also rule on the petition of the civil party.” The court of first instance handed down a 25-year prison sentence. The public prosecutor and the defendant lodged an appeal against the ruling. The appeal was accepted, but the judges of the court of first instance upheld their original judgment. The case file was then referred to the Court of Appeal. Several hearings were held to review the case in the Court of Appeal, attended by the public prosecutor, the defendant and his lawyer, in accordance with article 197 (1) of the Code. After examining the case file and hearing the statements of all the parties involved, in accordance with article 197 (2) of the Code of Criminal Procedure, the Court of Appeal upheld the judgment. The case is still pending judicial consideration.
IV. Case of Mustafa Bin Hashim Al-Darwish

- In this appeal, the Government's replies of 23 July 2021 and 1 September 2021 concerning this individual's case are acknowledged with thanks. In those replies, the Government responded to the allegations and claims concerning the person in question, the facts were clarified in detail and the relevant national laws and steps taken in connection with the case were explained, showing that they were in accordance with international human rights principles and standards. It was clarified that the information contained in the communication was inaccurate and included false allegations and claims that are based on information received from the source that is devoid of any evidence or proof.

- It should be noted that the death penalty is imposed only for the most serious crimes and in extremely limited circumstances. It is not handed down or carried out until judicial proceedings in courts of all levels have been completed. Domestic legislation provides guarantees of a fair trial and due process that are consistent with the country’s international human rights obligations. Cases must be heard by a bench of three judges in the court of first instance. The judgment is then referred to the appeal court, even if none of the parties has filed an appeal, and is reviewed by a bench of five judges. If the appeal court upholds the death sentence, the case is referred to the Supreme Court, where it is reviewed by a bench of five judges. If the Supreme Court also upholds the sentence, all stages of the proceedings have been completed and the judgment becomes final and enforceable, pursuant to article 210 of the Code of Criminal Procedure. Judgments are also deemed to be final pursuant to article 212 of the Code, but the death penalty may not be carried out until an order has been issued in accordance with article 217 (1) of the Code.

In conclusion, the Government notes that it responds to the letters, appeals and reports submitted to it and clarifies all the relevant facts in order to cooperate with the international human rights mechanisms.
It is clear from the foregoing that the information contained in the joint appeal is inaccurate and includes false allegations and claims. The measures taken against these individuals have been clarified and they are consistent with the relevant international human rights standards and the obligations of Saudi Arabia, including its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child.

Saudi Arabia wishes to draw the attention of the special procedures mandate holders of the Human Rights Council who authored the joint appeal to the Code of Conduct for Special Procedures Mandate Holders of the Human Rights Council adopted by resolution 5/2 on 18 June 2007, in particular the need to abide by the following:

1. In accordance with article 4 (3) of the Code, the mandate holders shall carry out their mandate while fully respecting the national legislation and regulations of the country wherein they are exercising their mission. Where an issue arises in this regard, mandate holders shall adhere strictly to the provisions of regulation 1 (e) of the Regulations.

2. Give the information provided due consideration in the fulfilment of their mandates, in accordance with article 6 (a) of the Code of Conduct.

3. Take comprehensive account of the information Saudi Arabia has provided in relation to the case in question, in line with article 6 (b) of the Code.

4. Evaluate all information, particularly the allegations received from the sources, in the light of internationally recognized human rights standards relevant to the mandate of the special rapporteurs, and of international conventions to which the State concerned is a party, in accordance with article 6 (c) of the Code.

5. Ensure that the communications submitted regarding the case are not manifestly unfounded or politically motivated, in accordance with article 9 (a) of the Code.

6. Ensure that the person or group of persons submitting the communication are acting in good faith in accordance with principles of
human rights, and free from politically motivated stands or contrary to the provisions of the Charter of the United Nations, and claiming to have direct or reliable knowledge of those violations substantiated by clear information, in accordance with article 9 (d) of the Code.

7. Ensure that the communication is not exclusively based on reports disseminated by mass media, in accordance with article 9 (e) of the Code.

8. Bear in mind the need to ensure that their personal political opinions are without prejudice to the execution of their mission, and base their conclusions and recommendations on objective assessments of human rights situations, in accordance with article 12 (a) of the Code.

9. In implementing their mandate, therefore, show restraint, moderation and discretion so as not to undermine the recognition of the independent nature of their mandate or the environment necessary to properly discharge the said mandate, in accordance with article 12 (b) of the Code.

10. Give a fair, credible and not prejudicially cursory indication of the replies submitted by Saudi Arabia, in line with article 13 (a) of the Code of Conduct.

11. Ensure that their declarations on the human rights situation in the country concerned are at all times compatible with their mandate and the integrity, independence and impartiality which their status requires, and which is likely to promote a constructive dialogue among stakeholders, as well as cooperation for the promotion and protection of human rights, in accordance with article 13 (b) of the Code.