



**Convention on the
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 12 (1) OF THE OPTIONAL PROTOCOL TO THE
CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF
CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY**

Initial reports of States parties due in 2005

CHINA*

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* The annexes to the report submitted by the Government can be consulted in the files of the secretariat.

**First report of the People's Republic of China on the implementation of the
Optional Protocol to the Convention on the Rights of the Child on the sale
of children, child prostitution and child pornography**

Foreword

1. In accordance with article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the People's Republic of China hereby presents to the Committee on the Rights of the Child its first periodic report on the implementation of the said Protocol.
2. This report is presented in two sections. Section 1 details the situation regarding implementation of the Optional Protocol in China since its entry into effect on 3 January 2003. Section 2 provides similar information on the Special Administrative Region of Macao, and is provided by the government of that Region.
3. This report follows the guidelines for States parties on writing, in accordance with article 12, paragraph 1, of the Protocol, their first reports on implementation of the Optional Protocol as set out by the Committee on the Rights of the Child (CRC/OP/SA/1).
4. This report has been written in the light of information provided by the various ministries of the Government of China that are concerned with children, with contributions from Chinese NGOs and specialists in relevant domains.

Section 1

PART 1 - INTRODUCTION

1. General notes on the Optional Protocol

A. Status of the Optional Protocol in Chinese law and judicial applicability

5. The Optional Protocol has been ratified by the Standing Committee of the National People's Congress and has legal effect as a constituent instrument of the laws of China.
6. Administrative and judicial action can be taken under domestic legislation to combat and guard against the sale of children, child prostitution and child pornography and to protect and rescue any victims thereof.

B. Intention to withdraw reservations made to the Optional Protocol

7. In ratifying the Optional Protocol, China expressed no reservations.

C. Government ministries and agencies directing implementation of the Protocol and their coordination with local authorities and social, commercial and media groups

8. Reference is made to paragraphs 7-12 of China's first report, and to paragraph 10 of China's second report, on the implementation of the Convention on the Rights of the Child.
9. In order fully to implement the Optional Protocol, the relevant departments of China's legislative, judicial and administrative branches and various social organizations, have put mechanisms in place. Among these, the State Council Working Committee on Women and Children functions as the interdepartmental coordinating body for work concerning women and children, and plays a leading role in protecting the rights and interests of children and coordinating children's affairs. The Working Committee has grown from an initial membership of 19 governmental and non-governmental organizations to include 33 today.
10. In November 2001, the Supreme People's Court and 14 ministries and NGOs jointly established the National Coordination Group for the Protection of Women's and Children's Rights. The Group's role is to coordinate and promote joint efforts to resolve major problems in this area. By December 2004, its membership had grown to 19 agencies.
11. So far 29 provinces, autonomous regions and municipalities directly under the Central Government and most regional authorities have established coordination groups or joint committees for the protection of women's and children's rights, thus forming an integrated top-to-bottom system for coordinating protection of these rights.

12. In addition, 31 provinces, autonomous regions and municipalities directly under the Central Government and 95 per cent of regional and county governments have established special agencies responsible for work with women and children; 28 provinces, autonomous regions and centrally-administered municipalities and the great majority of regional authorities have established child protection agencies. Meanwhile, 31 provinces, autonomous regions and centrally-administered municipalities and more than 80 per cent of regional authorities have established institutions to combat juvenile delinquency, while both central and local government ministries of education, health, culture, public security, sports and civil affairs have established functional institutions responsible for work with children.

D. Measures taken through education and training to publicize the terms of the Optional Protocol

13. The Government employs a variety of methods to ensure the comprehensive dissemination of the Optional Protocol.

14. First, great efforts are made to enhance awareness of and resistance to abduction among important target groups such as children, parents and the floating population. The goal is to ingrain in people's minds that "the abduction and sale of women and children is a crime" and to create in society at large a common determination to combat such crime.

15. Since 2002, for example, the Ministry of Public Security and UNICEF have conducted a trial programme, the "Zero Plan to eliminate abduction and sale from rural villages", in Xinye County, Henan Province. Led by the county government, and with the cooperation of the departments of public security, labour and information and the Women's Federation, a special office was established that, through publicity, police action, vigilance and integrated management, has managed to reduce the incidence of abduction and sale of women and children in the rural community to a very low level. Between August and September 2003, the Xinye County "Zero Plan Office" conducted training sessions on resisting abduction for 33 middle school principals. From 9 to 15 October 2004, the county held a township competition to identify leading collectives and individuals in the campaign to prevent abductions, and arranged speaking tours around the county for those chosen in an effort to increase the public profile of the Zero Plan.

16. In a second initiative, the Ministry of Education works with NGOs among students, teachers and parents to provide, in a planned and positive manner suitable for persons in education, instruction in personal hygiene, sexual development at puberty, the dangers of illicit drugs, and AIDS. The objective is to provide young people with accurate, healthy sexual knowledge, inculcating a proper moral outlook on sexual behaviour so as to distance them from the sort of behaviour prohibited under the Optional Protocol.

17. The third major initiative draws on the power of the broadcast media to publicize the Optional Protocol. This involves the production of programmes which promote the protection of the rights and interests of children from a variety of perspectives, with animation and in depth. Such programmes include progressive reports on China's signing, ratification and implementation of the Optional Protocol; programmes designed to improve children's understanding of the law, how their rights are protected and their ability to protect themselves; reports produced for their deterrent effect, highlighting the punishments the law reserves for

persons guilty of assaulting children; programmes featuring in-depth special reports on the rights of children and the problems of child abuse; a variety of programme types including special reports, commentary and entertainment to arouse public concern about protecting children and shielding them from abuse; public-interest advertising against child abuse; information programmes taking advantage of the wide coverage of the broadcast and televisual media to publicize the ills of child abuse throughout China's remote and undeveloped regions and the west of the country. In addition, strict controls are enforced on programme content that glorifies violence, killing, terror or sexual assault of children so as to prevent it from exerting an injurious effect on society.

18. The fourth initiative draws on the favourable influence of academic institutions and scholars on the presentation and dissemination of the Optional Protocol. On 10 August 2004, for example, the China Radio and Television Broadcasting Society task force responsible for radio and television programme standards invited specialists in children's rights from the Law Institute of the Chinese Academy of Social Sciences to talk on international human rights law and the Convention on the Rights of the Child, including the Optional Protocol.

E. Publicizing the Optional Protocol among entities working with children (including immigration, law enforcement and social work agencies) and providing suitable training

19. From 24 to 26 May 2004, to heighten awareness in government units and departments of the protection of children's rights and interests, the Ministry of Public Security organized a training session for cadres of its affiliated agencies on the Optional Protocol.

20. Since 2002, the country's investigating authorities have together brought into force the *Regulations for the handling of juvenile criminal cases by people's procuratorates*, studying, putting in place and perfecting a regimen for the prosecution of juvenile offences. A series of activities has been organized, including training sessions, seminars and exchanges of experience, that has featured study and promotion of the spirit of the Convention on the Rights of the Child, its optional protocols, and the related regulations.

F. Mechanisms and formulae for periodic assessments of the status of implementation of the Optional Protocol, and challenges encountered to date

21. To protect children and create a favourable social environment for them is an important responsibility of the Government of China. Details of the Government's commitment in this regard are set out in the *China Children's Development Programmes* for 1990-2000 and 2001-2010. The National Working Committee for Women and Children is the coordinating body under the State Council responsible for work with women and children. It has under it a monitoring and statistics group, and an expert assessment group. The former is responsible for putting in place systems to monitor the targets set out in the Children's Programme; every year it collects data from the statistics bureaux of relevant State Council and regional government departments, and compiles a monitoring report. The expert assessment group draws on information provided by regional governments and relevant State Council departments to evaluate progress towards the targets.

2. Compliance with the Convention on the Rights of the Child

A. Non-discrimination

22. Please refer to paragraphs 27-31 and paragraph 185 of the second periodic report of the People's Republic of China regarding implementation of the Convention on the Rights of the Child.

B. Protecting the best interests of the child

23. Please refer to paragraphs 32-39 of the second periodic report of the People's Republic of China regarding implementation of the Convention on the Rights of the Child.

24. Since 1998, 14 units of the All-China Youth Federation have conducted a campaign to establish *Outposts of Excellence in Protecting Youth Rights*, naming and commending political institutions and administrative departments that are consciously fulfilling their legal mandates and grass-roots units which have made a significant contribution to the protection of children's rights and interests. Nationwide, over 1,300 national-level "outposts" have emerged in the 31 provinces, autonomous regions and centrally-administered municipalities participating in the campaign, as well as a great number at the provincial and local (municipal) levels. In many cities, the Outposts of Excellence of diverse systems have formed alliances to clean up and rectify phenomena which impinge upon children's rights, thus substantially resolving for children many of the problems they might encounter while growing up.

25. In addition to the above, sticking firmly to the principle of the "best interests of the child", the Government has created legal aid facilities which are required to provide legal assistance to children and ensure that the rights the law bestows upon them can truly be exercised. Legal aid is available to children implicated in criminal cases who cannot afford to hire their own lawyers, after their first interrogation by investigating agencies, or from the date they are subjected to measures of restraint, or from the date the case is forwarded for prosecution; to child suspects in criminal cases under adjudication before a people's court who have not appointed defence counsel - the court appoints counsel and a legal aid organization must provide due assistance; to children pursuing civil recovery of maintenance before the courts; to children whose families are experiencing economic hardship and who are seeking payment of due wages, social insurance benefits, Minimum Living Standard support, pension or relief payments or State compensation, or whose advocacy of a just cause raises other issues of civil rights and interests. The Government also supports and encourages social groups and other civil organizations to utilize their own resources to provide legal aid to children.

C. Protecting children's rights to life, survival and development

26. Please refer to paragraphs 40-43 of the second periodic report of the People's Republic of China regarding implementation of the Convention on the Rights of the Child.

27. The information given there needs to be updated and supplemented as follows.

28. By 2004, China's annual GDP had risen to RMB13.65 trillion, and average per capita disposable income had risen significantly.

29. By 2003, the country had 52 children's hospitals and 3,033 institutions for maternal and child health care. The infant mortality rate had dropped to 25.5 per thousand and the under-five mortality rate to 29.9 per thousand.
30. China is pursuing a policy addressing the needs of persons suffering from AIDS known as the "Four Frees, One Care" initiative, two aspects of which bear on protection of children's rights to life, survival and development. The first is that drugs to block mother-to-child transmission of HIV are provided free of charge to HIV-infected pregnant women, while the second exempts the orphans of AIDS patients from payment of school fees.
31. The Government also supports the development of cultural institutions for children so as to make an abundance of knowledge available to them through the visual media.
32. As a means of boosting the number of children's films produced to satisfy young spectators' needs, the State Administration of Radio, Film and Television has put in place specific funding and supports the production every year of some 20 children's films. Capital is also raised from private sources to encourage productions by non-State-owned studios and to extend the scope of funding and award activities to include video and film bodies of all types.

D. Respect for the views of the child

33. Please refer to paragraphs 44-48 of the second periodic report of the People's Republic of China regarding implementation of the Convention on the Rights of the Child. Paragraph 137 below also addresses this area.

E. Progress and extent of implementation of the Convention on the Rights of the Child, particularly of articles 1, 11, 21, 32, 33, 34, 35 and 36

34. With respect to article 1, the "definition of a child", please refer to paragraphs 21-26 of the second periodic report of the People's Republic of China regarding implementation of the Convention on the Rights of the Child.
35. With respect to article 11, "Combating the illicit transfer and non-return of children abroad", please refer to paragraphs 375-380 of the second periodic report of the People's Republic of China regarding implementation of the Convention on the Rights of the Child.
36. With respect to article 21, concerning adoption, please refer to paragraphs 151-167 of the second periodic report of the People's Republic of China regarding implementation of the Convention on the Rights of the Child, and to paragraphs 83-103 of this present report.
37. With respect to article 32, "Economic exploitation of children, including child labour", please refer to paragraphs 332-342 of the second periodic report of the People's Republic of China regarding implementation of the Convention on the Rights of the Child.
38. The information in the above is updated as follows.
39. In December 2002, the Standing Committee of the National People's Congress passed the fourth amendment to the Criminal Code, adding the offence of "hiring children to engage in dangerous and heavy labour", and stipulating: "Where, in violation of labour management

regulations, minors under the age of 16 are hired to engage in extremely demanding physical labour, or to work at heights, or underground, or in explosive, inflammable, radioactive, toxic or other dangerous environments, the individual directly responsible shall be regarded as an offender and punished accordingly.”

40. The *Regulations on supervision of labour safeguards* of the State Council, which came into effect on 1 December 2004, provide for an enhanced labour supervisory regimen to eliminate the phenomenon of child labour.

41. By the end of 2004, there were some 3,200 labour safeguard inspectorates nationwide employing some 43,000 staff, of whom some 19,000 were full-time inspectors and 24,000 worked as inspectors part-time.

42. Since 2001, the Ministry of Labour and Social Security has united the relevant departments in annual nationwide campaigns to check on compliance with the *Regulations prohibiting child labour*. Proper understanding of the conditions prevailing in the various regions, and a rigorous analysis of the problems remaining in prohibiting child labour as well as the various contributing factors, permit measures to be drawn up to address them.

43. With respect to article 33, the “illicit use of narcotic drugs”, please refer to paragraphs 343-358 of the second periodic report of the People’s Republic of China regarding implementation of the Convention on the Rights of the Child.

44. In 2003, the Ministry of Education announced a *Special educational programme for the prevention of drug use in primary and middle schools* which required schools as of the spring of that year to devote two hours of teaching per year to drug prevention. The programme applies to all grades from the fifth year of primary school to the second year of upper middle school.

45. In honour of the International Day against Drug Abuse and Illegal Trafficking in 2003, the Ministry of Education and the National Narcotics Control Commission (NNCC) printed and distributed free of charge to primary and middle schools across the country some 180,000 copies of a student drug prevention education poster to spur drug education efforts. The Ministry and NNCC also designated 100 schools across China as model schools for student-oriented drug prevention campaigns.

46. With respect to article 34, concerning “sexual exploitation and sexual abuse”, please refer to paragraphs 359-374 of the second periodic report of the People’s Republic of China regarding implementation of the Convention on the Rights of the Child and the pertinent paragraphs of this report.

47. In particular, the Ministry of Education makes puberty-related education a major focal point of health education classes in schools. Article 13 of the Population and Family Planning Act stipulates that “Schools shall provide, in a manner appropriate to the particular characteristics of those being educated, a structured programme of education in personal health and hygiene and puberty or sexual health.” Such documents as the *Guidance programme for ethical education in primary and middle school*, the *Basic requirements for primary and middle school health education*, the *Basic requirements for AIDS-prevention and health education in schools*, and the *Middle school special AIDS-prevention programme* clearly stipulate that

information on physical development at puberty and general personal health maintenance should be incorporated into junior middle school AIDS-prevention programmes, and that information about the relationship between physiological development and mental health at puberty and moral instruction should be incorporated into upper-middle-school AIDS-prevention programmes.

48. With puberty education provided through such varied channels as middle-school curricula and health education classes, children receive correct sexual knowledge that is to their advantage in protecting them from all forms of sexual exploitation and sexual abuse.

49. With respect to article 35, concerning “the abduction of, the sale of or traffic in children”, please refer to paragraphs 375-379 of the second periodic report of the People’s Republic of China regarding implementation of the Convention on the Rights of the Child, and the pertinent paragraphs below.

F. Process of writing this report, including participation of governmental and non-governmental organizations

50. This report has been compiled for the most part by the Ministry of Foreign Affairs. During the process of writing, a great deal of written input was solicited from various government agencies and some NGOs. Once the first draft was completed, the heads of the various agencies noted above met and went through the document paragraph by paragraph, amending it as necessary. The revised and amended version was distributed to the agencies for further review and reflection, after which the Ministry of Foreign Affairs produced this final version.

3. Status of implementation of the Optional Protocol

A. Progress achieved in enjoying the rights enshrined in the Optional Protocol

51. The Government of China exerts itself to fulfil its obligations under the Optional Protocol, promoting development so as to provide children with a favourable social environment in which to live and develop, enacting legislation to establish the legal safeguards that guarantee the rights enshrined in the Optional Protocol, and strengthening law enforcement so as to ensure that the rights that children enjoy under the Optional Protocol are duly respected in practice. The details are set out in the various sections of this report.

B. Analysis of factors and difficulties affecting the degree of fulfilment of obligations under the Optional Protocol

52. Although a developing country, China is making every effort to fulfil its obligations under both the Convention on the Rights of the Child and the Optional Protocol so as to give children the greatest and fullest possible protection. At present, the protection of children’s rights is consistently improving in step with the country’s economic development. Nonetheless, China’s status as a developing country does mean that a certain number of hindrances and limitations persist. Some examples are set out below.

53. China is a vast country with an enormous population and regional imbalances in social and economic development. In certain remote and impoverished regions, educational levels among the peasantry are rather low, particularly among women and children. There is no strong sense of the rule of law, and as these women and children are not well equipped to defend themselves, they are vulnerable to enticement, deception and abduction by criminal elements who compel them to work in prostitution or sell them as wives. In some rural areas, the practice of purchasing wives and children persists as a means of resolving the problems of finding marriage partners for sons and ensuring family succession. Women and children who are abducted and sold can end up in a variety of situations. In poor areas, most are sold into marriage, but in more developed areas, a certain number of victims end up working in public entertainment venues or hair salons, bathhouses or massage parlours, or are forced into prostitution.

54. In addition, such new concepts as a child possessing rights rather than just needing looking after, respect for a child's autonomy, and listening to a child's views have yet to achieve universal acceptance in Chinese society.

4. Budgetary allocations to activities associated with the Optional Protocol

55. All government departments responsible for children's affairs make provision in their annual budgets to support activities related to the Optional Protocol.

5. Data in detail

56. First, with respect to the offences listed under article 3, paragraph 1, of the Optional Protocol, public security and investigating authorities have provided the following statistics (covering the period from January 2003 to July 2004).

57. Cases involving the abduction and sale of children: 1,125 cases involving 2,698 persons were referred to investigating authorities by public security organs requesting arrest warrants; after review, warrants were issued in 985 cases for a total of 2,291 suspects, including 1 child. Eleven cases involving 31 persons related to the purchase of an abducted child, and warrants were issued in 8 cases for the arrest of 21 suspects. There was one case involving two persons accused of organizing collective resistance to the rescue of an abducted woman or child, and warrants were issued for the arrest of the two individuals.

58. Cases involving child prostitution: investigating authorities nationwide handled 7 cases involving 16 persons accused of enticing girls under the age of 14 to engage in prostitution; warrants were issued for the arrest of 13 suspects in the 7 cases. There were 54 cases of engaging the services of a child prostitute, involving 78 persons, and warrants were issued for 60 suspects in 44 of the cases. Another 9,379 cases of organizing, coercing, enticing, sheltering or procuring other persons to engage in prostitution involved 13,111 persons; warrants were issued in 8,411 cases for a total of 11,553 suspects, including 47 children. There were 16 cases of spreading sexually-transmitted infections, involving 20 persons, resulting in warrants being issued in 13 cases for 16 suspects, including 2 children.

59. Cases involving child pornography: investigating authorities nationwide handled 1,540 cases involving 2,048 persons accused of the production, sale or dissemination of pornographic materials for profit; warrants were issued for the arrest of 1,772 suspects, including 6 children, in 1,377 cases. There were 57 cases of disseminating pornographic materials, involving 90 persons; warrants were issued for the arrest of 73 suspects in 44 cases. A total of 145 cases related to obscene performances, involving 260 persons; warrants were issued for the arrest of 203 suspects in 125 cases, including 1 child.

60. Second, with respect to the offences listed under article 3, paragraph 1, of the Optional Protocol, people's courts at various levels have provided the following statistics (covering the period from January 2000 to December 2004).

61. Some 18,697 cases involving the abduction and sale of women or children were tried, resulting in 28,027 convictions; 404 cases involving the purchase of an abducted woman or child were tried, and 559 convictions obtained.

62. Some 125,637 persons were convicted of crimes ranging from rape (including rape of a minor), to molestation of a child, to enticing minors to gather for licentious activities.

63. Altogether 29,906 cases were tried of organizing, coercing, assisting in the organization of, enticing, sheltering or procuring other persons to engage in prostitution, resulting in 35,591 convictions. Eighty-one persons were convicted in 53 cases of enticing girls under the age of 14 to engage in prostitution, while 240 persons were convicted in 176 cases of engaging the services of a child prostitute.

64. Some 6,118 persons were convicted in a total of 4,634 cases involving the production, duplication, publication, sale or dissemination of pornographic materials for profit, for the dissemination of pornographic materials, or the organization of displays of pornographic audio-visual materials; 441 persons were convicted in 300 cases of organizing obscene performances.

6. Important legislative and administrative documents, judicial decisions and relevant research

65. These documents are listed below (and are presented in full in the annexes).

Laws:

- Criminal Code (relevant articles);
- Code of Criminal Procedure (relevant articles);
- Protection of Minors Act;
- Prevention of Juvenile Delinquency Act;
- Maternal and Child Health Act;

Ministerial statutes:

- Regulations on the handling by public security organs of juvenile criminal cases;

Judicial interpretations:

- Certain regulations of the Supreme People's Court on the handling of juvenile criminal cases;
- Regulations for the handling of juvenile criminal cases by people's procuratorates;
- Interpretations of certain problems in the concrete application of the law to criminal cases involving the use of the Internet, mobile information terminals or messaging services for the production, duplication, publication, sale or broadcast of pornographic electronic material;

Policy:

- China Children's Development Programme (2001-2010).

PART 2 - PROHIBITION OF THE SALE OF CHILDREN, CHILD PORNOGRAPHY AND CHILD PROSTITUTION

1. Domestic law outlawing behaviour prohibited under the Optional Protocol

A. Age limits used for defining a child in the definition of each of these offences

66. The definition of a child as used in the offences "abduction and traffic in women and children" and "purchase of an abducted woman or child" in the Criminal Code is generally held by judicial authorities, referring to valid judicial interpretations, to be any person under the age of 18.

67. Under the Criminal Code, the offences "production, duplication, publication, sale or dissemination of pornographic material for profit", "dissemination of pornographic material", and "organization of displays of pornographic audio-visual material" encompass such activities as the production, duplication, publication, sale, dissemination or organization of the display of child pornography. In cases of this type, judicial authorities generally draw upon valid judicial interpretations to define as a child any person under the age of 18.

68. Under the Criminal Code, the offences "organizing prostitution", "coercion into prostitution", "complicity in organizing prostitution" and "enticing, harbouring or procuring prostitutes" encompass such conduct as it may relate to children. In cases of this type, a "child" is generally taken by judicial authorities to be a person under the age of 18, while the term *younǐ* is used to refer to girls under the age of 14. The Criminal Code contains special provisions on the enticement of girls under 14 into prostitution, and stipulates aggravated punishment for this and for engaging the services of such girls. With respect to boys under 14, as article 236 of the Criminal Code specifically identifies the object of rape as a female, cases of molestation or rape

of a boy which qualify as criminal offences are generally prosecuted, according to the circumstances of the individual case, as forced molestation of a child or of causing intentional harm. Alternatively, the victim of such an offence may bring suit in a people's court, in which case a verdict of guilty will incur for the perpetrator the payment of civil damages for violation of the victim's rights.

B. Punishments applicable to crimes of this type, and aggravating or attenuating circumstances

69. The general principle adhered to in the Criminal Code is that trafficking in children, child pornography and child prostitution should be punished with greater severity than the same offences involving adults. These are situations defined in law where heavier penalties are appropriate.

70. The Criminal Code also stipulates that when the offence of abduction and trafficking in women and children is aggravated by the deception or coercion of its victims to engage in prostitution, these aggravating circumstances will be taken into account and an appropriate penalty ordered.

71. A person who buys an abducted woman or child but does not obstruct the woman's return to her original home as she wishes or, in the case of a child, does not maltreat the child or obstruct his or her rescue, may not be subjected to criminal proceedings.

72. According to section 1 of the *Interpretations of certain problems in the concrete application of the law to criminal cases involving the use of the Internet, mobile information terminals or messaging services for the production, duplication, publication, sale or broadcast of pornographic electronic material*, issued jointly by the Supreme People's Court and the Supreme People's Procuratorate in September 2004 any person who, for gain, utilizes the Internet or mobile information terminals for the production, duplication, publication, sale or broadcast of films, performances, animations or other video or audio documents, electronic publications, images, articles or messages or other electronic information of an obscene nature, and whose such activity reaches a certain volume or scope, or uses Internet chat rooms, forums, instant messaging software or e-mail for similar purposes, shall be charged with the offence of production, duplication, publication, sale or broadcast of pornographic material for profit, and punished accordingly. Anyone using these media for the dissemination of pornographic materials but not for gain and whose such activity reaches a certain volume or scope, shall be charged with the offence of dissemination of pornographic material and punished accordingly.

73. Section 6 of the same *Interpretations* discusses the production, duplication, publication, sale or broadcast of electronic pornographic material displaying sexual activity involving persons under the age of 18. Anyone knowing that such material exists on his own website or one that he manages or uses, or that provides links to such material, or who sells or disseminates such material or spoken messages to persons under the age of 18, shall be charged with the two offences of production, duplication, publication, sale or broadcast of pornographic material for profit and dissemination of pornographic material, and punished accordingly.

C. Statutes of limitations for offences of this type

74. For the statutory limitations on prosecution for offences described under the Optional Protocol, please refer to articles 87 to 89 of the Criminal Code.

75. Offences will not be prosecuted if the following periods have elapsed.

76. Five years, when the maximum penalty is imprisonment of up to 5 years; 10 years, when the maximum penalty is imprisonment of 5 to 10 years; 15 years, when the maximum penalty is imprisonment of 10 years or more; and 20 years, when the maximum penalty is life imprisonment or death. If, even after the passage of 20 years, the authorities believe that a prosecution is warranted, application must be made to the Supreme People's Procuratorate.

77. Once a people's procuratorate, public security bureau or national security organ has opened an investigation or a people's court has registered a case, if a suspect flees investigation or trial these limitations no longer apply. If the victim of an offence files a complaint within the appropriate period and a people's procuratorate, people's court or public security bureau does not file a case when in fact it should do so, these limitations also no longer apply.

78. The limitation period for prosecution is counted from the date an offence is committed; if the criminal act is of a continual or continuous nature, the period is counted from the last day the act is committed. If a further crime is committed during a limitation period for prosecution, the limitation period for prosecution of the old crime is counted from the date the later crime is committed.

D. Other acts or activities not covered by article 3, paragraph 1, of the Optional Protocol but criminalized under Chinese law

79. At present, China does not prosecute acts or activities that fall outside the scope of article 3, paragraph 1, of the Optional Protocol.

E. Liability of legal persons for the acts and activities enumerated in article 3, paragraph 1, of the Optional Protocol, including the definition of a legal person

80. Article 30 of the Criminal Code states that any company, commercial or non-commercial institution, State organ or organization engaging in conduct that endangers society and is defined in law as a "unit offence" shall be held criminally responsible.

81. The Code provides for the "unit offences" of organizing prostitution, coercion into prostitution, assisting in the organization of prostitution, enticing, harbouring or procuring prostitutes, enticing a girl under the age of 14 to engage in prostitution, production, duplication, publication, sale or dissemination of pornographic material for profit, dissemination of pornographic material and organization of displays of pornographic audio-visual material - the Criminal Code makes provision for their commission by a unit. Accordingly, if a corporate entity does commit such an offence, it will be charged and punished under the Code.

F. Status under the Criminal Code of attempts to commit and complicity or participation in any of the offences described above

82. With respect to offences relating to trafficking in children, child prostitution and child pornography, section 3 of the Criminal Code applies. This section deals with joint crimes and the determination of criminal responsibility of offenders (see articles 25-29 of the Criminal Code).

2. Adoption

A. Bilateral and multilateral agreements applicable to China

83. Multilateral agreements: China signed in November 2000 the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (hereunder referred to as the Hague Convention) and is at present engaged in the process of its ratification.

84. Bilateral agreements: China has signed bilateral agreements that touch on adoption with 16 countries, including the United Kingdom, the United States of America, Canada, Finland, Norway, Sweden, Spain, the Netherlands, Ireland, Denmark, Belgium, France, Australia, Singapore, Iceland and New Zealand.

B. How China ensures that all persons involved in the adoption of a child act in conformity with these international agreements

85. China has enacted a full set of legislative measures which strengthen the regimen governing legal adoptions and aim to ensure that all parties involved comply with the terms set out in these international agreements.

86. Both while drawing up the regulations governing adoption and in the actual process of handling adoptions involving parties abroad, China has adhered firmly to the principle of the best interests of the child, and has consistently sought to strengthen the standing in law of the “complete adoption” the Hague Convention advocates. The Adoption Act, as amended on 4 November 1998, combined the three documents previously necessary - the adoption registration, a written agreement and a notarized written agreement - into one single registration document, which served to strengthen the State’s powers in the process and ensure protection of the child’s rights through the involvement and oversight of government agencies.

87. Article 20 of the Adoption Act states that it is strictly forbidden to buy or sell a child or to do so under the cloak of adoption. The law makes it clear that trafficking in children under the cloak of adoption will be pursued as a criminal offence. Cases of abandonment of a child can be handled by public security organs and a fine imposed; criminal abandonment is investigated and prosecuted in accordance with the law. If a child is sold by its own parents, the public security organs will confiscate the proceeds of the sale and impose a fine; if the sale amounts to a crime, it will be investigated and prosecuted accordingly. In order to safeguard the life of the child after adoption, article 26 of the Adoption Act stipulates that an adoptive parent may not terminate the adoptive relationship before the adoptee comes of age, and unless the adoptive parent and the party which put the child up for adoption agree to terminate the relationship the consent of the adopted child, if aged 10 or more, must be obtained.

88. In order to provide further protection to vulnerable female children, the Act stipulates that in the event that a man who does not have a spouse adopts a girl, the difference in their respective ages must be at least 40 years.

89. The Adoption Act also clearly states, “A foreigner may, in accordance with this Act, adopt a child (male or female) in the People’s Republic of China.” In order to regulate adoptions involving foreign nationals and ensure that foreign adoptive parents have sufficient assets and competence, the Act stipulates that prospective adopters must obtain the consent of the authorities in their own country in accordance with that country’s law. Specifically, “the adoptive parent shall provide papers issued by the competent authorities of his or her country certifying such particulars as age, marital status, profession, property, health and criminal record if any. The said papers shall be certified by the foreign affairs authorities of the adoptive parent’s country or by an agency authorized to perform this function by the said authorities, and shall in addition be authenticated by the embassy or consulate of the People’s Republic of China in that country. The adoptive parent shall conclude a written agreement with the party putting the child up for adoption, and register the adoption in person with the civil affairs department of the provincial people’s government”.

90. Government agencies have put in place a series of regulations and policies to ensure that the Adoption Act is properly enforced.

91. In May 1999, with the approval of the State Council, the Ministry of Civil Affairs issued regulations for registration of adoptions by Chinese nationals, regulations for the registration of adoptions by foreign nationals in the People’s Republic of China, and regulations governing the jurisdiction over registrations of adoption by overseas Chinese and Chinese nationals living in Hong Kong, Macao and Taiwan, and documentary requirements for such registrations.

92. The regulations for the registration of adoptions by foreign nationals set out in concrete terms the requirements of the Adoption Act, including what information and materials the prospective adopter must provide, review procedures for his or her credentials, registration procedures, and the channels for resolving whatever legal issues may arise. These unified procedures and strict reviews of the credentials of potential adopters ensure that the adoptive family is able to provide a sound and healthy living environment for the adopted child to grow up in.

93. At the same time, the regulations also set out strict requirements regarding the information that parties putting a child up for adoption must provide. They distinguish, for example, among various situations in which parties may wish to put a child up for adoption - whether they are the child’s birth parents, when the child’s birth parents are not fully competent to manage their civil affairs, or when the child is in the institutional care - and stipulates the information these parties must provide. They also make clear that review of the pertinent information concerning both the adopter and the party putting the child up for adoption is the responsibility of the agency that registers adoptions by foreigners. The civil administration authorities of provincial people’s governments review each case and determine whether the child in question is eligible for adoption; when approval is granted, the case is forwarded to the China Adoption Centre. Of course, the provincial civil administration authorities shoulder legal

responsibility for the findings of their reviews. The Regulations also stipulate that, when searching for the parents of an abandoned infant or child, the civil administration authorities of the provinces, autonomous regions and centrally-administered municipalities concerned should post advertisements in a local, provincial-level newspaper. A detailed, reliable review within the province of the status of children put up for adoption is instrumental in ensuring that no child victim of abduction or trafficking is put up for adoption abroad.

94. On 5 September 2003, the General Office of the Ministry of Civil Affairs issued a circular to the civil affairs offices of the provinces, autonomous regions and centrally-administered municipalities concerning the role of social security agencies in overseas adoptions. By clarifying this role and regulating the behaviour of these agencies in this context, this document, the *Regulations concerning the work of social security agencies in adoptions by foreign nationals*, serves to safeguard the legitimate rights and interests of adopted children. The regulations set out in detail the information that social security agencies must provide when arranging adoptions, and also stipulate the content of the advertisements seeking to identify the parents of an abandoned infant or other child. They require the civil administration authorities of the province concerned, before an adoption is registered and in view of the particulars of each case, to set a suitable “acclimation period” during which the adoptive parents and the child may become familiar with each other and form bonds. Social security agencies will provide psychological counselling and guidance to adopted children so as to help them cope with this demanding passage in their lives.

95. It is worth noting that the Regulations include a series of standardized forms for use in reporting the status of children put up for adoption. These forms include: Growth status of the adoptee, Physical examination of the adoptee, Registration of an orphan taken in care by a social security agency, Registration of an abandoned child, Registration of an abandoned child taken in care by a social security agency, Recommendations regarding an adoption application by a foreign national, Agreement to provide supervision during an acclimation period and the Adoption agreement itself. Each item of information on these forms must be countersigned by the person responsible at the moment it is filled in, so as to enhance understanding of the child’s overall situation and also aid in the keeping of records. These measures help to ensure a firm and reliable foundation for adoptions by foreign nationals.

96. The China Adoption Centre plays an important role in ensuring that all parties to the adoption of a child by a foreign national are in compliance with the terms of the pertinent international agreements.

97. Established in June 1996, the Centre is responsible for checking the credentials of foreign adoption organizations and ensuring that such organizations, in their dealings with it, comply with the requirements of China’s Adoption Act. It reviews applications for adoption, family situation reports and related information forwarded by the competent authorities in the prospective adopter’s home country and determines whether these documents are complete, legal, valid and consistent, and, on the basis of this review, determines whether the foreign adopter meets the requirements of the Adoption Act. It also recommends suitable children for adoption, in accordance with the wishes of the prospective adopter. The Centre then issues an

Approval to come to China to adopt a child, instructs the local civil administration authorities concerned to notify the party caring for the child that an adoption approval has been issued, and subsequently keeps track of the child and its progress as it grows up abroad. Finally, the Centre assists the relevant Chinese authorities in any cases involving safeguarding the rights of Chinese children adopted abroad, and keeps records of parties involved in adoptions by foreign nationals.

98. On 1 February 2003, the Centre issued three documents designed to strengthen oversight of the operations of foreign adoption organizations in China. The *Notice concerning an evaluation regimen for foreign adoption organizations*, the *Basic conditions for foreign adoption organizations in their cooperation with the China Adoption Centre* and the *Interim regulations and requirements of the China Adoption Centre with respect to intercountry adoptions involving foreign adoption organizations* help ensure that children enjoy a favourable environment in which to grow up after their adoption.

99. The *Interim regulations and requirements of the China Adoption Centre with respect to intercountry adoptions involving foreign adoption organizations* set out clear and stringent requirements governing the adoption application, the documents to be produced, the family situation report, the procedures for submission and processing of these papers and post-adoption reporting. Such close review of all information pertaining to the adopting party helps ensure that no problems arise at any step in the process. Among the information required on the intercountry adoption application is a declaration by the adopting party that the party undertakes to neither abandon nor maltreat the adopted child. The family situation report is also an important document, as it establishes whether the adopting party has any history of abuse or violence, or any criminal record. Items addressed in this context include whether the adopting party has any record of arrests or convictions related to alcoholism, drug or medication abuse, family violence, sexual abuse or child abuse. Any application which on review by the China Adoption Centre, is found not to comply with the stipulations and requirements of law or to be detrimental to the sound growth of an adopted child, is rejected.

100. Adoption organizations are required to send a social worker to the child's adoptive home to conduct interviews 6 months and 12 months after the adoption is completed, and to forward a settling-in report to the China Adoption Centre within 3 months of each of these visits. This settling-in report should be truthful, comprehensive and substantial, and reflect in an objective manner the life and situation of the adopted child. The report is to be signed by the social worker or an official at the adoption organization.

101. Article 1 of the *Basic conditions for foreign adoption organizations in their cooperation with the China Adoption Centre* requires that the interests of the child to be adopted in China receive foremost consideration. This is a basic principle of both the Convention on the Rights of the Child and the Hague Convention.

102. Between 1 March and 1 April 2003, in accordance with the *Interim regulations* the Centre issued a uniform procedure for the registration of contact persons in China of foreign adoption organizations, so as to establish records of the contacts these organizations maintain in

China and prevent unauthorized individuals from engaging in activities detrimental to children by pretending to work for a recognized organization. On 18 April 2003, the Centre set out the credentials required of foreign adoption organizations, which aim to ensure the trustworthiness of foreign organizations cooperating with the Centre.

103. On 15 September 2003, a conference to discuss foreign adoptions was held in Nanchang, Jiangxi Province. The central topics were comprehensive implementation of the *Regulations concerning the work of social security agencies in adoptions by foreign nationals*, and better administration of such adoptions, including stringent checks on the origins of children destined for adoption abroad. On 18 October 2004, another national conference addressing foreign adoptions was held in Foushan, Guangdong Province. This produced new standards for the administration of adoptions and strict requirements governing the proof required for taking abandoned children into care and reporting thereon, so as to contain and combat domestic and intercountry trafficking in children.

PART 3 - CRIMINAL PROCEDURE

1. Jurisdiction

A. Jurisdiction over the offences referred to in article 3, paragraph 1, when these offences are committed in the territory of, or on board a ship or aircraft registered in, the State party

104. When an offence referred to in article 3, paragraph 1, of the Optional Protocol is committed within the territory of the People's Republic of China, or incurs consequences there, it is considered to have been committed on Chinese territory. The Criminal Code states that, "This Code applies to anyone who commits a crime within the territory and territorial waters and space of the People's Republic of China, except as otherwise specifically provided by law. It shall also be applicable to anyone who commits a crime on board a ship or aircraft of the People's Republic of China."

B. The alleged offender is a national of China or a person who has his/her habitual residence in its territory

105. China retains criminal jurisdiction over any of its nationals who commit, outside the territory of the People's Republic, an offence as described in article 3, paragraph 1 of the Optional Protocol. In the event, however, that the offence is one which, under the Criminal Code, is punishable by a maximum penalty of three years' imprisonment or less, the Government may choose not to investigate and prosecute.

C. The victim is a national of China

106. Where the victim of such an offence is a Chinese national, one of two situations applies. First, if the offence was committed within the territory of China, jurisdiction applies as set out in paragraph 104 above. Second, where the victim of an offence committed outside the territory of

China is a Chinese national, if the various parties involved are Chinese nationals, jurisdiction applies as set out in paragraph 105 above. Chinese law may also be applicable to any foreigner who commits an offence against a Chinese national outside the territory of China, if for that offence the Criminal Code prescribes a minimum punishment of not less than three years' imprisonment. This provision does not apply, however, to an offence that is not punishable according to the laws of the place where it is committed.

D. The alleged offender is present in Chinese territory and China does not extradite him/her to another State party on the ground that the offence has been committed by one of its nationals. In that case, whether an extradition request is required prior to China establishing its jurisdiction

107. Article 8, paragraph 1, of the Extradition Act stipulates that "An extradition request made to China by a foreign State will be rejected under any of the following conditions: (1) when, under the laws of the People's Republic of China, the person whose extradition is requested is a national of the People's Republic of China; ...". The Extradition Act does not contain any mandatory provision that "a person not extradited will be prosecuted in China".

108. According to bilateral extradition treaties that China has entered into with foreign States, the following regulations generally apply with respect to "the obligation of the requested party to initiate criminal proceedings": "If, under the terms of this treaty, an extradition request is rejected for the reason that the person who is the object of the request is a national of the country to which the request is made, the latter country should, if so requested by the other country, refer the case to its own competent authorities with a view to initiating prosecution under its domestic law. To this end, the requesting party should provide the other party with such documents and other evidence as are of relevance to the case." Accordingly, when a suspected offender is not extradited because he or she is a national of China, an extradition request is indeed required before China establishes its jurisdiction over the said suspect.

2. Extradition

A. Extradition policies pursued with respect to offences referred to in the Optional Protocol

109. The Extradition Act of the People's Republic of China, which took effect on 28 December 2000, sets out in detail the terms under which China may enter into cooperative extradition agreements with other States.

110. According to article 3, paragraph 1, of the Act, China enters into extradition agreements with foreign States on a basis of equality and reciprocity. Article 6, paragraph 3, stipulates that the term "extradition treaty" refers to any extradition treaty between the People's Republic of China and another State or to which both States are party, and to any other treaty that contains provisions governing extradition. Article 15 stipulates that where an extradition request is made in the absence of a treaty, the requesting State must make a commitment to reciprocity.

111. Thus China makes bilateral extradition treaties the basis of any cooperation in extradition with foreign States. At the same time, treaties containing provisions governing extradition to which China is party, combined with the principle of reciprocity, can also form the basis of extradition cooperation with other States.

112. Accordingly, in keeping with article 5, paragraph 3, of the Optional Protocol, the offences defined under article 3, paragraph 1, are recognized as extraditable offences between China and any other State party, subject to the conditions provided by the law of the requested State, and China does not make extradition conditional on the existence of a treaty.

113. According to article 7 of the Extradition Act and to bilateral extradition treaties China has signed, “extraditable offences” must conform to the following criteria.

114. The activity targeted by the extradition request must be recognized as a criminal offence under the laws of both parties and, in addition, meet one of the following conditions, to wit: when an extradition request is made in the context of criminal proceedings, the alleged offence must be punishable under the laws of both countries with a term of imprisonment of at least one year or a heavier penalty; or, when an extradition request is made in order to execute a criminal penalty, at the moment the request is made, the term of imprisonment still remaining to be served by the person targeted for extradition must be at least six months. When seeking to determine whether an activity constitutes a criminal offence under the laws of both parties, it is not necessary to consider whether the said activity is classified as the same type of offence under the respective laws of the two parties, or whether it is given the same name under those laws. An extradition request should not display any features defined under article 8 of the Extradition Act as reasons for which an extradition request should, or under article 9 as reasons for which it may, be rejected.

115. Under article 8, paragraph 1, of the Act, when the object of an extradition request is a Chinese national, China will refuse extradition. In such a situation, if so requested by the requesting party and on the basis of whatever documents and evidence that party may supply, China will refer the case to its own competent authorities and prosecute it in accordance with Chinese domestic law.

B. Extradition requests received from or sent to other States, requests which have been sent or received and which did not succeed, and data concerning offenders and victims (age, sex, nationality, etc.)

116. At the moment of writing, China has handled no extradition cases related to the Optional Protocol. The tables below present for reference China’s extradition cooperation over the period from 1999 to 2003.

Table 1**Extradition requests received**

Country	Requests received	Approved or rejected ¹
N. Korea	1	1 approved
S. Korea	2	
Sudan	1	
USA	4	
Kazakhstan	1	Approved
France	1	
Canada	1	
Palau	1	Rejected
Nigeria	1	

Table 2**Extradition requests sent to other countries**

Country	Requests	Approved or rejected ²
UAE	4	1 approved
USA	2	1 rejected
Argentina	3	
Italy	2	
Peru	1	1 urgent request approved
Thailand	2	
Ukraine	2	2 approved
Hungary	2	Approved
Poland	1	
Portugal	1	
S. Korea	2	
Romania	1	
Spain	1	

C. Lengths of procedures for extradition requests

117. As stipulated in the Extradition Act, extradition reviews are carried out according to the following formula: initial administrative review - judicial review - further administrative review.

118. The Ministry of Foreign Affairs is the competent authority for dealing with extradition requests. Upon reception of a request from a foreign State, it determines whether the request and its annexes are complete and in compliance with the formal terms of the pertinent extradition

¹ Where approval or rejection is not indicated, cases are still under review.

² Where approval or rejection is not indicated, cases are still under review.

treaty and the Extradition Act. In the event that the request is found to be not in compliance with these instruments, the Ministry may require the requesting State to furnish supplementary information within 30 days. This period may be extended by 15 days upon request by the requesting State. If the request does comply with the requirements of the treaty and the Extradition Act, it, its annexes and other pertinent information are forwarded to the Supreme People's Court and to the Supreme People's Procuratorate.

119. If, on review, the Supreme People's Procuratorate determines that the offence specified in the extradition request, or other offences committed by the person named in the request, are subject to prosecution under Chinese law but have not been so prosecuted, it may, within one month of receiving the request and annexed material forward to the Supreme People's Court and to the Ministry of Foreign Affairs respectively a declaration of its intent to initiate criminal proceedings. In such a situation, China may thus reject the extradition request.

120. When the Supreme People's Court receives an extradition request, it designates a high people's court to determine whether the request complies with the Extradition Act and the pertinent extradition treaties. The Supreme People's Court then reviews the decision of the high people's court.

121. Review of an extradition request by a high people's court is carried out by a collegial bench of three judges. The court is required to forward a copy of the extradition request to the person named in it within 10 days of receiving the request from the Supreme People's Court. The person so named is required to respond within 30 days.

122. When its review of the case is complete, the high people's court determines whether or not the conditions for extradition are satisfied, and transmits its decision along with the supporting material to the Supreme People's Court within seven days.

123. If the person named in an extradition request disagrees with the decision by a high people's court that the conditions for extradition are satisfied, he or she and his/her legal representative in China may apply to a people's court within 10 days of being notified of the said decision to register a response with the Supreme People's Court.

124. Once the Supreme People's Court has decided whether to approve or alter the decision of the lower court, it forwards copies of its decision within seven days to the Ministry of Foreign Affairs and to the person named in the extradition request.

125. On receiving a decision by the Supreme People's Court to reject an extradition request, the Ministry of Foreign Affairs will inform the requesting State immediately. When the Ministry receives a Court decision that the conditions for extradition are satisfied, it will forward this decision to the State Council, which will decide whether or not to proceed with the extradition. If the State Council decides not to extradite the person named, the Ministry of Foreign Affairs will immediately notify the requesting State. If the State Council approves the extradition, the Ministry of Foreign Affairs will immediately notify the Ministry of Public Security, and will also tell the requesting State and the Ministry of Public Security to agree on the time, place and means of transferring custody and other arrangements.

126. In the event that the requesting State does not take custody of the person named within 15 days of the date agreed upon for such transfer, it shall be considered to have abandoned its extradition request. If the requesting State is unable owing to factors beyond its control to take custody of the person named at the agreed date, it may request a postponement of a maximum of 30 days, and make new arrangements in consequence.

**3. Seizure and confiscation of goods and proceeds,
and closure of premises**

**A. Legislative, judicial and administrative measures adopted
for the seizure and confiscation of goods and proceeds
referred to in article 7 (a) of the Optional Protocol**

127. Under the Criminal Code, “all money and property illegally obtained by a criminal shall be recovered, or compensation shall be ordered ... Contraband goods and property of the criminal used in the commission of a crime shall be confiscated”.

**B. Closure, on a temporary or definitive basis, of premises
used to commit offences as provided for in article 3,
paragraph 1, of the Optional Protocol**

128. Public security organs may by law shut down houses of prostitution and arrange with commercial authorities the revocation of business licences.

129. Public security organs may by law shut down pornographic websites.

PART 4 - PROTECTION OF THE RIGHTS OF CHILD VICTIMS

**1. Protection of the rights of child victims during
the criminal justice process**

**A. Ensuring that the best interests of the child is a primary consideration
in the relevant domestic legislation and regulations governing the
treatment of child victims by the criminal justice system**

130. Please refer to paragraphs 25 and 133-134 of this report.

**B. Ensuring that criminal investigations are initiated even in cases
where the actual age of the victim cannot be determined, and
the means used for this determination**

131. Under Chinese law, trafficking in children, child prostitution and the production of child pornography are generally treated as criminal offences. Depending on the circumstances of each case, the offence committed may be termed abduction and trafficking in children, abandonment of an infant, organizing prostitution, coercion into prostitution, enticing a girl under the age of 14 to engage in prostitution, engaging the services of a child prostitute, production, duplication, publication, sale and dissemination of pornographic material for profit, or dissemination of pornographic material. Article 83 of the Criminal Procedure Law requires the public security organs, upon discovering the indicia of a crime or a criminal suspect, to open a case for

investigation. Accordingly, even when it is not possible to determine victims' actual ages, simply by following the Criminal Procedure Law the authorities should initiate criminal investigations. Should it be necessary to determine the precise age of a victim, the Criminal Procedure Law stipulates that authorities may perform an inquest, conduct an investigation or inquiry, or proceed with an expert appraisal in order to determine the victim's age or other physical characteristics.

132. In addition, China is constantly imposing its birth registration system, which can be of great help in practically determining the ages of child victims of crime (in this context, please refer to paragraphs 52-59 of the second periodic report of the People's Republic of China regarding implementation of the Convention on the Rights of the Child).

C. Adapting procedures so they are child sensitive, with special regard to the dignity and worth of the child and her/his cultural background, including the procedures used for investigation, interrogation, trial and cross-examination of child victims and witnesses; the right of a parent or guardian to be present; the right to be represented by a legal adviser or to apply for free legal aid. In this respect, the legal consequences for a child who has committed an offence under the law applicable to her/him as a direct result of the practices prohibited under the Optional Protocol

133. Under the Criminal Procedure Law, it is the responsibility of the public security organs to open and investigate cases of trafficking in children, child pornography and child prostitution, after which a people's procuratorate may, after due review, refer cases to a people's court for prosecution. When a case of this type reaching a people's court involves the private affairs of a child victim, the court may decide to hold proceedings in camera. Sensitive to the fact that proceedings in cases of this nature may incur further physical or psychological harm to a child victim, people's courts will generally permit the child to be absent while his or her legal representative attends court. The child victim and his or her legal representative also have the right to appoint an agent *ad litem* to attend court proceedings. As a general rule, people's courts will not disclose the names of child victims when issuing decisions in cases involving child pornography or child prostitution, so as to prevent third parties from inferring the identities, addresses or other details of victims through perusal of court documents.

134. With respect to children who directly engage in activity prohibited under the Optional Protocol, China's Criminal Code provides for differing degrees of criminal responsibility according to age. No proceedings are brought against children under 14 who commit offences prohibited under the Optional Protocol. Children between the ages of 14 and 16 are investigated only if, while participating in child-trafficking, they have raped, intentionally killed, or intentionally caused grievous bodily harm to a child victim. Children between the ages of 16 and 18 who commit offences prohibited under the Optional Protocol are uniformly investigated and prosecuted. Children between the ages of 14 and 18 who commit offences prohibited under the Optional Protocol may be given lighter or mitigated punishments compared to adults found guilty of the same offences.

135. With respect to applications by children for legal aid, please refer to paragraph 25 of this report.

D. Informing the child during the whole of the legal process and indicating the persons responsible for this task

136. As a general rule, it is the responsibility of the child victim's legal guardian to inform the child and explain proceedings.

E. Allowing the child to express her or his views, needs and concerns

137. The child victim may express his or her views to the court through his or her legal representative or agent *ad litem*. Once the court has issued a decision the child victim in criminal prosecutions of cases of this type has the right to apply to a people's procuratorate through his or her legal representative and register an objection to the court's findings. In civil cases, the child victim may directly register an appeal of the verdict through his or her legal representative.

F. The provision of appropriate support services to child victims, including psychosocial, psychological and linguistic support at every step of legal proceedings

138. On 25 August 2003, with the approval of the Judicial Bureau of the City of Beijing, the Law Institute of the Chinese Academy of Social Sciences established China's first government-approved legal aid institution to operate as a "law office", the Oriental Public Interest and Legal Aid Office. This Office has specific departments for human rights and international law, and among its members are found academics specializing in human rights and particularly the rights of the child. The Office places great emphasis in its work on the Convention on the Rights of the Child and the present Optional Protocol, and provides legal assistance to child victims in legal proceedings. Between March and November 2004, for example, it provided representation free of charge to the School for Children of Out-of-Province Workers in Beijing in its suit against the Education Committee of Beijing's Fengtai District to protect the right of floating-population children to receive an education.

139. China has also established socialized women's and children's institutions to provide legal services and support. By the end of May 2003, legal advice and legal aid centres for women and children were operating at 330 sites in 30 provinces, autonomous regions and centrally-administered municipalities, as were some 8,000 legal service institutions.

G. Appropriate protection of the privacy and identity of child victims

140. Please refer to paragraph 133 of this report.

141. Article 98 of the Criminal Procedure Law states, "When a witness under the age of 18 is questioned, his legal representative may be notified to be present." Article 152 stipulates that "People's courts shall conduct public hearings of cases in first instance. However, cases involving State secrets or individual's private affairs shall not be heard in public."

142. Article 163, paragraph 2, of the procedural regulations for people's procuratorates stipulates that when an interrogation touches on a witness' private affairs, confidentiality should be preserved.

H. Provisions for the safety of child victims, as well as of their families, witnesses on their behalf, and individuals or organizations dealing with the prevention of, and/or protection and rehabilitation of child victims from intimidation and retaliation

143. The Criminal Code stipulates that violence, threats, bribery and other acts designed to deter witnesses from testifying truthfully or cause them to perjure themselves shall be investigated and prosecuted. Similarly, any acts of retaliation against witnesses in cases of this type are subject to prosecution (see articles 305-308 of the Criminal Code for specific details).

144. Article 49 of the Criminal Procedure Law stipulates that “people’s courts, people’s procuratorates and public security organs shall ensure the safety of witnesses and their near relatives. Anyone who intimidates, humiliates, assaults or retaliates against a witness or his near relatives shall, if his act constitutes a crime, be prosecuted according to law; if the case is not serious enough to warrant criminal punishment, he shall incur administrative penalties for a breach of public order in accordance with the law”.

145. Article 163, paragraphs 1 and 3, of the procedural regulations for people’s procuratorates requires people’s procuratorates to ensure the safety of witnesses and their family members. Specifically, anyone who threatens, humiliates, assaults or retaliates against witnesses or their family members shall be prosecuted or incur administrative penalties for a breach of public order and dealt with by public security organs. In cases of lesser gravity, the offender may be subject to criticism and education or to a reprimand.

I. Ensuring that all child victims have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible and avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation

146. When a child victim and his or her legal representative enter into criminal proceedings of this type, they may report any economic losses they entail to public security and judicial officials and register an accessory civil claim for compensation. The people’s court has to adjudicate the criminal and civil cases together.

147. If a child victim and his or her legal representative do not register a civil claim for compensation during criminal proceedings, they may do so in separate civil proceedings after completion of the criminal trial, but must limit the claim to compensation for material losses.

148. When people’s courts are trying cases of this type and adjudicating claims for compensation, they attach great importance to closing cases and executing judgements within the periods specified by law so as to prevent procedural delays from causing any further harm to the child victim. Some local and regional courts are experimenting with moving criminal or civil cases with child victims into the juvenile court system for trial in an effort to ensure that the rights and interests of the children concerned receive adequate protection. Other courts are granting priority or preferential status to trials of cases involving child victims.

J. Ensuring that child victims receive all appropriate assistance, including for their full social reintegration and full physical and psychological recovery

149. The Government ensures that child victims of an age to be subject to compulsory education return to school to continue their education. Schools have introduced courses that provide psychological guidance to primary and middle-school students, including child victims.

PART 5 - PREVENTION OF THE SALE OF CHILDREN, CHILD PORNOGRAPHY AND CHILD PROSTITUTION

1. Measures taken to prevent the occurrence of offences described in the Optional Protocol

A. Measures taken to prevent and curb trafficking in children

150. One is active enforcement of the law in combating any type of criminal activity that infringes children's rights and interests. For many years now, public security organs at all levels have attached great importance to combating criminal activity that violates children's legitimate rights and interests. The fight against child trafficking is viewed with extreme importance and all official resources are mobilized to contribute. Through close cooperation among the various authorities, effective measures are adopted and national and regional campaigns conducted to clamp down heavily on criminal activity of this sort. In 2004, public security organs across the country pursued some 1,975 cases of abduction and sale of children, resulting in the arrests of 2,147 suspects and the rescue of 3,488 abducted children. The local public security organs in various regions took stock of the characteristics of women and child trafficking activities particular to their local districts and pursued regional campaigns that resulted in the resolution of a great number of such criminal cases and the rescue of many abducted women and children.

151. In April 2004, in response to an increase in abductions of women and children to be coerced into prostitution, the public security bureau in Leshan, Sichuan Province, launched a two-month, citywide crackdown on these offences. In June, public security organs deployed in the border regions of the Zhuang Autonomous Region, Guangxi Province, launched a special campaign to crack down on the kidnapping, abduction and sale of Vietnamese women and children. On 20 July, public security authorities in Yunnan initiated a 100-day campaign against child-trafficking in five major cities and districts.

152. A second measure is the clear delineation of the responsibilities of the various levels of government, bringing the protection of children into the ambit of overall national development planning. In 2001, the Government launched the China Children's Development Programme (2001-2010), which set out strategic goals for children's development over the following 10 years and mobilized social, legislative and judicial resources in a concerted effort to combat violence and other offences against children. For its part, the National Coordination Group for the Protection of Women's and Children's Rights, formed in November 2001, holds topical conferences, makes tactical recommendations, clearly defines the responsibilities of government departments and promotes the implementation of policies and legislation.

153. A third important measure is training sessions to enhance the abilities and standards of public security organs in their fight against people trafficking. In October 2003, for example, in an initiative targeting the use of trains and other modes of transport to traffic abducted children, the Ministry of Public Security held a very successful national conference of People's Railway Police for an exchange of views and experience in their fight against these offences. A second such conference, held in Hangzhou in November 2004, focused on training for the Railway Police in this area, and achieved outstanding results.

154. A fourth undertaking is to boost interaction and cooperation between government departments and NGOs and increase the information flow to society at large so as to reduce the incidence of trafficking by striving resolutely to combat and prevent it. In order to eliminate the factors that lead to the sexual exploitation of children, the Government is actively promoting economic development and devoting resources to children's education, while emphasizing instruction for children in the law, sexual matters and useful, productive skills. In recent years, the Government has also utilized a variety of methods to promote widespread public education campaigns that emphasize the rule of law and the importance of preventing trafficking in children, so as to create a common consciousness that militates against offences of this nature.

155. In addition, the Government attaches great importance to multidepartmental campaigns that approach the trafficking issue from a number of angles and at many levels. Major activities in this respect include subsidizing education for girls in impoverished areas, working to alleviate poverty and striving to reduce the risk of abduction among the most vulnerable groups.

B. Measures taken to prevent and curb child prostitution

156. China's public security organs are deeply committed to stamping out prostitution and make the protection of women's and children's legitimate rights and interests a major focus of their work as they strive to capture offenders in this area, particularly those who force or entice girls under the age of 14 to engage in prostitution or who avail themselves of the services of underage prostitutes. They have put in place a dynamic system to combat and eradicate these activities that draws on a combination of day-to-day management and concerted control. In recent years, under the leadership of the relevant State Council departments, annual nationwide or regional law-and-order campaigns have been mounted to strengthen oversight of entertainment venues and crack down on prostitution and related offences.

C. Measures taken to prevent and curb child pornography

157. At present, there is little child pornography to be found within mainland China, but some is seeping in from abroad, in the form of comic books, optical disks or over the Internet. The Government takes this development very seriously.

158. In 2003, in the face of rampant smuggling and copying of pornographic optical disks, the Press and Publication Administration and the National Anti-Pornography, Anti-Piracy Working Group launched a nationwide campaign in cooperation with customs and public security authorities to clamp down on the smuggling, production and sale of pornographic material. By blocking marine smuggling channels, strengthening oversight of transport systems, seizing smuggled goods on markets and similar measures, a number of large criminal syndicates engaged in the production, sale and smuggling of pornographic material were broken and their

sales and distribution networks destroyed. This concerted effort to combat smuggling, piracy and trafficking in pornography produced notable results. Available figures indicate that, across the country, some 37,720,000 pornographic publications were seized. They also indicate that, by the end of 2004, seizures of pornographic material nationwide (including publications and audio-visual products) yielded some 12.06 million items and another 213.08 million pirated articles of a general nature. Since 2004, the Press and Publication Administration and the National Anti-Pornography, Anti-Piracy Working Group have conducted a number of activities to promote the sound development of children and create a favourable cultural environment, as outlined below.

159. A campaign to clamp down on “pocketbook pornography”, harmful comic books and computer games: on 24 May 2004, the Press and Publication Administration and the National Anti-Pornography, Anti-Piracy Working Group issued notification of a nationwide campaign against pornographic “pocketbooks”, harmful comic books and violent computer games, which ran from 25 May to 30 June 2004. The principal aim of the campaign was to purge primary and middle schools, the adjoining areas and outlying urban districts of illegal print and electronic publications, Internet bars and similar venues so as to improve the school environment. It focused on publications aimed at children, long-established criminal production, distribution, sale, rental and dissemination of pornographic “pocketbooks”, harmful comic books and computer games, and the dissemination among children of unhealthy reading matter and software. The object of the exercise was to help create a favourable social and cultural environment for children to grow up in. During the campaign, the Press and Publication Administration and the Working Group collaborated with market supervisory authorities to confiscate obscene and harmful material, vulgar songs and the like at book markets. The Province of Shanxi issued notification of the seizure of audio-visual recordings of “vulgar songs”, and seized some 4,113 tape recordings and 10,984 DVDs featuring compilations of these songs. In Beijing, a one-month sweep of markets yielded 28,700 illegal “pocketbook” publications and 36,500 illegal optical disks. In the Jiangsu cities of Nanjing and Xuzhou, similar sweeps yielded more than 7,500 pornographic “pocketbooks” and harmful comic books, and 135 optical disks containing pornographic computer games. According to available figures, the campaign resulted in 4,926 seizures nationwide, sweeping up some 1.65 million pornographic “pocketbooks” and comic books and 2.03 million optical disks containing improper game software. In order fully to realize the spirit of the *Observations of the Central Committee of the Chinese Communist Party and the State Council concerning strengthening and improving the ethical education of minors* and the National Working Conference on Strengthening and Improving the Ethical Education of Minors, on 30 June 2004 the National Anti-Pornography, Anti-Piracy Working Group convened the Seventeenth National Television and Telephone Conference against Pornography and Piracy, launching a strict clampdown on illegal publications and a drive to confiscate pornography. Forces were mobilized in all regions, extra efforts were committed to the fight, and new heights were reached in the struggle. Beijing led the way with its “Emergency one-week campaign” against harmful comic books, pornographic pocketbooks and other obscene materials, confiscating 50,000 optical disks and 132,000 books and also closing down a number of illegal gaming operations. In Hainan Province, the Cultural Markets Brigade launched an offensive against sales of vulgar songs, “MC Hotdog” rap recordings and amphetamines, and at the same time linked up with the *Southern City News* in a joint campaign to “clamp down on unhealthy culture, protect minors and clean up the entertainment environment”.

160. To offset the physical and psychological impact on youth of violent and pornographic recorded media, the Ministry of Culture and related departments have put in place regulatory systems and focused controls and have stepped up routine monitoring in order to contribute to a favourable social and cultural environment for young people to grow up in. The Ministry has established a media monitoring system that sets out detailed standards, keeps a close watch on content and regulates the management of imported media products. A media content review committee composed of some 50 experts has banned outright the importation of television programmes that romanticize violence, pornography, superstition, terror and scenes of gore, or that otherwise are of a decadent nature outlawed under national law. Great care is taken to protect children and youth from the influences of pornography, violence and narcotics and generally to prevent programmes liable to corrupt the young from entering the broadcast arena.

161. In the spirit of the *Observations of the Central Committee of the Chinese Communist Party and the State Council concerning strengthening and improving the ethical education of minors*, and to provide youth with cultural products of redeeming value that enhance their cultural experience, in June 2004 the Ministry of Culture launched a promotion campaign for “100 Outstanding Recorded Media Products for Youth” that introduced a series of interesting, entertaining, knowledge-based and educational audio-visual products of value to the shaping of a favourable cultural environment for the young.

162. A campaign to clamp down on illegal publications in rural and urban fair-trade markets: On 5 July 2004, the National Anti-Pornography, Anti-Piracy Working Group, the State Administration for Industry and Commerce and the Press and Publication Administration jointly issued notification of special controls to be enforced against illegal publications in fair-trade markets, prescribing measures to counter the sale of pornographic and pirated material. The purpose was to clean up markets and prohibit trade in pornographic pocketbooks, comic books and computer games.

163. A clampdown on messaging services used for dissemination of pornography: in step with the rapid development of the messaging services market, criminal elements have utilized the technology to spread pornography and other harmful material, or even to run businesses around such activity. The Ministry of Information Industry, the Ministry of Public Security, the Press and Publication Administration, the State Administration for Industry and Commerce, the Supreme People’s Procuratorate, the Supreme People’s Court and the Legislative Affairs Office of the State Council jointly established a national working group to combat pornographic messaging services, which determined to mount a nationwide campaign against these services from the latter half of July to the end of October 2004. The campaign resolutely clamped down on pornographic messaging services, dealt with a number of important cases, led to the severe punishment under the law of individual criminals and criminal entities, brought advertising for these services under control and effectively halted the spread of services disseminating pornography. It resulted in a thorough clean-up of existing messaging services and the formulation of a number of effective, long-term mechanisms to guard against and curb the spread of pornography, thus ensuring the healthy development of the industry.

164. In addition, the Anti-Pornography, Anti-Piracy Working Group organized a campaign among primary and middle-school students with the motto, “Refusing piracy and rejecting spiritual pollution starts with me”, an initiative that promotes self-awareness and self-motivation in the development of healthy tendencies and suppression of improper cultural products. During

the seventeenth National Television and Telephone Conference against Pornography and Piracy, students from the second Foreign Languages School in Taiyuan, Shanxi Province, issued an open letter to all the young people of China, exhorting them with the same motto, "Refusing piracy and rejecting spiritual pollution starts with me". At the close of the conference, students from the cities of Chongqing, Qingdao and Fuzhou, and from Gansu and other provinces, showed an enthusiastic response to the message by launching their own local campaigns to combat piracy and spiritual pollution.

D. Measures taken to prevent and curb Internet child pornography

165. There are two main categories of child pornography-related offences in China. In the first, children are the immediate victims: computers and Internet tools such as e-mail and chat rooms are used to communicate with, contact or entice children, and coerce them into sexual service, or computers and Internet communication tools are used for the production, duplication or dissemination of pornographic images, videos or publications that describe sexual activity involving children. This sort of activity has been increasing gradually in China over recent years. The second category includes offences in which children are not specifically targeted but in which computers and Internet tools are used to produce, publish, duplicate or disseminate pornography, obscenity or violence, or to encourage lawbreaking, or to communicate the means of committing an offence, or other harmful information which may have a detrimental influence on children who come into contact with it. Offences of this type have greatly increased in China over recent years, and children are easily enticed to commit offences. This has a grave effect on their physical and mental health, and is the principal feature of Internet-related offences against children.

166. One of the particular features and trends in Internet-related sexual offences against children in China relates to personal web pages, chat rooms, e-mail, BBS's, ICQ sites, P2P (peer-to-peer) services and similar Internet tools and services that can be used as vehicles by criminal elements wishing to contact or abduct children, or produce and disseminate obscene material. The methods used in Internet crime are more covert and cryptic than in traditional crime, and present significant challenges to police authorities in detecting and investigating crime and gathering and analysing evidence. A second feature is that web-based communications allow extremely rapid transfers of pornographic and other harmful material and broad scope, and thus have a more nefarious influence on children than traditional criminal practices. A third feature is the accessibility and virtual nature of the Internet, allowing criminal elements easily to conceal their true identity and making it difficult to identify both suspects and victims in offences against children. A fourth feature of concern is the interregional and cross-border aspect of Internet crime against children, which necessitates domestic and international judicial cooperation in pursuing investigations.

167. China is strengthening its legislation, adjusting policies and increasing the efforts to guard against and clamp down on Internet-related sexual offences against children.

168. First, there are legislative and regulatory measures.

169. China has both enacted specific legislation and supplemented existing laws. On the one hand, specific laws deal with new issues that have arisen in connection with the applications of information and Internet technology; on the other, existing laws have been supplemented and amended to contain provisions that address information networks. Pertinent laws and regulations include the following.

170. The Criminal Code, which covers the production, duplication or dissemination of pornography for profit, and the dissemination of pornography (these apply to the use of the Internet for the production, duplication or dissemination of pornographic or sexual material).

171. The resolution of the National People's Congress concerning the maintenance of Internet security: this specifically states that the penalties laid down in the Criminal Code apply to the establishment of pornographic websites or web pages, links to such sites, and the dissemination of pornographic publications, films, videos or images.

172. Article 31 of the Prevention of Juvenile Delinquency Act states: No entity or individual shall sell or rent to minors any reading matter, video products or electronic publications liable to incite said minors to commit offences, or glorifying violence, sexuality, gambling, terrorist activity or other behaviour harmful to young persons' physical or mental health. No entity or individual shall use messaging services, computer networks or other similar means to provide content or information of the type described above which is harmful to young persons' physical or mental health.

173. Article 25 of the Act states, "It is strictly prohibited for any organization or individual to sell, rent, or disseminate by any other means to minors, pernicious books, newspapers, magazines or audio-visual products depicting pornography, violence, wanton killing or terror." Article 51 states, "Anyone selling, renting or disseminating to minors by any other means pornographic books, newspapers, magazines or audio-visual products shall be subject to a heavier penalty under the law." Article 30 stipulates that, "No organization or individual may divulge minors' personal secrets." Meanwhile, article 53 states that, "Anyone urging a minor to break the law or commit criminal offences shall be subject to a heavier penalty under the law."

174. The Procedures for the preservation of security on computer networks and the Internet, the regulations of the People's Republic of China on telecommunication, the Procedures for the management of Internet information services, the Administrative Provisions for establishments offering Internet services and other regulations all prohibit the use of the Internet for the production, publication, duplication or dissemination of information that is pornographic, obscene, violent or liable to instigate crime, and required businesses providing Internet services to establish data security systems in accordance with the law and to implement required management measures. The Administrative Provisions for establishments offering Internet services also stipulate that such establishments may not be set up within 200 metres of primary or middle schools or in residential buildings, nor be open to minors.

175. The various State Council departments and agencies have made provisions within their spheres of competence to clarify and spell out the prohibition of the use of the Internet to produce or disseminate pornographic, obscene, violent or other pernicious content, and the regulatory requirements on businesses to ensure data security and apply the management measures stipulated.

176. In September 2004, the Supreme People's Court and Supreme People's Procuratorate issued guidelines indicating the applicable laws to be used in combating Internet pornography, the Interpretations of certain problems in the concrete application of laws for the handling of criminal cases involving the use of the Internet, mobile information terminals or messaging services for the production, duplication, publication, sale or broadcast of pornographic electronic material. Section 6 of these Interpretations states, "With respect to the production, duplication, publication, sale or broadcast of obscene material displaying sexual activity involving persons under the age of 18. Anyone knowing that such material exists on his own website or one that he manages or uses, or that provides links to such material, or who sells or disseminates such material or spoken messages to persons under the age of 18, shall be charged with the two offences of production, duplication, publication, sale or broadcast of pornographic material for profit and dissemination of pornographic material, and punished accordingly.

177. Next, as regards preventive administrative measures.

178. Regulatory controls on Internet users have been strengthened and greater publicity and education devoted to children's rights and interests so as to heighten public consciousness of the law and the protection due to children. Efforts are being made to clean up the online environment and develop a healthy Internet culture so as to curb or put an end to the use of the Internet to disseminate pornography.

179. Administrative controls on and oversight of Internet service providers (ISP) and Internet content providers (ICP) have been tightened, with regulations requiring them to inform users in their User Agreements and content posting rules of their own legal responsibilities when using the Internet. Similarly, when providers discover illegal activity or prohibited information on their networks, they are required to notify the public security authorities immediately and assist in any subsequent investigations by providing any information that may be required.

180. A number of nationwide campaigns have been conducted to clean up and regulate establishments offering Internet services, clear the Internet of harmful content, etc. In July 2004, in particular, the Ministries of Public Security, Education, Information Industry and 11 other agencies conducted a joint, nationwide campaign against pornographic websites that resulted in multiple prosecutions for using the Internet to produce and disseminate pornography and for organizing prostitution and procuring. A great many criminal individuals and entities were duly punished and many domestic websites closed down. By the end of October 2004, public security organs had registered 249 pornography-related cases and successfully prosecuted 244 of them, resulting in the closure of 1,302 offending websites. Between February and December 2004, the Ministry of Culture, the State Administration for Industry and Commerce, the Ministry of Public Security, the Ministry of Information Industry and other agencies mounted a clean-up of Internet

cafes and other establishments offering Internet services, closing down unlicensed or improperly-licensed Internet cafes and punishing covert business activity. Internet cafes that admitted minors or disseminated pernicious cultural information were similarly targeted. Over the course of the campaign, some 21,000 Internet cafes nationwide were closed and 2,131 permits for “Internet-based cultural businesses” were revoked; 47,000 businesses operating without licences were closed down as were 21,000 illegal venues, and 444 cases were referred to the judicial authorities.

181. Government oversight of Internet cafes and other public venues offering Internet access has been bolstered in order to ensure a clean environment in and around schools and protect children when not under the supervision of a parent or teacher from coming into contact with Internet pornography or being preyed upon by criminal elements using chat rooms or e-mail. Administrative regulations stipulate that Internet cafes and similar venues may not be set up within 200 metres of a primary or middle-school campus or in a residential building, and that children unaccompanied by an adult are not admitted. In order to bring order to the gaming market, in September 2004, the Ministry of Culture clamped down on a number of illegal online games, six of which featured pornographic, violent or other illegal content. This had repercussions among Internet businesses and within society at large. It showed the utility of Internet cafe oversight platforms, which, through identifying the feature codes of illegal games, were able to block these games and the entities operating them. Cases filed with police authorities in the context of this action numbered 675 in Zhejiang, 200 in Sichuan and 57,407 in Henan. The Ministry of Culture has also cooperated with the Ministry of Public Security and other departments in other campaigns against Internet pornography, working for example with the Ministry of Information Industry in initiatives to clean up the Internet and the online cultural marketplace through clampdowns on illicit content.

182. Third come measures to combat crime.

183. Sound mechanisms for reporting Internet offences to the police have been put in place, particularly in major cities where public security organs now have online reporting centres to improve their detection of and response to web-based offences of all types.

184. More research is being conducted into technology for detecting and gathering evidence of Internet crime; this improves police capacity in both investigations and evidence analysis.

185. Models for the detection of Internet crime have been formulated that improve the collection of evidence.

186. Cooperation among the police, research bodies and businesses has been improved so as to provide police with better technological tools and support in their investigative activities.

187. Regular operational and technical training sessions are organized to ensure that knowledge is kept up-to-date.

E. Measures taken to protect particularly vulnerable children

188. The Government has taken preventive action to protect particularly vulnerable children, especially girls. The aim is to provide fundamental protection for the rights of such children within society, blocking behaviour prohibited under the Optional Protocol at its very source. Measures taken in this respect are described below.

189. Since March 2003, a trial “Caring for Girls” programme has been in operation under the national population and family planning system. This emphasizes such novel family planning concepts as equality between boys and girls and the irrelevance of a baby’s sex. It aims to spread awareness of the law and of healthy reproductive practices so as to protect the legitimate rights and interests of women and children, create a propitious environment for girls to live and grow up in and establish mechanisms favourable to girls and families with girls, fostering self-confidence and encouraging their healthy growth.

190. A dozen or so national information campaigns have been organized by the State Commission for Population and Family Planning or promoted jointly with other bodies. Some 20 examples of promotional matter for the “Caring for Girls” campaign have been produced and distributed by the regions, or provinces and entities involved in it, and there have been competitions to produce songs or posters supporting the topic, national publicity campaigns and “walkathons” to promote “Caring for Girls” days. Close to a million people have participated, and 100,000 free copies of the supporting literature have been distributed.

191. The news media have played an important role in this campaign: the State Commission for Population and Family Planning and CCTV jointly produced and broadcast a film entitled *A blue sky for girls*. Most provincial newspapers have published columns on the subject while some 43,000 websites and 39,000 web pages carry related messages.

192. The All China Women’s Federation has conducted a series of studies and programmes addressing issues such as nutrition and health care for girls, statistical analyses broken down by gender and studies of girls and the media, which provide useful scientific data for work in this area. Since the early 1990s the Federation has been running the Spring Buds Programme, mobilizing social resources to assist girls in impoverished areas who have had to quit school to complete their period of compulsory education. In the decade the programme has been in operation, more than RMB 600 million has been raised and spent on the construction of some 300 “Spring Buds Schools” and remedial education for over 1,500,000 girls. More recently, the Spring Buds Fund for Practical Technical Training has been established to provide cultural education and vocational training to girls in disadvantaged areas. By improving their employability and adaptability to the market economy, this Fund has reduced the numbers of girls straying aimlessly and falling victim to abductions.

193. Various assistance is available to girls in disadvantaged areas. Anxi County, Fujian Province, for example, has a “five-point plan” that provides guidance of great practical value. The wealth plan aims to develop the economic status of families with only daughters, helping them to rise above poverty to a more comfortable existence. The housing plan helps couples in

rural communities who have been honoured with a “single child award” and families with only daughters to resolve difficulties in finding housing. The skills plan aims to raise the political, social, economic and family status of mothers of only daughters by providing them with at least one practical productive skill, and ensure a higher level of education for girls. The protection plan aims to resolve the worries of couples with only daughters about coping in their old age, and the “family-feeling plan” provides moral and material support for families of this type. The financial authorities in Heilongjiang, Hunan, Sichuan and elsewhere have made specific budgetary provision to support “Caring for Girls” campaigns in targeted counties.

194. Disabled children are also a vulnerable group. When their rights and interests are infringed, the China Association of Physically Disabled Persons and its regional affiliates provide relief through the following channels:

- By providing legal counsel to the child and his or her guardian, and working with the appropriate departments and institutions to obtain legal aid and judicial assistance;
- By registering complaints by disabled children or their guardians, and requesting that the agency or unit concerned conduct an investigation;
- By working with the relevant departments to investigate infringements of the rights and interests of disabled children, and overseeing these investigations;
- By supporting disabled children in prosecutions, or by recommending or appointing defenders or agents *ad litem* for them.

Disabled children in need can contact the hotline maintained by the Association to obtain assistance as necessary.

195. A new type of incident known to occur in various places involves disabled children who are abducted, sold and forced to work as beggars, or healthy children who are abducted, deliberately mutilated and similarly forced to beg; the China Association of Physically Disabled Persons and concerned government agencies have recently begun to research strategies to counter such activity, offer better protection for the legitimate rights and interests of these children, and stamp out criminal activity, seeking to profit from children’s disabilities.

2. Measures taken to raise awareness within the population at large about the offences prohibited under the Optional Protocol

196. Since 2003, in line with the “children first” and “best interests of the child” principles set out in the Convention on the Rights of the Child, the Government of China has actively conducted publicity and training campaigns to raise awareness in society at large of the rights of the child and the protection available for them.

197. Training sessions have been organized to heighten awareness among public security and police organs of the importance of protecting children’s rights to physical integrity. In 2003, for example, Xinye County in Henan Province organized a training programme for primary- and

middle-school principals aimed at preventing the abduction of and trafficking in women and children. The appointment of anti-abduction information officers has made it possible to react immediately to offences of this type in rural communities and clamp down on such activity (see paragraph 15 of this report). The Ministry of Public Security also plans to organize training sessions addressing the Optional Protocol specifically in the first half of 2005.

198. A logo has been developed for use in combating abductions of women and children. In 2003, the Ministry of Public Security and the All China Women's Federation jointly designed a logo and a set of publicity materials for use in campaigns against abduction and trafficking, and produced a series of lively public-interest television advertisements. These were presented at a press conference at the Federation's Activity Centre on 2 March 2004.

199. Studies have been undertaken to ascertain the current child abduction and trafficking situation and its underlying reasons, and to develop constructive counter-strategies for future campaigns (see paragraph 153 of this report). With the trial "Zero Plan to eliminate abduction and sale from rural villages" in Xinye County, Henan Province, reaching maturity (see paragraph 15), the Ministry of Public Security has decided to apply the experience gained to its work in major trafficking areas nationwide.

200. Given children's psychological immaturity, lack of experience of society, difficulty in distinguishing right from wrong and vulnerability to the lures of pornography and other evils, the Government has drawn on the various provisions of the Optional Protocol to set up self-protection education campaigns for youth which, while contributing to a clean-up of the social environment, also strengthen children's awareness and abilities to defend themselves from harm and add to the force of general educational campaigns.

201. First, the aid of children's organizations is enlisted. The Young Pioneers, a unified organization for children throughout China, has mobilized its 130 million-strong membership in a learning campaign built around the "five selfs" (self-care, self-motivated study, self-discipline, self-protection, self-strengthening), which provide children with an initial understanding of the law, teach some basic notions of caring for and defending themselves, teach how to use the law to protect their and their companions' legitimate rights and interests, teach the difference between right and wrong, encourage children to strive for self-improvement, and generally promote sound growth.

202. Second, information portals are set up to "push" self-protection education for children. The first self-protection school to be established in a commercial cultural institution was set up by the Beijing Youth Federation in cooperation with the Beijing Library, and has been running very well. A permanent information counter has also been set up at the library, and with such media organs as the Beijing Youth News, the Beijing Evening News and the Beijing Radio and TV News having initiated columns specifically addressing self-protection issues and promoting self-protection education among society at large, very good results have been obtained.

203. Third, there is a series of books on self-protection topics that provide young readers with healthy food for thought. The All-China Youth Federation published *Spreading the wings of life - A self-protection manual for primary and middle-school students* and a *Self-protection*

primer for youth, while the Beijing Youth Federation edited and published *A self-protection reader for minors* and the *Starlight self-protection school students manual*. All these have been well received by children and their parents.

204. Fourth, there have been television programmes promoting self-protection education, such as the first programme of this type, the 20-episode *Self-Protection Mastermind*, and *30 Safety Tips for Youth*.

205. Fifth has been the establishment of websites promoting the protection of children's rights and self-protection education. By promoting these concepts, the sites have done much to help children overcome the difficulties they may encounter at school and in life, and boost their ability to fend for themselves.

206. Since 1996, the All-China Youth Federation and the Ministry of Civil Administration have jointly supported a Cultural Neighbourhoods for Youth programme that vigorously promotes community services, cultural work and the establishment of local Young Pioneers organizations. A rich variety of community-based Young Pioneers activities are encouraged.

207. One of these is to draw on the various resources and facilities of the community to organize cultural and sports competitions, contests that popularize knowledge of the law, etc.

208. Another is to organize interesting cultural and entertainment programmes to provide children with a happy collective life in the community. Being encouraged to play together with their companions reduces children's feelings of solitude or loneliness and satisfies the requirements for the healthy development of the inner self.

209. A third is to provide children with counselling services through telephone hotlines, children's mailboxes and advisory centres, enabling children's voices to be heard and helping them to resolve such problems as they may be experiencing.

210. A fourth initiative is to teach children about the rule of law and personal autonomy; this serves to prevent lawbreaking by young persons and to create a better social environment in which they can grow up.

211. In keeping with the recommendations of a circular on implementation of the Community Prevention Plan for juvenile delinquency, many localities have set up data systems on idle children and social-work contact and assistance systems. An opinion on projects for delinquency-free communities, issued in 2004, proposed further steps to prevent juvenile crime in local communities.

3. Measures adopted to effectively prohibit the production and dissemination of material advertising the offences described in the Optional Protocol

212. Please refer to paragraphs 168-181 of this report.

PART 6 - INTERNATIONAL ASSISTANCE AND COOPERATION

1. Prevention

213. No information is available on international cooperation in the effort to eliminate such factors as poverty and underdevelopment leading to children becoming the victims of child trafficking, child prostitution, child pornography or child-sex tourism.

2. Protecting victims

214. The trial anti-abduction programme jointly operated by the All China Women's Federation and UNICEF in Renshou County, Sichuan Province, uses social mobilization, interdepartmental cooperation and overlapping training programmes offering families, schools and communities information to help combat abductions and legal, medical, psychological and other institutional services to help victims reintegrate into society. It has established effective coordination mechanisms in the overall administrative effort to prevent abductions.

215. ACWF branches and public security organs in Yunnan Province and the Zhuang Autonomous Region of Guangxi operate a community-based programme in conjunction with the British Save the Children charity to prevent the abduction of and trafficking in women and children. Following on the successes of the first stage of this programme, the second stage, now under way, is moving beyond the original single-country focus to address cross-border trafficking throughout the Mekong subregion. In addition, help is being provided to victims in their efforts to return safely to their original homes and begin new lives. Children are the principal group targeted by this initiative.

3. Law enforcement

A. Assistance and cooperation provided by China at all steps of detention, investigation, prosecution, punishment and extradition proceedings, including agreements established in this respect

216. First, international bilateral cooperation by China's criminal/judicial authorities and police services has been stepped up.

217. By 30 November 2004, China had signed 32 criminal/judicial assistance treaties with other countries, 24 of which are now in effect. Extradition treaties had been signed with 22 countries, 17 of which are in effect (see table below).

Table of criminal/judicial assistance treaties

No.	Country	Treaty type	Date signed	Date in effect
1.	Poland	Civil and Criminal	87.6.5	88.2.13
2.	Mongolia	Civil and Criminal	89.8.31	90.10.29
3.	Romania	Civil and Criminal	91.1.16	93.1.22
4.	Turkey	Civil, Commercial, Criminal	92.9.28	95.10.26
5.	Cuba	Civil and Criminal	92.11.24	94.3.26
6.	Russia	Civil and Criminal	92.6.19	93.11.14
7.	Egypt	Civil, Commercial, Criminal	94.4.21	95.5.31
8.	Bulgaria	Criminal	95.4.7	96.5.27
9.	Ukraine	Civil and Criminal	92.10.31	94.1.19
10.	Byelorussia	Civil and Criminal	93.1.11	93.11.29
11.	Kazakhstan	Civil and Criminal	93.1.14	95.7.11
12.	Canada	Criminal	94.7.29	95.7.1
13.	Greece	Civil and Criminal	94.10.17	96.6.29
14.	Cyprus	Civil and Criminal	95.4.25	96.1.11
15.	Kyrgyzstan	Civil and Criminal	96.7.4	97.9.26
16.	Tajikistan	Civil and Criminal	96.9.16	98.9.2
17.	Uzbekistan	Civil and Criminal	97.12.11	98.8.29
18.	Viet Nam	Civil and Criminal	98.10.19	99.12.25
19.	South Korea	Criminal	98.11.12	00.3.24
20.	Laos	Civil and Criminal	99.1.25	01.12.15
21.	Tunisia	Criminal	99.11.30	00.12.30
22.	Colombia	Criminal	99.5.14	04.05.27
23.	USA	Criminal	00.6.19	01.3.8
24.	South Africa	Criminal	03.1.20	04.11.17

Table of extradition treaties

No.	Country	Date signed	Date in effect
1.	Mongolia	97.8.19	99.1.10
2.	Romania	96.7.1	99.1.16
3.	Russia	95.6.26	97.1.10
4.	Thailand	93.8.26	99.3.7
5.	Bulgaria	96.5.20	97.7.3
6.	Ukraine	98.12.10	00.7.13
7.	Byelorussia	95.6.22	98.5.7
8.	Kazakhstan	96.7.5	98.2.10
9.	Kyrgyzstan	98.4.27	04.04.27
10.	Uzbekistan	99.11.8	00.9.29
11.	South Korea	00.10.18	02.4.12
12.	Cambodia	99.2.9	00.12.13
13.	Peru	01.11.5	03.04.05
14.	South Africa	01.12.10	04.11.17
15.	Laos	02.02.04	03.08.13
16.	UAE	02.5.13	04.05.24
17.	Lithuania	02.6.17	03.06.21

218. In addition, China's public security organs have signed some 72 police cooperation agreements with the police authorities of 41 countries.

219. In keeping with the bilateral agreements described above, China is able to cooperate with the relevant countries in investigations, searches, closures, gathering evidence, forwarding judicial documents, freezing of assets, seizures of goods, confiscations of the proceeds of crime, extraditions, etc. These various measures apply to the offences set out in article 3, paragraph 1, of the Optional Protocol.

220. Where no such bilateral agreements exist, judicial cooperation over offences listed under the Optional Protocol is possible in practice with all countries on a reciprocal basis. For example, China has assisted the United Kingdom, Germany, Sweden and other countries in investigations of the use of the Internet for the production and dissemination of child pornography.

221. China's public security organs are also active members of Asia's Cyber Crime Technology Information Network System (CTINS), which utilizes Internet facilities for the immediate exchange or collection of information about computer-based offences against children, detection and evidence-gathering technologies, and pertinent legislation. Other participating countries and territories include India, Indonesia, South Korea, Malaysia, Philippines, Singapore, Thailand, Japan and Hong Kong.

222. Cooperation with bordering countries in law enforcement has been strengthened to clamp down on cross-border abductions and trafficking.

223. A communications centre has been set up for this purpose in Dongxing, Guangxi Province. Meanwhile, studies on the suppression of this trade along the China-Viet Nam border have been conducted, and bilateral seminars have been held with Thailand for the same purpose.

224. A number of cooperative programmes have been entered into with Viet Nam, in particular. In April 2004, the public security ministries of China and Viet Nam together held in Hanoi a first conference on the maintenance of social order and suppression of crime along the China-Viet Nam Border, which featured specific discussions on how the two parties could work together to combat abduction and trafficking in that area. In June 2004, the two ministries ran a training session in Bangkok on joint efforts to combat abductions and maintain order. In July 2004, a delegation of Vietnamese criminal police visited China for in-depth discussions on suppressing cross-border abductions and other forms of organized criminal activity.

225. In October 2004, a delegation of representatives of the State Council National Working Committee for Women and Children, the National People's Congress, the Ministry of Foreign Affairs, the Ministry of Public Security, the Ministry of Commerce and the All China Women's Federation attended the Ministerial Conference to Combat Abductions and Human Trafficking in the Mekong Subregion in Myanmar. The Governments of the six participating countries - China, Cambodia, Laos, Myanmar, Thailand and Viet Nam - signed a cooperative memorandum of understanding to combat human trafficking in the Mekong subregion, which aimed to strengthen cooperation among the various countries in the fight against cross-border offences of this nature.

226. Cooperation with the International Criminal Police Organization has been stepped up.
227. In May 2004, the Ministry of Public Security sent a delegation to the twenty-second Interpol Conference of Experts' on Child-related Crime held in Sri Lanka, where the various national delegations exchanged views on combating the use of the Internet in offences against children.
228. China's public security authorities participate actively in the activities of the Interpol Asia-Pacific working group against cyber-crime, and cooperate with other member countries in police training sessions, exchanges of detection and evidence-gathering technologies, discussions of legislation to combat Internet crime and other activities.
229. Cooperation with all relevant United Nations institutions and other organizations has increased.
230. Since 1999, the Ministry of Public Security, the All China Women's Federation and UNICEF have operated a joint programme to oppose abductions, trafficking and other violence against women and children. To date, the programme has run 78 separate campaigns and spent some US\$ 1 million energetically countering such offences in China. Under the programme, 10 provinces, autonomous regions and centrally-administered municipalities have run a total of 15 provincial, regional and county-level anti-abduction training sessions that have reached more than 10,000 public security and People's Police officers. In eight provinces particularly prone to crimes of this type, powerful publicity campaigns against abductions have reached several hundred thousand people. In March 2003, the Ministry of Public Security, the All China Women's Federation and UNICEF jointly designed and promoted a logo for use in campaigns against abductions and trafficking in women and children; its introduction served to stimulate public interest in, understanding and support for the goals of these campaigns. Meanwhile, on 3 June 2004, two concurrent campaigns were launched, a Sino-Vietnamese publicity campaign to combat cross-border abductions and trafficking and a China publicity campaign to combat cross-border abductions and trafficking of women and children.
231. China actively supports the campaigns against abduction and trafficking that are conducted by such international institutions and organizations as UNDP, ILO, Britain's Save the Children, Australia's Agency for International Development, and the Mekong Region Law Centre. A conference to discuss abduction and trafficking offences in the five provinces of Yunnan, Guangxi, Sichuan, Guizhou and Anhui, funded by Britain's Save the Children and organized by that charity, the National Working Committee for Women and Children and ILO, was held in Kunming, Yunnan Province in July 2004. Its main objectives were to pool the experience of these regions in combating such offences, assess the prevailing situation and develop new ideas and approaches. The All China Women's Federation also participates in the ILO Mekong Sub-Regional Project to Combat Trafficking in Children and Women running in Yunnan from 2001 to 2005. Effective publicity, prevention and rehabilitation campaigns have resulted in the establishment of a comprehensive mechanism to combat these offences in that region, and the strategies and models developed there are of value for extension elsewhere. On this foundation and against a backdrop of labour mobility, the All China Women's Federation and ILO continue their work to prevent abductions and trafficking of women and children.

In 2004, the All China Women's Federation, the Ministries of Labour, Public Security and Education and other government agencies organized, in cooperation with ILO, a programme to prevent the abduction of girls and young women for the purpose of exploitative labour. By seeking to reduce the vulnerability of girls and young women, the programme aims to prevent their being forced into exploitative situations.

B. Requests received from another State party for seizure or confiscation of goods or proceeds

232. To date, China has not received any request from another State party for seizure or confiscation of goods or proceeds as provided for under the Optional Protocol.

4. Financial and other assistance

233. With respect to funding and technical assistance China has received from other countries, please refer to paragraphs 230-231 of this report.

PART 7 - OTHER LEGAL PROVISIONS

1. Relevant provisions of domestic legislation and international law in force in China which are more conducive to the realization of the rights of the child

234. China attaches great importance to and wholly supports the Universal Declaration of Human Rights, has signed the International Covenant on Civil and Political Rights and ratified such other major human rights instruments as the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the International Covenant on Economic, Social and Cultural Rights. The Government of China believes that the combination of international human rights instruments and domestic legislation constitutes a whole that promotes the realization of children's rights from all perspectives.

2. Status of ratification by China of the main international instruments concerning sale of children, child prostitution, child pornography and child-sex tourism and other relevant commitments

235. On 30 November 2000, China signed the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, and is currently engaged in its ratification.

236. On 15 March 2001, China signed the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, and is currently considering its ratification.

237. On 29 June 2002, China ratified the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO Convention 182), and forwarded the instrument of ratification document on 8 August 2002. The Convention took formal effect in China on 8 August 2003. China's first report on the implementation of the Convention was submitted in September 2004.

238. China has participated in a number of declarations and action plans opposing the commercial sexual exploitation of children. In September 1996, China attended the first World Congress against Commercial Sexual Exploitation of Children, held in Stockholm, Sweden, and signed the Declaration and Agenda for Action from the World Congress against the Commercial Exploitation of Children that was drafted there. China also attended the second World Congress on this theme held in Yokohama, Japan, in November 2001, and signed the Yokohama Global Commitment that was drafted there. China sent a delegation to the East Asia and Pacific Post-Yokohama Mid-Term Regional Consultation against Commercial Sexual Exploitation of Children, held in Bangkok in November 2004, where the Government presented a report on the work undertaken in China since the Yokohama conference.

239. In terms of regional commitments, China signed the Memorandum of Understanding against Human Trafficking in the Mekong Subregion in October 2004.

3. Implementation of these international instruments and commitments, and challenges encountered

240. China is a developing country with an enormous population; it is home to fully one fifth of the children in the world. In the face of such numbers, to guarantee that every child may live and grow up healthily and happily is a daunting responsibility. China's average per capita income still ranks comparatively low on the world scale, and there remain great developmental imbalances between urban and rural areas, and from region to region. Accordingly, our work on behalf of children still encounters many difficulties, and improvement is needed in many areas. The Government of China continues to strive to fulfil its international obligations in this respect.

241. At the same time, with China becoming ever more open to the rest of the world and the flow of people between China and other countries increasing literally daily, a small number of criminal elements from foreign countries are taking advantage of opportunities arising out of business or tourism to engage in activities prohibited under the Optional Protocol. Not only do such activities exert a pernicious influence on the sound growth of China's children, they also challenge the Government's efforts to stamp out such reprehensible behaviour.

242. Meanwhile, the development of information technology allows criminal elements to use the Internet to pursue activities outlawed under the Optional Protocol, and the location of many pornographic websites beyond the national borders makes it particularly difficult for China to guard against and repress such offences as those related to child pornography.

243. China will continue to adopt legislation and bolster enforcement earnestly so as to fulfil the obligations it has assumed under the terms of international instruments and other commitments. In addition, through economic development, increased publicity and efforts to raise public moral standards and awareness, China will strive to overcome the challenges it encounters in fulfilling these obligations. China is fully willing to increase its cooperation with national and international organizations in order to attain the objectives of the Convention on the Rights of the Child and the Optional Protocol.
