



# Convention on the Rights of the Child

## Committee on the Rights of the Child

### Fifty- ninth session

16 January – 3 February 2012

## Optional Protocol on the sale of children, child prostitution and child pornography

### List of issues concerning additional and updated information related to the consideration of the initial report of Thailand (CRC/C/OPSC/THA/1)

#### Addendum

#### Written replies of Thailand\*

#### Reply to the issues raised in paragraph 1 of the list of issues (CRC/C/OPSC/THA/Q/1)

#### (a) Sale of children, child prostitution and child pornography

During 2008 and 2009, the Royal Thai Police collected data on the apprehension of offenders for the sale of children, child prostitution and child pornography, but did not separate the cases involving child victims (under 18 years of age). The number of cases/offenders in 2008 and 2009 was 42/76 and 97/145, respectively.

The Royal Thai Police began to disaggregate the statistical data in 2010 and 2011 in which the number of child victims totalled 46 and 82 persons, comprising 2/49 victims of prostitution and procurement for gratifying the sexual desire of others, 43/31 victims of pornography, and 1/2 victims of illegal recruitment of labour, respectively. (Please refer to Table 1 for details.) This data shows an increase in the number of child victims, the number of offenders being arrested, and the classification of victims' age in order to ensure that they are treated suitably in accordance with their age.

**Table 1: Number of Prosecutions under the Plan on the Protection of Children, Youth and Women and Anti-Human Trafficking, by the Strategy Division, the Royal Thai Police in 2010 and in January – October 2011.**

| Type of Offense                                                         | Reported cases        | Victims (Persons) | Alleged Offenders (Persons) |                       |     |        |     |                 |   |       |       |        |    |    |   |       |
|-------------------------------------------------------------------------|-----------------------|-------------------|-----------------------------|-----------------------|-----|--------|-----|-----------------|---|-------|-------|--------|----|----|---|-------|
| Sex                                                                     | Age (- 18 years old ) |                   | Sex                         | Age (- 18 years old ) |     | Arrest |     | arrest warrants |   |       |       |        |    |    |   |       |
|                                                                         | Total                 |                   |                             | Total                 |     |        |     |                 |   |       |       |        |    |    |   |       |
|                                                                         | 0                     |                   |                             | 0                     |     | 13     |     | 15              |   | Total | 0     | 13     | 15 |    |   |       |
| Total                                                                   | Male                  | Female            |                             | -                     | -   | -      | -   | -               | - | Total | Male  | Female | -  | -  | - |       |
|                                                                         |                       |                   |                             | 18                    | -15 | 18     |     | 18              |   |       | 18    | 15     | 18 |    |   |       |
|                                                                         | 470                   | 444               |                             | 435                   | 9   | 2      | 0   | 1               | 1 | 305   | 119   | 186    | 14 | 12 | 0 | 292   |
| Prostitution and Procurement for Gratifying the Sexual Desire of Others | /                     | /                 | /                           | /                     | /   | /      | /   | /               | / | /     | /     | /      | /  | /  | / | /     |
|                                                                         | 637                   | 633               |                             | 628                   | 5   | 49     | 47  | 2               | 0 | 4765  | 518   | 247    | 51 | 41 | 0 | 747   |
|                                                                         | 387                   | 273               |                             | 266                   | 7   | 43     | 43  | 0               | 0 | 271   | 231   | 40     | 35 | 25 | 2 | 241   |
| Possession and Distribution of Pornographic Materials                   | /                     | /                 | /                           | /                     | /   | /      | /   | /               | / | /     | /     | /      | /  | /  | / | /     |
|                                                                         | 347                   | 341               |                             | 338                   | 3   | 31     | 31  | 0               | 0 | 339   | 287   | 52     | 36 | 29 | 2 | 325   |
|                                                                         | 8                     | 7                 |                             | 5                     | 2   | 1      | 1   | 0               | 0 | 6     | 5     | 1      | 1  | 1  | 0 | 0     |
| Illegal Recruitment of Labour                                           | /                     | /                 | /                           | /                     | /   | /      | /   | /               | / | /     | /     | /      | /  | /  | / | /     |
|                                                                         | 12                    | 6                 |                             | 4                     | 2   | 2      | 2   | 0               | 0 | 9     | 9     | 0      | 0  | 0  | 0 | 2     |
|                                                                         | 825                   | 724               |                             | 706                   | 18  | 46     | 44  | 1               | 1 | 582   | 355   | 227    | 50 | 38 | 2 | 535   |
| Total                                                                   | /                     | /                 | /                           | /                     | /   | /      | /   | /               | / | /     | /     | /      | /  | /  | / | /     |
|                                                                         | 996                   | 980               |                             | 970                   | 10  | 82     | 105 | 2               | 0 | 1,499 | 1,200 | 299    | 87 | 70 | 2 | 1,074 |

Remark : Number in 2010/Number in 2011

**(b) Trafficking of children into and out of Thailand and children trafficked within the country for the purpose of sale, prostitution, engagement in forced labour, debt bondage, illegal adoptions, organ transfer or pornography;**

In terms of child victims, the statistical data on child and female victims of human trafficking in Thailand is collected by the Ministry of Social Development and Human Security (MSDHS), but is not disaggregated by sex, age, nationality and domicile, as requested by the Committee. The data is not complete, as the Anti-Trafficking in Persons Act only entered into force in Thailand in 2008. Nonetheless, Thailand will continue to improve the data gathering system in order to obtain more comprehensive and systematically classified information.

From the statistical data in 2009, 2010 and 2011, it was found that the number of boys and girls with Thai and other nationalities, such as Cambodian, Myanmar, Laotian, Chinese and Vietnamese, who were rescued from situations constituting the worst forms of labour totalled 228 persons in 2009, 150 persons in 2010, and 99 persons in 2011. Of these, 64 children, or 13.41 percent of all child victims, received financial aid from the Fund for Victims of Trafficking in Persons during 2010-2011 as victims of prostitution and forced labour. In 2010, there was one child who was a victim of forced labour, and in 2011, there were 3 child victims of forced labour and 60 child victims of prostitution. (For details, please see Table 2.)

**Table 2: Number of child victims (under 18 years of age) in relation to child forced labour, child prostitution/pornography (receiving assistance/financial aid, or placement in the custody of the MSDHS during the period between 2009-2011)**

| No.                             | 2009 2010 2011 |                     |               |            |                     |               |            |                     |               |            |                     |               |
|---------------------------------|----------------|---------------------|---------------|------------|---------------------|---------------|------------|---------------------|---------------|------------|---------------------|---------------|
|                                 | Total Thai     | Other Nationalities | Financial Aid | Total Thai | Other Nationalities | Financial Aid | Total Thai | Other Nationalities | Financial Aid | Total Thai | Other Nationalities | Financial Aid |
|                                 | Male           | Female              | Domicile      | Total      | Male                | Female        | Domicile   | Total               | Male          | Female     | Domicile            | Total         |
| <b>Total</b>                    | 228            | -                   | -             | -          | n/a                 | 150           | -          | -                   | -             | -          | 1                   | 99            |
| Forced Labour                   | 62             | -                   | -             | -          | -                   | 14            | -          | -                   | -             | -          | 1                   | 16            |
| Forced Prostitution/Pornography | 80             | -                   | -             | -          | -                   | 98            | -          | -                   | -             | -          | -                   | 60            |
| Forced Labour in dangerous Work | 86             | -                   | -             | -          | -                   | 38            | -          | -                   | -             | -          | -                   | 23            |

*Remark :* \* Dangerous work is specified as work that is detrimental to the health, safety and morality of a person, such as work that is carried out underground, under water, above the ground at a dangerous level, in an unsanitary environment, or in especially difficult conditions, such as long working hours or working at night time or night shift .

Source : Ministry of Social Development and Human Security, Department of Social Development and Welfare (Data as of 16 November 2011)

In terms of prosecution, it was found from the statistical data of the Royal Thai Police that in 2010 and 2011, the number of arrested offenders totalled 16 and 19 persons, and offenders that were issued arrest warrants totalled 4 and 19 respectively. (Please refer to Table 3 for details.)

**Table 3: Number of human-trafficking prosecution cases under the Plan on the Protection of Children, Youth and Women, and Anti-Human Trafficking, in 2010 (January - December) -2011 (January - October).**

| Year (Month)           | Reported cases        | Victims (Persons) | Alleged Offenders (Persons) | Arrest | Issuance of arrest warrants |  |      |        |    |    |    |       |           |
|------------------------|-----------------------|-------------------|-----------------------------|--------|-----------------------------|--|------|--------|----|----|----|-------|-----------|
| Sex                    | Age (- 18 years old ) | Sex               | Age (- 18 years old )       |        |                             |  |      |        |    |    |    |       |           |
|                        |                       | 0                 | 13                          | 15     |                             |  |      |        | 0  | 13 | 15 |       |           |
| Male                   | Female                | -                 | -15                         | -      | Total                       |  | Male | Female | -  | -  | -  | Total |           |
|                        |                       | 13                |                             | 18     |                             |  |      |        | 13 | 15 | 18 |       |           |
| 2010                   |                       |                   |                             |        |                             |  |      |        |    |    |    |       |           |
| ( January - December ) | 56                    | 40                | 14                          | 1      | 0                           |  | 0    | 1      | 31 | 33 | 2  | 0     | 1 3 16 4  |
| 2011                   |                       |                   |                             |        |                             |  |      |        |    |    |    |       |           |
| ( January - October )  | 65                    | 51                | 15                          | 6      | 0                           |  | 3    | 9      | 44 | 47 | 3  | 0     | 0 3 44 19 |
| <b>Total</b>           | 121                   | 91                | 29                          | 7      | 0                           |  | 3    | 10     | 75 | 80 | 5  | 0     | 1 6 60 23 |

Source : Royal Thai Police, Strategy Division ( Data as of 29 November 2011 )

**(c) Children offered, delivered, or accepted by whatever means for the purpose of prostitution, engagement in forced labour, debt bondage, illegal adoptions, organ transfer, pornography or marriage;**

There are reports on the procurement of children for prostitution, forced labour, and pornography. However, there is no information on the exploitation of children for debt repayment, illegal adoption, marriage, or organ transplantation. In 2010, 4 children were victims of prostitution, and 2 children were victims of pornography. (Please refer to Table 4 for details.)

**(d) Child victims who have been given assistance with reintegration or been paid compensation.**

The information of the MSDHS, which provided assistance to 9 Thai child victims of human-trafficking in 2010, shows that these children had domiciles in the south, north east, and central areas of the country. These children received assistance in the form of accommodation, rehabilitation, family tracing, and prosecution. (Please also refer to Table 4 for details.) In 2010 and 2011, assistance was also provided to 150 and 99 foreign children, respectively, comprising Cambodians, Myanmarese, Laotians, Chinese, Vietnamese and others, who are victims or are at risk of being victims of human-trafficking.

**Table 4: Assistance and Protection for Thai Children in 2010 (January - December)**

| Issue            | Number      | Sex   | Domicile | Assistance |         |         |                |                |             |     |
|------------------|-------------|-------|----------|------------|---------|---------|----------------|----------------|-------------|-----|
|                  | ( Persons ) |       |          |            |         |         |                |                |             |     |
| Male             | Female      | North | South    | Northeast  | Central | Shelter | Rehabilitation | Family Tracing | Prosecution |     |
| Sale of Children | 3           | -     | 3        | -          | -       | 3       | -              | 1              | 3           | 3 3 |
| Child            | 4           | 1     | 3        | -          | 1       | 1       | 2              | 4              | 4           | 4 4 |
| Prostitution     |             |       |          |            |         |         |                |                |             |     |
| Child            | 2           | 2     | -        | -          | -       | -       | 2              | 2              | 2           | 2 2 |
| Pornography      |             |       |          |            |         |         |                |                |             |     |
| <b>Total</b>     | 9           | 3     | 6        | 0          | 1       | 4       | 4              | 7              | 9           | 9 9 |

Source : Ministry of Social Development and Human Security, Department of Social Development and Welfare (Data as of 16 November 2011)

In addition to the assistance provided in Table 4, the MSDHS also helps human trafficking victims to reintegrate into society, and provides financial compensation to them from the Fund for Victims of Trafficking in Persons. During 2010-2011, the Sub-committee on assistance to victims of human trafficking approved the payment of such compensation to a total of 118 victims, as follows:

(a) In 2010, the Sub-committee approved the payment of compensation to 17 victims of forced labour or service, comprising 4 children, 2 women and 8 men in the sum of Baht 107,024;

(b) In 2011, the Sub-committee approved the payment of compensation to 104 victims of prostitution and forced labour or service, comprising 63 children, 25 women and 16 men in the sum of Baht 493,866. Among these 104 victims, 16 were victims of forced labour or service, and 88 were victims of prostitution. (Please refer to Table 5 for details.)

**Table 5: Number of Thai and foreign women and child victims of human trafficking who received financial compensation from the Fund for Victims of Trafficking in Persons, during the period 2010-2011.**

| Year         | Children                 | Women | Men | Total | Assistance Amount (Baht) | Forms of Exploitation |    |
|--------------|--------------------------|-------|-----|-------|--------------------------|-----------------------|----|
|              | (0-18 Years Old)         |       |     |       |                          |                       |    |
| Prostitution | Forced Labour or Service |       |     |       |                          |                       |    |
| 2010         | 4                        | 2     | 8   | 14    | 107,024                  | -                     | 14 |
| 2011         | 63                       | 25    | 16  | 104   | 493,866                  | 88                    | 16 |
| <b>Total</b> | 67                       | 27    | 24  | 118   | 600,890                  | 88                    | 30 |

Source : Ministry of Social Development and Human Security, Department of Social Development and Welfare (Data as of 16 November 2011)

The statistical data relating to applications for financial assistance in the case of human trafficking, under the Compensation for Injured Persons, and Indemnification and Expenses for Alleged Offenders in the Criminal Case Act during the period 2010-2011, was collected by the Ministry of Justice, as provided below (Table 6).

**Table 6: Number of applications for financial assistance in the case of human trafficking under the Compensation for Injured Persons and Indemnification and Expenses for Alleged Offenders in the Criminal Case Act of 2001, during the period 2010-2011.**

| Year               | Offence pursuant to the Act    | Age   | Sex        | Nationality | Result      |        |         |                  |                        |      |
|--------------------|--------------------------------|-------|------------|-------------|-------------|--------|---------|------------------|------------------------|------|
|                    |                                |       |            |             | Female Thai | Others | Refusal | Pending Decision | Granting of Assistance |      |
| 0-13               | 13-15                          | 15-18 | Total Male |             |             |        |         |                  |                        |      |
| 2010               | Offences against the body      | -     | -          | -           | 17          | 3      | 14      | 7                | 10                     | 4    |
|                    | Offences relating to sexuality | 3     | 11         |             |             |        |         |                  |                        | 10 3 |
| 2011               | Offences against the body      | -     | -          | 1           | 10          | 1      | 9       | -                | 10                     | -    |
| (Data in February) | Offences relating to sexuality | -     | 1          | 8           |             |        |         |                  |                        | 1 9  |

Source : Ministry of Justice, Department of Rights and Liberties Protection (Data as of 14 December 2011)

## Reply to the issues raised in paragraph 2 of the list of issues

The establishment of a data collection system was another task of the Sub-Committee to Combat Trafficking in Children and Women (as stated in CRC/C/OPSC/THA/1, paragraph 21). However, the Sub-Committee was later replaced by the Anti-Trafficking in Persons Committee (ATP Committee) established under the Anti-Trafficking in Persons Act which entered into force in 2008. The task of data collection was then transferred to the ATP Committee, chaired by the Prime Minister. The ATP Committee thereby set

up a sub-committee to study and establish a database on human trafficking prevention and suppression in Thailand.

The established database is divided into 2 levels, namely, macro database which provides national data and information to be used for policy and strategic planning, and micro database which provides more focused data and information to be used to facilitate the work of each agency, such as the MSDHS, the Royal Thai Police, the Office of the Attorney-General, and the Department of Consular Affairs.

The database comprises 2 types of information, namely, data on victims of human trafficking disaggregated by, among others, age, sex, and types of exploitation; and data on prosecution which includes details on the criminal plan, criminal network, arrests made, results of the deliberation on the case at the prosecutor's level and in court. Views and opinions of personnel in the 9 Protection and Occupation Development Centres, which are the main centres that provide protection and assistance to victims of human trafficking are also gathered.

Future steps that will be taken are the hiring of system analysis advisors to gather views and recommendations on the database from both the policy and implementation levels to ensure a concise and practical database; and the preparation of a manual and the organization of training on the database for the relevant officers.

However, this database is focused essentially on human trafficking. There is at present no database specifically on cases concerning the sale of children, child prostitution and child pornography. This is an area in which more work still needs to be done in the future.

### **Reply to the issues raised in paragraph 3of the list of issues**

Steps taken to implement the National Plan of Action on the Prevention and Suppression of Human Trafficking (2005-2010) are as follows.

(a)The main legal measure undertaken is the drafting and enactment of the Anti-Trafficking in Persons Act in 2008 as the principal legislation to prevent and suppress human trafficking;

(b)Prevention and suppression measures: units directly responsible for anti-human trafficking were established in: (i) the Royal Thai Police, namely, the Centre for the Protection of Children, Youth and Women, the Department of Prevention and Suppression of Crimes Concerning Women and Children and a victim screening unit under the Immigration Bureau; (ii) the MSDHS, namely, Bureau of Anti-Trafficking in Women and Children, Department of Social Development and Welfare, and the Social Development and Human Security offices at the provincial level; and (iii) operational mechanisms at various levels such as the establishment of a National Committee, chaired by the Prime Minister, a Coordination Committee, chaired by a Deputy Prime Minister, an Operation Centre on Human Trafficking set up in 76 provinces across the country, various bilateral agreements with neighbouring countries on combating human trafficking, and anti-human trafficking regional cooperative networks such as the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime and the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) in the Greater Mekong Sub-region.

The evaluation results for the projects under the plan of action, which has been undertaken since 2008, covers the operations undertaken during the first half of the plan (i.e. for the years 2005-2007), in respect of 3 issues, namely, context suitability, effective plan management and successful implementation of the master plan in regard to 7 aspects: (1) prevention; (2) assistance and protection; (3) prosecution and suppression; (4) deportation and social reintegration; (5) database establishment; (6) development of a management mechanism; and, (7) international cooperation.

The survey of the relevant organizations nationwide reveals that both direct and indirect results of the operations in relation to the 7 abovementioned aspects were satisfactory. Specifically, there are 217 projects under the prevention plan, 32 projects under the assistance and protection plan, and 18 projects under legal prosecution and suppression plan. Certain projects are also consistent with the implementation of other plans. Additionally, organizations reported that 28.3 percent of the operations relating to the prevention and suppression of trafficking in children and women were successful, and identified cooperation and coordination among all sectors as a significant contributing factor. Obstacles faced in the operations were insufficient budget and personnel, challenges on access to information that is necessary for ensuring a timely operation, and especially unclear policy and practical guidelines, lack of operating plans, activities and projects on specific issues, lack of public awareness, lack of capacity on the part of the personnel in relation to the work which is complicated and dangerous, as well as their inability to take action in a timely manner.

With reference to the new plan of action for the next period, on 11 May 2010 the Cabinet passed a resolution adopting the Policy, Strategy, and Measures for the Prevention and Suppression of Trafficking in Persons (No. 2) for the years 2011-2016 for compliance by all relevant sectors, including the preparation of the appropriate action plan at every level. Five strategies for human trafficking prevention and suppression are as follows: (1) prevention; (2) prosecution; (3) protection and assistance; (4) development of policy and promotion mechanism; and (5) development and management of information. For the purpose of compliance with such policy, the MSDHS drafted the 2011 plan of action on human trafficking prevention and suppression aiming to "protect labour movement from trafficking syndicates" through the implementation of 93 projects/activities, which covers every measure. The 2012 plan of action was approved in principle by the Cabinet on 28 March 2011 with the aim of "guaranteeing human dignity, through the elimination of all forms of discrimination and human rights violations as well as human trafficking syndicates" (with a budget of Baht 171 million).

### **Reply to the issues raised in paragraph 4of the list of issues**

Measures taken to combat child prostitution are as follows.

**Legal measures** . The laws which stipulate child prostitution as a crime are as follows:

(a)Criminal Code Amendment Act (No.14) of 1997, which imposes heavier penalties to whoever commits a sexual offence against children;

(b)Anti-Trafficking in Persons Act of 2008, which provides a comprehensive approach in addressing the issue of human trafficking by making the punishment of traffickers more severe and providing protection for victims;

(c) Prevention and Suppression of Prostitution Act of 1996, which imposes heavier penalties to whoever procures, lures, compels, or threatens children for the purpose of prostitution;

(d) Child Protection Act of 2003, which aims to provide protection for children from all forms of abuse, exploitation, violence and gross negligence by clearly stipulating that any child below the age of 18 is protected by the State. It stipulated that a person is forbidden to force, threaten, induce, encourage, consent to, or act in any other way that results in the exploitation of a child or constitutes an act of torture, physically or mentally, against the child.

**Suppression measures.** The Royal Thai Police has implemented the Plan on the protection of children, women and families, and the prevention and suppression of human trafficking, which comprises 2 strategies, namely, (a) empowerment of children, women and families through the reduction and control of factors that negatively impact on a child's behaviour and development, including the promotion of participation from families, communities and academic institutions in child development; (b) prevention and suppression of human trafficking, by placing priority on the promotion of integrated judicial procedures and strict enforcement of the laws to combat offences, protect rights, liberties and human dignity, as well as create unity and continuity in the management, investigation and suppression systems at both policy and practical levels.

Actions taken by the police at the local level include protection of children and women; surveillance, investigation and arrest of perpetrators; preparation for the prosecution process, including providing a female investigator or inquiry officer in cases relating to children, women and human trafficking, who has the responsibility of coordinating matters with the judicial and social development organizations in order to enhance efficiency, flexibility and the fast and uninterrupted flow of events between the trial and the rehabilitation procedures; screening of human trafficking victims, and the referral of such victims for rehabilitation, including monitoring the results of the procedures, until the successful social reintegration of the victims.

The Government is well aware of the problem of corruption among officials, and has striven to address this matter through both legal and disciplinary measures in accordance with the Anti-Trafficking in Persons Act and the National Police Act. For instance, in a legal case concerning police officers who have sexually harassed a girl, 3 defendants were prosecuted, consisting of: (a) an individual, charged with taking a minor and the procurement of a girl under 15 years of age for the purpose of gratifying the sexual desire of another person; (b) a police officer, charged with sexual assault of a girl under the age of 13; and, (c) a police officer, charged with committing an indecent act against a girl under the age of 15, and sexual assault against a girl under the age of 13.

Defendants nos. 2 and 3 (who are police officers) were sentenced by the Court of First Instance to imprisonment for 8 years and 18 years, respectively. Defendant no. 1 (a private person) lodged an appeal, and was sentenced by the final judgment of the Court of Appeal to imprisonment for 50 years. Defendant no. 2 was sentenced by the Court of Appeal to 8 years imprisonment. However, the punishment of defendant no. 3 was reduced by the Court of Appeal to imprisonment for 16 years and 4 months. Defendant nos. 2 and 3 lodged an appeal with the Supreme Court, which ruled that defendant no. 2 was guilty of sexual assault against a child under 13 years of age, and should therefore be sentenced to 8 years imprisonment, while defendant no. 3 was found guilty of indecency against a child under the age of 15 and was thereby sentenced to 4 months imprisonment. The Supreme Court also ruled that defendant no. 3 was guilty on 2 counts of sexual assault against a girl under 13 years of age, and hence, shall be subject to imprisonment for 7 years for each count. The total term of imprisonment for defendant no. 3 is therefore, 14 years and 4 months.

## **Reply to the issues raised in paragraph 5 of the list of issues**

Thailand aims to carry out preventive measures in an integrated and proactive manner, to ensure sustainable and effective prevention of human trafficking in the country. We believe that education is one of the best preventive tools in this regard. Under the education for all policy, all children in Thailand are entitled to receive 12 years basic education in accordance with the present Thai Constitution. This has been further reinforced by the 15-year free education programme, which means that all children in Thailand are entitled to receive education from kindergarten up to high school level free of charge. This includes non-Thais and persons without a clear legal status, be they ethnic children and children of migrant workers, who are vulnerable to exploitation. Government Education Loans are available to enable poor students to pursue their studies. The Committee on Strategy Development for Deprived and Disadvantaged Children which was established pursuant to the National Education Act is also working to ensure equal access to education of marginalized children.

Other preventive actions include:

(a) Raising the awareness of families, communities and groups at risk through various projects and channels, such as the media, and the organization of anti-human trafficking road shows to create understanding about safe labour movement, the risk of human trafficking, and cooperation in human trafficking surveillance, including the designation of 5 June each year as National Anti-Human Trafficking Day;

(b) Proactive activities in the localities, such as the organization of training on the prevention of deception for children and youth in schools, community leaders, and women nationwide (with 118,800 participants in 2011), the provision of knowledge to Thai women in Phayao, Chiang Rai, Lampang, Chiang Mai Provinces to safeguard them against harm whilst they are overseas (with 3,000 participants in 2011), and the training of officers (with 2,500 participants in 2011);

(c) Establishment of human trafficking community networks, with the cooperation of government agencies at the central, provincial and local levels, and local non-governmental organizations. This project has been carried out since 2009 with the establishment of human trafficking inspection and surveillance centres in 9 northern provinces, namely, Chiang Mai, Chiang Rai, Mae Hong Son, Phayao, Phrae, Nan, Lampang, Uttaradit, and Tak. Currently, there are 15 such centres, with another 30 centres to be established in 2012. These centres are operated by community leaders, the centre's committee, and volunteers with knowledge and understanding of the problems, in collaboration with public and private sectors to monitor, assist and protect the rights of victims, or persons who are at risk of becoming victims of human trafficking, report the offence, investigate the situation and coordinate assistance provided, in accordance with the Child Protection Act, the Protection of Victims of Domestic Violence Act, and the Anti-Trafficking in Persons Act;

(d) Establishment of learning centres for the prevention, assistance and protection of victims of human trafficking within the 4 Protection and Occupation Development Centres for women, in Nonthaburi, Nakhon Ratchasima, Phitsanulok, and Surat Thani

Provinces, and Pakkred Reception Home for Boys;

(e)Forging cooperation with private organizations and border provinces to enhance knowledge and understanding of the human trafficking situations in the locality for local public officers and private organizations, preparing of cooperation guidelines for the prevention and suppression of human trafficking, and recruiting of Thai volunteers overseas to complement Government's efforts in 5 countries, namely, Germany, France, Switzerland, the Netherlands, Denmark and Japan;

(f)Carrying out study and research on the promotion of human rights for highlanders in order to resolve the problem of their status with cooperation from the MSDHS, United Nations Children's Fund (UNESCO), and Chiang Mai University. A survey of hill tribe villages in 5 Northern provinces, namely, Chiang Mai, Chiang Rai, Mae Hong Son, Tak and Kanchanaburi, has been carried out and the result of this research is currently pending; and,

(g)Drafting of strategies for social development and welfare in the highlands under the 2017 Welfare for All policy, which comprises 3 strategies: (1) preparation of information on social development and welfare in regard to the highlands; (2) promotion of social welfare for highland communities; and (3) establishment of learning centres for social development and welfare in highland communities.

### **Reply to the issues raised in paragraph 6of the list of issues**

There are 3 mechanisms for the identification and detection of children at risk as follows:

(a)Screening of victims: (i) clear guidelines exist in regard to the screening of victims of human trafficking, to ensure a common understanding on the meaning of a "victim of human trafficking" among relevant agencies, such as the Royal Thai Police, the Immigration Bureau, the Ministry of Labour, and agencies under the MSDHS; (ii) a method for the screening of victims has been established with the use of interviews, combined with existing evidence and the views and opinions of social workers or the investigating officers; (iii) persons who are determined not to be victims of human trafficking will be deported in accordance with the Immigration Act of 1979; and, (iv) persons who are determined to be victims of human trafficking will be taken care of and protected by the Department of Social Development and Welfare;

(b)Screening of victims at the border or immigration checkpoints by agencies of the Immigration Bureau under the Royal Thai Police. Victims of human trafficking will be screened out from illegal foreign immigrants and transferred to the Department of Social Development and Welfare which will provide appropriate shelter and assistance to them;

(c)Screening and detecting victims of trafficking who may be under 18 years of age by forensic methods. If they are found to be under 18 years of age, they will receive appropriate assistance in accordance with Section 33 of the Anti-Trafficking in Persons Act and the Child Protection Act. Detection of children at risk has also been carried out around the tourist areas. Police officers under the Police Command for Elimination of Wrongdoing against Children, Youth, and Women have been designated to carry out surveillance and investigation, and to notify the Tourist Police of any suspected cases of child-sex tourism.

Measures or strategies to reduce the demand for the sale of children, child prostitution and child pornography are as follows: (a) promotion of legal tourism, by encouraging tourists to pay attention to culture, arts and nature, and by providing knowledge on the punishment for offenders under the law governing human trafficking; and (b) transnational exchange of information on child sexual abuse suspects. In this connection, the Tourism Authority of Thailand and the Ministry of Tourism and Sports have joined efforts in combating sex tourism by taking strict measures against travel and transportation agencies involved in sex tourism. Training has been organized for provincial tourism agencies and members of private tourism associations on how to cope with suspected and actual cases of child-sex tourism and how to apply preventive measures. Hotel guests are also informed of the hotel policy regarding child protection and the gravity of the offence. Training has also been organized for business operators on the prevention of sex tourism.

### **Reply to the issues raised in paragraph 7of the list of issues**

In addition to the Computer-Related Crime Act of 2007 and the Registration of Printing Act of 2007, the laws which govern pornographic materials are as follows:

(a)Section 287 of the Criminal Code, which prohibits the sale, distribution, presentation, production, possession, importation or exportation, or promotion of the import or export of all kinds of pornographic materials, including the sale or distribution of pornographic materials, and prescribes that offenders shall be subject to imprisonment for a term not exceeding 3 years, or a fine not exceeding Baht 6,000;

(b)Section 4 of the Anti-Trafficking in Persons Act of 2008, which prescribes that the production or distribution of pornographic materials, and other forms of sexual exploitation, shall be deemed as exploitation, and where such offence is committed against a person at the age of 15-18, the offender will be subject to imprisonment for 6-12 years, and a fine of Baht 120,000 – 240,000. Where such offence is committed against a person under the age of 15, the offender shall be subject to imprisonment for 8-15 years, and a fine of Baht 160,000 – 300,000, as mentioned in clause 4.

Apart from the foregoing legal measures, other relevant guidelines are the draft common practice guidelines for organizations related to the prosecution of foreign offenders who have allegedly committed acts of sexual harassment against children in Thailand, which has been prepared by the Ministry of Justice under the mutual agreement of both internal and relevant international organizations. These guidelines are based on the existing practices of each organization, and prescribe cooperation for the effective law enforcement. Significant aspects of these guidelines are: (a) coordination with foreign governments, in relation to the arrest and prosecution of foreigners, whereby a notice shall be sent to the embassy, consulate, and the national central office of Interpol of the country in which the alleged offender is a national, for the purpose of exchanging information and the creation of a network; (b) prevention of absconding on bail, whereby the inquiry officer, or the public prosecutor, shall prepare complete and precise information for the opposition to the bail request, and may suggest an increase in the amount of bail; and, (c) close coordination between the inquiry officer and the Department of Social Development and Welfare under the MSDHS, for the care and protection of child victims, and for compliance with the law governing inquiries and the taking of evidence from child witnesses.

## **Reply to the issues raised in paragraph 8 of the list of issues**

Computer-related crimes under the Computer-Related Crime Act of 2007 are classified into 2 types, namely, (a) offences against the data or the computer system, such as computer hacking, trapdoor routines, or computer sabotage by virus programmes; and, (b) offences against the data content in the public computer system, such as the distribution of pornographic pictures, distribution of information which is contrary to national security, or defamation by photoshop. There are 2 characteristics of media on child pornographic websites and web pages, which are, activities between children, or activities between adults and children which may be regarded as deception or obscene.

Upon a request for inspection, the Ministry of Information and Communication Technology, in its capacity as the main agency responsible for the prevention of child pornography on the Internet, will search for and hold inquiries with the service provider of the pornographic websites relating to such offence, contact the internet service provider (ISP) to block access to the offensive part of such website on a temporary basis, and submit a motion to the court to block the universal resource locator (URL) or the address of such pornographic website. The number of URLs which were blocked in 2010 totalled 6,084 cases, and there were 1,308 such cases in 2011. (Data as of 21 November 2011)

## **Reply to the issues raised in paragraph 9 of the list of issues**

Juristic persons or organizations may be prosecuted for offences relating to the sale of children, child prostitution and the distribution of child pornographic materials, in accordance with Section 53 of the Anti-Trafficking in Persons Act 2008, which prescribes that any juristic person that is guilty of human trafficking, shall be subject to a fine of Baht 200,000 – 1,000,000. Where such offence is caused by an order or the act of any person, or by an omission to issue the order or to perform any duty by the managing director, or any person who is responsible for carrying out the business of such juristic person, such person shall be subject to imprisonment for 6-12 years, and a fine of Baht 120,000 – 240,000.

## **Reply to the issues raised in paragraph 10 of the list of issues**

Thailand may not rely solely on the Optional Protocol in regard to the establishment of extraterritorial jurisdiction, and apply such Optional Protocol as the basic law, without the conditions relating to bilateral cooperation. Therefore, the reference to extraterritorial jurisdiction requires the consideration of both internal laws and the international treaty, as follows:

- (a) Sections 5-11 of the Criminal Code prescribe the extension of jurisdiction of Thai courts for certain crimes which are committed outside the Kingdom, but whereby the offenders remain subject to the punishment in the Kingdom;
- (b) Section 11 of the Anti-Trafficking in Persons Act of 2008 prescribes that whoever commits an offence under Section 6, which relates to trafficking in humans overseas, shall be subject to punishment in Thailand, as stipulated under this Act;
- (c) The principle on extradition, which is provided in the Extradition Act of 2008, states that the offence shall be a criminal offence in accordance with the law of the requesting state and Thailand, with a punishment of death or life imprisonment, or a restriction of liberty in other forms, for a minimum period of 1 year, regardless of whether such offence is classified in the same chapter, or has the same name, in both countries;
- (d) Extradition Treaty executed by Thailand and other countries; and,
- (e) Consideration of Extradition based on the Reciprocity principle.

## **Reply to the issues raised in paragraph 11 of the list of issues**

Thai laws which provide the authority to arrest, or confiscate, articles or equipment used in the offence or violation, are the Anti-Money Laundering Act of 1999, the Criminal Code, the Publishing Registration Act of 2007, and examples of actions mentioned in CRC/C/OPSC/THA/1, paragraphs 60-63. Additionally, the relevant laws which permit the confiscation or seizure of articles or equipment used in the offence are as follows:

- (a) Anti-Trafficking in Persons Act of 2008 which prescribes in Section 14 that all offences under this Act shall predicate the offence under the Anti-Money Laundering Act of 1999, which empowers the competent officers to enter into residences, places, or vehicles which are suspected of being used to hide assets relating to the offence, or evidence of the money laundering offences, for the purpose of carrying out a search, inspection, seizure, or confiscation of the articles, which may be used as evidence of the offence. Section 27 (4) empowers the competent officers, under the law on anti-trafficking in persons, to enter into residences or places to carry out searches, seizures or to confiscate articles, which may be used as evidence of human trafficking. In addition, section 30 requires the competent officer to submit a motion to the court to permit the competent officer to collect documents or information which are used, or which may be used, for the purpose of committing human trafficking offences; and,
- (b) Section 18 (5) and (8) of the 2007 Computer-Related Crime Act, prescribes that the competent officer may order the person, who has possession or control of the computer data or computer data storage equipment, to surrender such data or equipment to the officer for use as evidence, or for the purpose of identifying the offender, and such officer may seize or confiscate the computer system to the extent necessary for the purpose of acquiring details relating to the offence and the offender.

## **Reply to the issues raised in paragraph 12 of the list of issues**

Actions taken for the rehabilitation of the victims of human trafficking is based on the victim-based approach, and includes the provision of standard and quality physical, psychological and social treatment, and rehabilitation services in accordance with the following procedures: (a) initially, all Thai and foreign victims of human trafficking will be rescued and transferred to the child and family shelters located in 77 provinces; (b) the victims will be transmitted to the Protection and Occupation Development Centres and other welfare centres, which are the principal organizations responsible for taking care of children, women and men, in every region of Thailand, for the commencement of treatment and rehabilitation; (c) the treatment and rehabilitation processes commence with an interview and the recording of the person's profile, in order to carry out an evaluation of the problems; (d) the victims are

provided with basic needs, social services and activities such as medical services, counselling, legal assistance, and recreational activities; (e) various types of education are promoted, be they alternative education, informal education, and short-term vocational training; (f) a written report on the progress of the rehabilitation will be prepared; (g) the victim's readiness for deportation, social reintegration, vocational training and job placement in accordance with specific needs and suitability will be evaluated; and (h) the social reintegration of the victim will be followed up and monitored.

The victims may claim compensation in accordance with the 2 laws, as follows:

(a) Anti-Trafficking in Persons Act of 2008 which prescribes in Sections 33-35 that victims of human trafficking offences shall receive appropriate assistance, in respect of the initiation of a lawsuit to obtain compensation; that the inquiry officer, or the public prosecution, shall notify the victim of his/her rights before and after the rescue, and inform them of their rights to claim compensation based on the account of the human trafficking offence, and the right to receive legal assistance; and that where the victim wishes to claim for compensation, the public prosecutor shall conduct the claim on behalf of the victim, concurrently with the criminal prosecution. The amount of the compensation shall be jointly determined by the MSDHS, the victim, the public prosecutor and other relevant persons, before the public prosecutor submits the motion to the court for its decision; and,

(b) Compensation for Injured Persons, and Indemnification and Expenses for Alleged Offenders in the Criminal Case Act 2001, which prescribes in Section 17 that the injured person shall be entitled to request for compensation for damages incurred by the criminal offence and offences relating to sexuality, life and body within 1 year from the date of the acknowledgement of the offence. An appeal may be lodged with the Court of Appeal in the case where the injured person is not satisfied with the decision on his or her compensation. The appeal must be submitted within 30 days from the date of receipt of the decision on the compensation.