



**Convention on the Rights
of Persons with Disabilities**

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Committee on the Rights of Persons with Disabilities

**Implementation of the Convention on the Rights
of Persons with Disabilities**

**Initial reports submitted by States parties under article 35 of
the Convention**

Republic of Korea*

[27 June 2011]

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Contents

	<i>Paragraphs</i>	<i>Page</i>
List of tables		3
Abbreviations		7
Introduction	1-8	8
Articles 1-2 Purpose and Definitions	9-16	10
Article 3 General Principles	17-24	12
Article 4 General Obligations.....	25-28	13
Article 5 Equality and Non-discrimination	29-32	15
Article 6 Women with Disabilities	33-38	16
Article 7 Children with Disabilities.....	39-41	17
Article 8 Awareness-raising	42-44	18
Article 9 Accessibility	45-49	18
Article 10 Right to Life	50-51	20
Article 11 Situations of Risk and Humanitarian Emergencies	52-55	20
Article 12 Equal Recognition before the Law	56-59	21
Article 13 Access to Justice	60-67	22
Article 14 Liberty and Security of Person.....	68-70	23
Article 15 Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment	71-72	25
Article 16 Freedom from Exploitation, Violence and Abuse	73-78	25
Article 17 Protecting the Integrity of the Person.....	79-81	26
Article 18 Liberty of Movement and Nationality	82-85	27
Article 19 Living Independently and Being Included in the Community	86-89	28
Article 20 Personal Mobility	90-97	29
Article 21 Freedom of Expression and Opinion, and Access to Information.....	98-101	30
Article 22 Respect for Privacy	102-104	32
Article 23 Respect for Home and the Family	105-109	32
Article 24 Education	110-11	33
Article 25 Health	120-126	36
Article 26 Habilitation and Rehabilitation	127-130	37
Article 27 Work and Employment	131-140	38
Article 28 Adequate Standard of Living and Social Protection	141-143	41
Article 29 Participation in Political and Public Life.....	144-149	42
Article 30 Participation in Cultural Life, Recreation, Leisure and Sport	150-154	43
Article 31 Statistics and Data Collection.....	155-159	44

Article 32	International Cooperation.....	160-165	45
Article 33	National Implementation and Monitoring	166-169	46
Appendices**			

** Appendices can be consulted in the files of the Secretariat.

List of Tables

Table 1	Table 2Registration Status According to Type and Rating of Disability (2009)
Table 3.	Number of Welfare Facilities for the Disabled and Their Residents (2009)
Table 4.	Yearly and Monthly Average of Disability Discrimination Complaints (Nov. 2001-Sep. 2010)
Table 5.	Complaints Received by Area of Discrimination (Apr. 2008–Sep. 2010)
Table 6.	Complaints Received by Type of Disability (Apr. 2008-Sep. 2010)
Table 7.	Number of Complaints Processed (Apr. 2008-Sep. 2010)
Table 8.	Registration Status of Disabled Persons by Gender (2009)
Table 9.	Economic Activity Status of Disabled Persons by Gender
Table 10.	Working Conditions of Disabled Persons in Employment by Gender
Table 11.	Education Level of Disabled Persons by Gender
Table 12.	Support Programs and Their Budget for Disabled Women under the Ministry of Gender Equality and Family
Table 13.	Specialized Domestic Violence Counseling Centers and Protection Facilities for Disabled Women (2009)
Table 14.	Registration Status of Disabled Persons by Gender, Age, and, Rating (2009)
Table 15.	Number of Disabled Children Aged Under 18 (2009)
Table 16.	Amount of Disabled Child Allowance and Implementation Status
Table 17.	Current Status of the Free Childcare Benefit Support
Table 18.	Current Status of the Specialized/ Integrated Child Care Facilities
Table 19.	Current Status of the Disabled Children Rehabilitation Program
Table 20.	Disability Awareness Promotion Programs of the Ministry of Education, Science and Technology (budget for 2010: 600 million won)
Table 21.	Disability Awareness Promotion Programs of the Ministry of Employment and Labor (budget for 2009: 1 billion won)
Table 22.	Disability Awareness Promotion Programs of the Ministry of Health and Welfare (budget for 2009: 545 million won)
Table 23.	Level of Awareness Regarding Discrimination against Persons with Disabilities (2009)
Table 24.	Level of Awareness of the ARPDA (2009)
Table 25.	Current Status of Convenience Facilities Installation by Type of Applicable Facilities
Table 26.	Current Status of the Housing Renovation Project for the Disabled in Rural Areas
Table 27.	Number of Disability Discrimination Complaints Regarding the Provision of Goods and Services Received by the NHRC (Jan. 1, 2009-Nov. 17, 2010)
Table 28.	Results and Allocated Budget of Pro Bono Legal Services for the Disabled
Table 29.	Current Status of Admission into Mental Health Facilities (2008)
Table 30.	Number of Disability Discrimination Complaints in Relation to “Harassment” Petitioned to the NHRC (Jan. 1, 2009-Nov. 17, 2010)

Table 31.	Petition Results by Type of Mental Health (Jan. 1, 2009-Nov. 17, 2010)
Table 32.	Project and Budget of Human Rights Infringement Protection Center (Nov. 2010)
Table 33.	Current Status of Installation and Budget Support of Centers for Independent Living
Table 34.	Current Status of Support and Budget for the Personal Assistant Service (2009)
Table 35.	Survey on the Willingness of Disabled Persons to Use Helpers (Personal Assistant Service)
Table 36.	Compliance Rate of Standards on Mobility Convenience Facilities by Means of Transportation
Table 37.	Compliance Rate of Standards on Mobility Convenience Facilities of Passenger Facilities
Table 38.	Compliance Rate of Standards on Mobility Convenience Facilities for Pedestrians around Passenger Facilities
Table 39.	Installation Rate of Mobility Improvement Facilities in Nine Provinces
Table 40.	Installation and Budget for Mobility Improvement Facilities in Urban Rails and Metropolitan Subways
Table 41.	VAT Exempted Aids for Persons with Disabilities
Table 42.	Current Status of Public Benefits for Disability Aids (2009)
Table 43.	Disability Aids to Be Supported for Disabled People on Low Income
Table 44.	Various Charge Reductions/Exemption Schemes
Table 45.	Current Status of Production Support of Broadcast for Disabled Persons
Table 46.	Current Status of Provision of Broadcast Receivers
Table 47.	Current Status of Standards Institution of Telecommunication Accessibility
Table 48.	Assistance Service for Families with Disabled Children
Table 49.	Selection Criteria for Persons Requiring Special Education under the ASEPD
Table 50.	Number of Students with Disabilities and Types of Schools
Table 51.	Preschoolers with Disabilities Participating in Education (2009)
Table 52.	Provision of Reasonable Accommodations and Budget for Educational Institutions
Table 53.	Installation of Convenience Facilities for Disabled Persons in Special Classes and Special Schools
Table 54.	Current Status of Itinerant Education
Table 55.	Current Status and Budget for Helpers of College Students with Disabilities
Table 56.	Installation of Support Centers for Students with Disabilities by University
Table 57.	Number of Students with Disabilities and Number of Faculty by Office of Education in City/Province
Table 58.	Governmental Budget Allocated to Medical Rehabilitation Centers in Each Region
Table 59.	Services Expected by Persons with Disabilities from the Korean Government and Society
Table 60.	Institutions and Budgets for Supporting Community-based Rehabilitative Projects
Table 61.	Number of Disabled Persons Staying at Homes Managed by Public Health Centers

Table 62.	Number of Disability Discrimination Complaints Regarding Employment (Jan. 1, 2009 – Nov. 17, 2010)
Table 63.	Economic Activity Status of Persons with Disabilities by Age Group
Table 64.	Current Situation in the Compulsory Employment of Disabled Workers (2009 figures/Rate of Legal Quota for the Compulsory Employment of Disabled Workers at the Time: 2%)
Table 65.	Payment of Incentives for the Employment of Disabled Persons
Table 66.	Venture and Budget in Support of Facilities for Disabled Workers by the Ministry of Employment and Labor
Table 67.	Venture and Budget for Disabled Employment Support by the Ministry of Employment and Labor
Table 68.	Status of Disabled Workers in Employment and Number of Workers in Vocational Rehabilitation Facilities by Disability Type
Table 69.	Average Monthly Income of Households of Disable Persons
Table 70.	Poverty Rate of Disabled Persons
Table 71.	Expenditure and Budget for Disability Benefits
Table 72.	Campaign Bulletins Produced in Braille (Local Election on June 2, 2010)
Table 73.	Current Situation on the Number of Disabled Members and the Members of Disabled People's Organizations on Governmental Committees at the Ministry of Health and Welfare
Table 74.	Venture and Budget for Expanding Opportunities for the Disabled to Appreciate Culture
Table 75.	Venture and Budget for Enhancing Convenience in order to Improve the Accessibility to Culture for the Disabled
Table 76.	Current Status in the Implementation of the Sport-for-all Venture for Disabled Persons (2009)
Table 77.	Current Status of Key Statistics and Investigations Related to the Disabled
Table 78.	Major Comments of Disabled People's Organizations on National Report Draft
Table 79.	Governmental Agencies and Their Functions Relating to Persons with Disabilities (2010)
Table 80.	Functions of National Human Rights Commission Relating to Persons with Disabilities

List of Abbreviations

APC:	Act on Promotion of Convenience for the Disabled, Senior Citizens, and Pregnant Women
ARPDA:	Anti-Discrimination against and Remedies for Persons with Disabilities Act
ASEPD:	Act on Special Education for Persons with Disabilities
DPA:	Disability Pensions Act
DPO:	Disabled People's Organization
EVDPA:	Employment Promotion and Vocational Rehabilitation of Disabled Persons Act
KEAD:	Korea Employment Agency for the Disabled
MHA:	Mental Health Act
MITDA:	Mobility Improvement for the Transportation Disadvantaged Act
NHRC:	National Human Rights Commission of Korea
NHRCA:	National Human Rights Commission Act
PCCDP:	Policy Coordination Committee for Disabled Persons
PDEA:	Promotion of Disabled Persons' Enterprise Activities Act
POEA:	Public Official Election Act
SESC:	Special Education Support Center
WDPA:	Welfare of Disabled Persons Act

Introduction

1. The Republic of Korea actively participated in the formulation of the Convention on the Rights of Persons with Disabilities (hereinafter referred to as “the Convention”) and ratified the Convention on December 11, 2008. Bringing it into effect domestically on January 10, 2009, Korea has taken a variety of measures, including enacting the legislation necessary for its implementation. As a State Party to the Convention, the Korean government is pleased to hereby submit this initial report to the Committee on the Rights of Persons with Disabilities, in accordance with Article 35 (1) of the Convention. The report has been prepared based on the Committee’s reporting guidelines (CRPD/C/2/3).

2. Korea had endeavored to enact and implement the legislation and the policies for persons with disabilities even before the Convention came into effect. Such efforts include the development of regulations to protect the rights of persons with disabilities and the Five-year Policy Development Plan for Persons with Disabilities at the pan-governmental level, which are substantially in keeping with the spirit and contents of the Convention.

3. Korea established a system to support workers who suffer workplace injuries resulting in disabilities, by enacting the Industrial Accident Compensation Insurance Act in 1963. In 1977, the government laid the groundwork for an educational environment for disabled persons, with the legislation of the Special Education Promotion Act. In 1981, the International Year of Disabled Persons proclaimed by the United Nations, Korea enacted the Welfare of Physically or Mentally Disabled Persons Act (later revised and replaced by the Welfare of Disabled Persons Act (WDPA) in 1989) to establish the foundation of a welfare system for persons with disabilities. In 1990, the Promotion of Employment of Disabled Persons Act (the present Employment Promotion and Vocational Rehabilitation of Disabled Persons Act (EVDPA)) was introduced, and national efforts began in earnest to ensure the right to work and the income support for persons with disabilities, through a mandatory employment quota system. The Act on Promotion of Convenience for the Disabled, Senior Citizens, and Pregnant Women (APC) was formulated in 1997, aimed at securing accessibility to buildings, roads, and facilities for persons with disabilities and other vulnerable people. The provisions of the law related to roads, means of transportation, and passenger facilities were separated in 2005 to create the Mobility Improvement for the Transportation Disadvantaged Act (MITDA), the major legislative basis for securing the mobility rights of persons with disabilities. The Promotion of Disabled Persons' Enterprise Activities Act (PDEA) was also enacted in 2005 to help persons with disabilities start their own businesses or engage in business activities. In 2007, one year after the adoption of the Convention, the Anti-Discrimination against and Remedies for Persons with Disabilities Act (ARPDPA) was enacted, aimed at prohibiting discrimination on the basis of disability in all aspects of life, and effectively safeguarding the rights and interests of discriminated individuals. This Act has functioned as an essential, comprehensive legal instrument for implementing the Convention domestically. In 2007, the Act on Special Education for Disabled Persons (ASEPD) was enacted to replace the Special Education Promotion Act. The ASEPD contains provisions that reinforce national obligations regarding the education of disabled students, and expand the relevant educational infrastructure. The Special Act on the Preferential Purchase of Goods Produced by Persons with Severe Disabilities, which was passed in 2008, has promoted the purchase of products manufactured by companies employing or owned by persons with disabilities, thus creating momentum to increase their real income. With the enactment of the Disability Pensions Act (DPA) in 2010, Korea introduced a pension scheme for persons with severe disabilities. This scheme enables the government to further fulfill its responsibility of providing social security to persons with disabilities by guaranteeing basic income to those with severe disabilities who are unable to

engage in economic activities, and by offering financial support to meet the extra costs incurred due to disabilities.

4. In 1996, the Korean government decided to adopt the Five-year Policy Development Plan for Persons with Disabilities, with the goal of implementing systematic and long-term measures for persons with disabilities at a cross-governmental level. Following the First-stage Plan (1998-2002) and the Second-stage Plan (2003-2007), the Third-stage Plan (2008-2012) was developed and is currently being implemented. Policies implemented under the Third-stage Plan aimed at the “advancement of welfare of persons with disabilities” include introducing a disability pensions system, improving the disability registration and assessment system, and expanding housing services for the disabled. Other measures have also been introduced to expand economic opportunities for persons with disabilities, including the strengthening of the mandatory employment system for persons with disabilities and the expansion of employment support and vocational competency development services. Various efforts have been undertaken for the promotion of the rights to education and culture of the disabled, including the establishment of an educational support system based on life cycle, the promotion of inclusive education, and the improvement of web accessibility for persons with disabilities. In addition, the government continues its ongoing efforts to improve the accessibility of persons with disabilities, through the Five-year National Plan for Accommodation Promotion (1st stage: 2000-2004; 2nd stage: 2005-2009; 3rd stage: 2010-2014) and the Five-year Plan for Mobility Improvement for the Transportation Disadvantaged (1st stage: 2007-2011). Meanwhile, the Five-year Plan for Special Education Development (1st stage: 2008-2012) promotes inclusive education, special education, and individualized education for persons with disabilities. These key objectives and main contents related to persons with disabilities are included in the National Action Plan for the Promotion and Protection of Human Rights, a comprehensive human rights plan drafted in May 2007.

5. Korea’s disability policy is currently in the process of a significant change on the basis of its continuous development in the last 30 years. The enactment of the ARPDA and the ratification of the Convention have provided critical momentum for Korea’s disability policy to change its approach. It has shifted from the mere provision of welfare services to a human rights-based approach. Introduced in 2007, the Personal Assistant Service program is offering more opportunities for participation in local communities and independent living rather than care and protection in facilities to persons with severe disabilities who have lacked sufficient government support. The Rehabilitation Services for Disabled Children, a specialized support program adopted in 2009 for the functional improvement and rehabilitation of children with disabilities, has become a starting point of the government’s full-fledged efforts to support disabled children and their families. Thanks to the Disability Pensions System introduced in 2010 to guarantee income for persons with disabilities, and the Disability Care and Support System that will act as a long-term care program and an independent living support system from 2011, Korea will have a solid framework of social security for the disabled in place.

6. Even though Korea has a general legislative and policy framework regarding the rights within the Convention, the preparation of institutional and financial arrangements necessary to enable persons with disabilities to fully enjoy all the rights is an ongoing challenge. The support systems, such as the Disability Pensions System and the Personal Assistant Service, need to be expanded continuously, both in their scope and level of aid.

7. The development of policies for persons with intellectual and developmental disabilities and their families, as well as the improvement of disability service support systems, also needs to be addressed. In order to deal with these issues and come up with effective policies, the Korean government plans to launch the Task Force for the Establishment of the Basic Plan for Support Systems for Persons with Developmental

Disabilities and the Task Force for the Reformation of Disability Services Support System, which are joined by experts from the private sector and members from disabled people's organizations (DPOs).

8. In drafting this report, the Korean government consulted with disabled people and their organizations in various ways, and took their views into account. The government appointed people involved in DPOs to the advisory committee (3 out of the total 8 members) so they could state their opinions about the direction of preparing the draft report and its contents in the committee (twice). In addition, the government held a public hearing joined by those concerned with DPOs (once), and received opinions on the draft report in writing from them (twice/ see Table 78 in the Appendix), some of which were reflected in the final draft of the report. The government also collected opinions on the draft report through the Working Committee of the Policy Coordination Committee for Disabled Persons (PCCDP) and the PCCDP, in which persons with disabilities and DPOs were included. The National Human Rights Commission (NHRC) compiled opinions from five DPOs in the process of reviewing the draft report.

Articles 1-2 - Purpose and definitions

9. The Constitution of the Republic of Korea, promulgated in July 1948 and revised in October 1997, clearly states that all citizens, regardless of disability, have dignity and value as human beings and the right to pursue happiness (Article 10). The Convention, which is a treaty duly concluded and promulgated under the Constitution, has the same effect as domestic laws (Article 6 (1)). Meanwhile, the status of foreigners is guaranteed as prescribed by international laws and treaties (Article 6 (2)), and thus foreigners with disabilities are also entitled to human rights, fundamental freedom, and dignity stipulated in the Convention. For reference, the Korean government plans to amend the WDPA in 2011 to allow disability registration to overseas Koreans who report domestic residency and to foreigners who obtain permanent residency, and to strengthen the disability welfare services for them. Along with the Constitution, other disability-related laws affirm the dignity of persons with disabilities as human beings. The WDPA stipulates that "persons with disabilities shall be respected with dignity and valued as human beings and be treated as such" (Article 4 (1)). The ARPDA states its purpose as "realizing the human dignity and value" of persons with disabilities (Article 1).

10. The terms "disability" and "persons with disabilities" are similarly defined in Korean laws. The WDPA defines a person with disabilities as "a person whose daily life or social activity is hampered by physical or mental disability over a long period of time," while the terms "physical disability" and "mental disability" are defined as "a disability of principal external bodily functions and of internal organs" and "a disability caused by psychological development disorder or mental disease," respectively (Article 2). The ARPDA defines "disability" as "a state where a physical or mental impairment or loss of function substantially limits an individual's personal or social activities for an extended period of time" (Article 2 (1)). The EVDPA defines "a person with disabilities" as "a person whose long-term professional life is substantially restricted as a result of physical or mental impairment" (subparagraph 1 of Article 2). Meanwhile, the National Human Rights Commission Act (NHRCA), enacted in May 2001 and revised in July 2005, defines disability as "a condition where one is hampered by substantial restriction in daily or social activities for a long time due to physical, mental, or social factors (subparagraph 7 of Article 2)," a definition somewhat different from those of other laws. As evidenced above, the laws include both "physical impairments" and "mental impairments" when defining a disability. Mental impairments include intellectual impairments, while physical impairments include visual, hearing, and other sensory impairments. In particular, the

ARPDCA and the NHRCA cover the concept of all disabilities set out in Article 1 of the Convention.

11. The aforementioned laws include such phrases as “for a long time” or “long-term” when defining disabilities, but do not specify the meaning of those terms. However, according to the Disability Rating Standards of the WDPA (Notification of the Ministry of Health and Welfare, No. 2009-227), the timing for disability determination under the Act depends on the type of disability. For example, post-amputation disabilities do not require a continuous treatment period for disability determination, but visual and hearing impairments require fixed disability symptoms after continuous treatment for at least six months following the occurrence of a causative illness, injury, etc. or related surgeries to be classified as a disability. The determination of respiratory impairments requires a period of at least one year from the initial diagnosis and fixed disability symptoms showing almost no signs of improvement after a recent continuous treatment of two months or longer.

12. Persons with disabilities mentioned throughout this report are largely persons who are registered as persons with disabilities under the WDPA. The Act and its Enforcement Decree require that persons with disabilities register with local authorities following certain procedures (Article 32), and a variety of laws and policies give disabled people eligibility for welfare services based on their registered disability types and ratings. In principle, disability types and ratings shall be determined by a medical doctor in the specific field of disability, in accordance with medical standards. As for the scope of disabilities that the WDPA covers, the Enforcement Decree and the Enforcement Rule of the Act classify disabilities into 15 types (Attached Table 1 of the Enforcement Decree) and six grades (Attached Table 1 of the Enforcement Rule), respectively. As of December 2009, the total number of registered persons with disabilities stands at 2.429 million, which accounts for 4.88 percent of Korea’s total population of 49.773 million (See Table 2 in the Appendix). A total of 23,243 people with disabilities are identified as staying in residential facilities (See Table 3 in the Appendix). Regarding the disability determination and rating systems under the WDPA, arguments have been repeatedly raised that it is irrational to rely solely on such medical judgments in providing services that cater to the various disability types and needs of the disabled, and that the system of categorizing disabilities into different grades is not appropriate. Therefore, the government is now looking into ways to newly establish a comprehensive assessment scheme, under which labor and social functioning capabilities as well as medical judgment are considered, in order to provide each disabled person with proper social services.

13. As a law designed to prohibit discrimination based on disability and to stipulate remedies against any relevant infringement, the ARPDCA includes provisions defining “discriminatory acts.” Discriminatory acts prescribed in this Act include discriminating against persons with disabilities both directly and indirectly, refusing to provide reasonable accommodations, and placing advertisements that indicate or encourage discrimination. The Act also stipulates that discriminating against individuals representing or accompanying persons with disabilities, interfering with the use of guide dogs or assistive devices, discriminating on the ground of past record of disability, and discriminating based on assumed disability are all discriminations on the basis of disability (Article 4).

14. The ARPDCA defines “reasonable accommodations” as “all human and material means and measures that enable persons with disabilities to participate in the same activities as persons without disabilities on an equal basis, including facilities, equipment, tools and services designed to take into account the gender of a person with disabilities as well as the type, degree, and nature of a disability” (Article 4 (2)). However, an act shall not be deemed discriminatory when there is a legitimate reason for denying reasonable accommodations (subparagraph 3 of Article 4 (1)). Cited as an example of such legitimate reason is a case where providing reasonable accommodations might incur an “excessive

burden or undue hardship” (subparagraph 1 of Article 4 (3)). Whether the provision of reasonable accommodations might incur an excessive burden or undue hardship is determined case by case. In its earlier decisions, the NHRC took into consideration the percentage of the cost required for accommodations provision out of the total budget, the business size and operating profit of the respondent bodies.

15. Regarding the provision of reasonable accommodations in telecommunications and communications, the ARPDA stipulates that public institutions, private-sector employers, educational institutions, cultural and artistic business operators, etc. should provide necessary means, such as caption, sign language and writing, to ensure that persons with disabilities can access and use electronic and non-electronic information on an equal basis with persons without disabilities (Article 21 (1)). The Act specifies examples of necessary communication tools as being the following: sign language interpreters, voice interpreters, Braille materials, Braille note takers, recording tapes, captions, and video phones (subparagraph 2 of Article 14 (2) of the Enforcement Decree). The term “electronic information” is defined in this Act as “all kinds of data and knowledge processed by optical or electronic means into signs, writing, voice, sound, and images for particular purposes.” The term “non-electronic information” is defined as “any information other than electronic information, which includes all kinds of data and knowledge processed by verbal or nonverbal means, such as voice, writing, sign language, Braille, body gestures and signs” (subparagraph 8 of Article 3). As such, the ARPDA considers all the communication means specified in Article 2 of the Convention.

16. The concept of “universal design” is not currently defined in any Korean law or policy. However, universal designs have been applied to some of the facilities that were awarded the highest rating in the Barrier-free Living Environment Certification System, which is run by the Korean government in accordance with the MITDA (See Paragraph 47 of this report).

Article 3 - General Principles

17. Korea has endeavored to realize various rights enshrined in the Convention, such as the inherent dignity and individual autonomy of persons with disabilities, non-discrimination, participation and inclusion in society, equality of opportunity, and respect for independence, through such laws as the ARPDA and the WDPA.

18. Korea respects the freedom to choose and the right to self-determination of persons with disabilities under relevant laws, and has been making the efforts to promote them. The ARPDA clarifies that “persons with disabilities shall have the right to make their own choices and decisions in all aspects of their lives according to their own will” (Article 7 (1)). The Act prohibits employers from assigning workers with disabilities to different tasks against their will (Article 11 (2)). It also prohibits providers of learning support services using sign language, Braille, and other communication systems from compelling certain modes of communication against the disabled persons’ will (Article 23 (3)). Furthermore, it prohibits members of family, home, and welfare facilities from excluding any persons with disabilities from decision making processes (Article 30 (1)). The Act also states that persons with disabilities shall hold the right to sexual self-determination to express and enjoy their right to sexuality (Article 29 (1)).

19. The ARPDA and the NHRCA forbid discrimination in both public and private sectors. In particular, the NHRCA stipulates discriminatory acts committed by state agencies, local governments, corporate entities, or private individuals as objects of investigation.

20. Disability-related laws, institutions, and policies in Korea primarily aim at the full and effective participation of persons with disabilities in society. The WDPa stipulates that its fundamental principle is “to achieve social integration through full social participation and equality of persons with disabilities” (Article 3), while the ARPDa states that its purpose is “to realize the dignity and value of persons with disabilities as human beings by enabling them to fully participate in society and establish their right to equality” (Article 1).

21. The WDPa states that it is the State and local governments’ responsibility to provide support for the independence of persons with disabilities (Article 9 (1)). In particular, it is stated in the Act that the State and local governments shall take the necessary measures to provide the Personal Assistant Service, assistive devices, various other conveniences, information, etc. to enable the independent living of persons with severe disabilities (Articles 53, 55, etc.).

22. The accessibility of persons with disabilities is comprehensively guaranteed under the ARPDa. This Act ensures the accessibility of persons with disabilities to various facilities, transportation and roads, electronic and non-electronic information, communication, broadcasting and telecommunications, and various service devices. Additionally, the APC guarantees the accessibility of persons with disabilities to facilities, and the MITDA guarantees their accessibility to transportation and roads.

23. The WDPa states that the State and local governments shall conduct publicity campaigns, such as education and public advertisements aimed at students, public officials, workers, and other common people to raise awareness for persons with disabilities and thus change the negative societal recognition and attitudes towards them (Article 25 (1)). Such educational programs and campaigns mostly contain contents for recognizing a disability as something that is just different, not something that should be discriminated against, and regarding persons with disabilities as part of the human diversity. As an effort to improve public perception, the Korean government uses “Korea - Where Differences Do not Lead to Discrimination” as an official slogan.

24. The Korean government has taken various legal and administrative measures to promote the equal rights of women with disabilities. The ARPDa states that women with disabilities shall not be discriminated against in any aspect of life (Articles 33 (1) and 34), stipulating in separate provisions the State and local governments’ responsibilities for this goal. The EVDPA promotes the substantial equality of women with disabilities by emphasizing their employment promotion (Article 3) and stipulating that business owners who employ women with disabilities shall be entitled to preferential treatment (Article 21). Meanwhile, in order to ensure that children with disabilities are not excluded from the protection of various rights, the government has made separate provisions in the ARPDa that specify the importance of preventing discrimination against children with disabilities and the obligations of the State and local governments to achieve that goal (Articles 35 and 36). In addition, the government devised measures for children with disabilities in the Five-year Policy Development Plan for People with Disabilities and the Five-year Plan for Special Education Development to help those children maintain their identity and their ability for gradual development. These programs include such objectives as the strengthening of inclusive/special education for children with disabilities, the expansion of rehabilitation therapy service, and the provision of parenting counseling to their families.

Article 4 – General Obligations

25. Korea has endeavored to protect and enhance human rights and fundamental freedoms of persons with disabilities through laws, policies, and programs. For example, the Framework Act on Building, enacted in December 2007, requires the government to take into careful consideration persons with disabilities when planning or designing

buildings or spatial environments (Article 7 (2)). Furthermore, the Framework Act on Women's Development, enacted in December 1995, specifies that women with disabilities should be taken into account when developing policies for women's welfare (Article 22 (2)). Under the Framework Act on Employment Policy, enacted in December 1993 and entirely revised in October 2009, when establishing policies for promoting the employment of those facing difficulty in finding employment, the government is obligated to establish and implement policies necessary to support those whose disabilities hinder their job-seeking prospects (subparagraph 6 of Article 6 (1)). Moreover the Employment Security Act, enacted in December 1961, specifically includes persons with disabilities in the list of people in search of jobs, for whom local employment and labor offices must provide such services as vocational aptitude test, job information, and job counseling (subparagraph 2 of Article 14(1), entirely revised in October 2009). Meanwhile, in the National Action Plan for the Promotion and Protection of Human Rights (2007-2011), the government includes persons with disabilities in the list of the socially disadvantaged and minorities whose human rights situation needs to be improved in order to promote human rights protection. The Fourth-stage Master Plan for Equal Employment for Both Sexes and Support for Work/Family Reconciliation (2008-2012) obligates the government to give preferential treatment to workers with disabilities in providing childcare and maternity services for workers. In addition, the Framework Act on Healthy Families, enacted in February 2004, stipulates that the government shall render assistance to homes with disabled persons (Articles 21 (4) and 25 (2)). Under the First-Stage Basic Plan for Healthy Families (2005-2010), formulated based on the said Act (Article 15), the government provides care services and respite programs for families with disabled children and support for economic independence and child-raising for families with disabled persons. The Fourth-Stage Basic Plan for the Modifying and Complementing of Youth Policies (2008-2012) aims at expanding services for education, welfare, and activities of youths with disabilities.

26. The Ministry of Health and Welfare has sought out national and local laws and regulations that might conflict with the ARPDA, a law enacted for the domestic implementation of the Convention, and requested that relevant governmental departments and local authorities make the necessary revisions. As a result, relevant government departments and local governments are currently amending some of the suspect laws and regulations. Meanwhile, the NHRC has reviewed existing laws and even bills currently in the legislative process to see whether there are any potential discriminatory factors, and recommended their amendments if necessary.

27. Korea has made legislations or taken other necessary actions to allow DPOs to actively participate in lawmaking, in policy developing and implementing for the observance of the rights of persons with disabilities secured by the Convention, as well as in the decision-making process regarding disability-related issues. In particular, the WDPA Enforcement Decree states that at least half of the members of the PCCDP, which is responsible for developing integrated disability policies and monitoring their implementation, should be composed of heads of DPOs or individuals who have vast knowledge and experience in disability-related issues (Article 3 (4)). The government has also invited persons with disabilities or those concerned with DPOs to participate in various committees set up for the development and implementation of disability policies (See Paragraph 148 of this report).

28. Furthermore, the Korean government has promoted the research and development of information and communication devices and mobility aids for persons with disabilities, and provided them with accessible information to encourage the use of such products (See Paragraph 96 of this report). The government also promotes the training of experts and employees engaged in the work of protecting and strengthening the rights of persons with disabilities (See Paragraphs 59 and 119 of this report.)

Article 5 – Equality and Non-discrimination

29. The ARPDA prohibits discrimination based on disabilities in various areas such as employment, education, the provision and use of goods and services, judicial and administrative procedures and services, suffrage, maternity and paternity rights, sexuality, family and home, welfare facilities, and the right to health. Any person who suffers harm due to a discriminatory act prohibited under the Act can file a complaint with the NHRC (Article 38) or file a lawsuit (Article 48 (2)). If the NHRC decides that any relevant discriminatory acts occur as a result of the investigation of a received complaint, it may recommend the respondent to implement remedial measures, such as the interruption of discriminatory acts, recovery to the original state and compensation for damage (Article 41, Article 44 (1) of the NHRCA). The Minister of Justice may issue an order for correction upon a victim's request or *ex officio* if the accused party, having received a recommendation from the NHRC due to a discriminatory act, fails to comply with it without legitimate reasons. The damage thereof is deemed to be considerable and has a significant effect on the public interest (Article 43). If the harmer fails to comply with a confirmed order for correction without legitimate reasons, the Minister of Justice shall impose a fine not exceeding 30 million won (the currency of Korea) (Article 50). As of the end of 2010, the NHRC has made a total of 30 recommendations for correction on the grounds of the violations of the ARPDA. In the case of a dismissal of an employee due to his disability at a local public corporation in April 2010, the Minister of Justice issued an order for correction, demanding the reinstatement of the employee. As a result, the victimized disabled worker was restored to his position. In cases where a lawsuit is filed based upon the violation of the ARPDA, the court may give a judgment awarding compensation, and may also rule to take remedial measures to rectify the discrimination, such as the discontinuation of a discriminatory act and improvement of working conditions (Articles 46 and 48 (2)). Aside from the remedies for the victims, the Act stipulates that a person who commits a malicious discriminatory act shall be punished by an imprisonment for up to three years or a fine not exceeding 30 million won (Article 49 (1)).

30. The NHRC may investigate filed complaints regarding disability discrimination, and recommend the implementation of remedial measures based on the NHRCA as well as the ARPDA. The NHRCA prohibits discrimination in various areas, such as employment, the provision and use of goods and services, and education and vocational training. The prohibition is based on 19 grounds, including disability (subparagraph 4 of Article 2), and enables discriminated persons with disabilities to file a complaint with the NHRC seeking remedies (Article 30) (See Tables 4-6 in the Appendix). Until the ARPDA was legislated, cases of discriminatory practices against persons with disabilities had been investigated and remedied by the Commission based on the NHRCA. Since April 2008, however, such cases have mostly been addressed based on the ARPDA. The number of disability discrimination cases received by the Commission from April 2008 to the end of September 2010 totaled 2,938, of which 2,035 cases were handled (See Tables 4 and 7 in the Appendix).

31. The ASEPD prohibits the discrimination against persons with disabilities in educational areas such as the admission to a school and the attendance in class (Article 4). The Act states that disabled students or their caregivers may submit a request for reconsideration to the Special Education Steering Committee within the relevant local government to seek remedies, if there is undue discrimination in violation of the provision (Article 36 (1)). The APC recognizes the equality of persons with disabilities as it pertains to the right of access to various facilities and equipment (Article 4), and the MITDA acknowledges equal rights of persons with disabilities in mobility rights (Article 3).

32. The ARPDA does not regard “affirmative action measures” taken to achieve *de facto* equality of persons with disabilities as discrimination (Article 4 (4)), and the NHRCA

also does not regard “temporary preferential treatment for the purpose of alleviating existing discrimination” as discrimination (Article 2). The EVDPA gives preference to the employment of persons with disabilities (See Paragraph 132-133 of this report), and the Special College Admission Program for Students with Disabilities gives preference to the access of students with disabilities to higher education (See Paragraph 116 of this report).

Article 6 – Women with Disabilities

33. As of December 2009, the number of registered women with disabilities in Korea amounts to 1.003 million, constituting 41.3 percent of the entire population of persons with disabilities (See Table 8 in the Appendix). The Korean government recognizes that women with disabilities are in a particularly unfavorable position in various areas, including education, employment, information and culture, due to both their gender and their disability, and thus they are often subject to discrimination. To address this issue, the government has taken various legal measures to protect and advance the human rights of women with disabilities. The WDPa, the EVDPA, the ARPDA, the Framework Act on Women's Development, and other related laws specify the State's responsibilities for protecting the rights and interests of women with disabilities, strengthening their capabilities, and promoting their participation in society, while at the same time ensuring that women with disabilities are not treated unfairly on the grounds of gender and disability.

34. The government has implemented measures designed specifically for women with disabilities, and included them in integrated programs related to women or disability, such as the Five-year Policy Development Plan for Persons with Disabilities and the Basic Plan for Women's Policy. The main issues proposed in these plans include basic education for the empowerment of women with disabilities, support for their economic activities, promotion of their participation in society, and prevention of domestic violence and sexual assault against them.

35. On the employment of women with disabilities, the EVDPA states that special emphasis shall be given to the employment promotion of women with disabilities (Article 3 (2)), and business owners employing disabled women shall be entitled to preferential treatment (Article 21). As an example, in the grant aid provisions for employers with disabled workers, the government provides more financial assistance to business owners who hire women with disabilities than to those who hire men with disabilities (See Table 65 in the Appendix). The Korea Employment Agency for the Disabled (KEAD), an affiliated organization of the Ministry of Employment and Labor, has adopted a gender quota system, under which 36 percent of the employment service quota and more than 30 percent of the vocational training quota are allocated to women with disabilities. Even so, as of 2010, the participation rate of disabled women in the labor force is 24.6 percent, merely about half of that of men with disabilities, which is 48.4 percent (See Tables 9 and 10 in the Appendix).

36. Women with disabilities are typically less educated than their male counterparts (See Table 11 in the Appendix). The WDPa requires the State and local governments to devise education policies for women with disabilities, including foundation learning and vocational education (Article 7). In accordance with the provision, the government has designated 16 relevant agencies across the country to operate programs for the development of basic learning skills, health and welfare education, social adjustment and participation, and cultural experience and enjoyment for women with disabilities. In 2009, it educated 6,331 women with disabilities through the pilot operation of a specialized vocational education program for women with disabilities, which offered courses such as barista training, digital image editing, telemarketing, and bookkeeping at colleges and welfare centers for persons with disabilities. In 2010, the government designated 20 Harmony Centers for women with disabilities to provide various one-stop services necessary for their

social activities, including personalized counseling, empowerment education, connecting to community-based organizations providing vocational training, health and medical service, legal service, job matching, and follow-up service, as part of the efforts to promote their participation in society and their self-supporting ability. In addition, in keeping pace with the information age, the government provides learning computers to low-income disabled women, and connects them with female volunteers who instruct them on how to use the internet (See Table 12 in the Appendix).

37. The ARPDA stipulates that no person shall forcibly impose upon or deprive women with disabilities of roles in relation to pregnancy, childbirth, child rearing, and housekeeping based on their disability (Article 33 (2)) and furthermore, that no employer shall refuse to provide reasonable accommodations in relation to the use of workplace childcare services (Article 33 (3)). The government dispatches home helpers for four weeks to provide maternity support to severely disabled women who deliver children.

38. The aforementioned Act obliges persons in charge of sexual assault prevention programs in educational institutions, workplaces, and welfare facilities to include in such programs the information on the gender perspective on women with disabilities and the prevention of sexual assault against them (Article 33 (4)). Therefore, the government provides disabled women with counseling services through welfare centers for persons with disabilities and disabled women's organizations and, when necessary, connects women with disabilities in need with the appropriate community organizations. It has also established specialized domestic violence and sexual assault counseling centers and protection facilities for women with disabilities to support the victims of such violence (See Table 13 in the Appendix).

Article 7 – Children with Disabilities

39. As of December 2009, the number of registered children with disabilities in Korea stands at 81,687, of whom 44.3 percent have intellectual disabilities, 16.3 percent have brain lesion disorder, and 13.1 percent have autistic disorder (See Tables 14 and 15 in the Appendix). In order to ensure the fundamental freedoms and rights of children with disabilities, Korea enacted or amended laws related to children and adolescents, such as the ASEPD; the Infant Care Act enacted in January 1991; the Child Welfare Act enacted in December 1961; the Framework Act on Juveniles enacted in December 1991; and the Elementary and Secondary Education Act enacted in December 1997. Korea thereby established a legal basis for childcare, health, medical, and educational services for children with disabilities.

40. The ARPDA ensures that children with disabilities are not discriminated against in any sphere of life. The Act prohibits excluding children with disabilities from compulsory education and depriving them of opportunities to receive education, training, health care services, rehabilitation services, employment preparation, and recreations. The Act also gives them protection against unfavorable treatment such as abandonment, abuse, extortion, confinement and battering, and forced placement in facilities or coercion to receive unreasonable rehabilitation treatment (Article 35).

41. The government assists children with disabilities aged under 18 from low-income families who stay at home with the Disabled Child Allowance and free childcare benefit that enable them to grow healthily both physically and mentally in a stable living environment (See Tables 16-18 in the Appendix). Other measures include providing disabled children in low-income families with rehabilitation treatment voucher services every month for speech, hearing, and art and music therapies to allow them to choose and receive any desired rehabilitation services (See Table 19 in the Appendix).

Article 8 – Awareness-raising

42. The Korean government has established provisions on raising the awareness of persons with disabilities in disability-related laws. The WDPA obliges the State and local governments to implement publicity campaigns, such as education and public advertising for students, public employees, workers, and other general public, for the improvement of public recognition on persons with disabilities, and to include the related contents in textbooks used by schools (Article 25). In accordance with the provision, the government has included details regarding the human rights of persons with disabilities and the facilities accessible and useable by them in the textbooks of elementary and secondary schools. Furthermore, in order to improve disability awareness, it has provided a special class called “First-hour Class of the Republic of Korea” to elementary school students on the International Day of Disabled Persons every year. It has also made a film about disability recognition titled “Good Friends” for middle and high school students, and aired it on a public TV program (See Table 20 in the Appendix). Meanwhile, the National Rehabilitation Center and welfare centers for the disabled operate disability experience programs to raise the public awareness of persons with disabilities.

43. The EVDPA stipulates that employers shall provide education to improve the awareness of persons with disabilities in order to create favorable working conditions for disabled workers and to expand their opportunities for employment. It also states that the Ministry of Employment and Labor shall develop and distribute educational materials for the smooth provision of education to enhance the awareness of persons with disabilities (Article 5 (3 and 4)). In accordance with the same provision, the KEAD has developed and disseminated videos, cyber educational programs, and participatory disability awareness programs, and aired public awareness campaigns on TV to share best practices related to the employment of workers with disabilities (See Table 21 in the Appendix).

44. The ARPDA requires the State and local governments to provide education that increases awareness and aids in the prevention and elimination of all forms of harassment of persons with disabilities (Article 32 (6)). In an effort to raise public awareness of disability discrimination, the government has publicized this Act through various media, and published and distributed brochures and handbooks on the Act (See Table 22 in the Appendix). It has also carried out monitoring on the implementation of the Act, and the reduction in discriminatory practices to assess the level of public awareness of the discrimination against persons with disabilities (See Tables 23 and 24 in the Appendix).

Article 9 – Accessibility

45. Accessibility of persons with disabilities is guaranteed in various areas by law in Korea. The Framework Act on Building states that the State and local governments shall take the necessary measures to make sure buildings and spatial environments are planned and designed with the accessibility and usability by persons with disabilities in mind (Article 7 (2)). In addition, the APC obliges facility owners to install various convenience facilities in buildings, houses, schools, medical facilities, and workplaces in compliance with certain accepted installation standards so that persons with disabilities can easily access and use those facilities (Article 9). Such facilities include the following: access points, corridors, and stairs, which are accessible to disabled users; exclusive parking lots for the disabled; elevators, ramps, and toilets designated solely for disabled users; and accommodations designed to guide persons with visual or hearing disabilities. The APC Enforcement Rule stipulates that heads of central administrative agencies and local governments shall investigate the actual conditions of convenience facilities every year, and conduct a complete enumeration survey every five years (Article 4 (1)). According to the

survey results regarding the status of convenience facilities in 2008, the ratios of actual installation of apartment buildings, public buildings and facilities, and parks to their legally mandated installation were 83.2 percent, 76.6 percent, and 66.0 percent, respectively. Meanwhile, their legitimate installation rates (the percentage of facilities that are in compliance with legal installation standards) were 59.7 percent, 69.1 percent, and 57.9 percent, respectively (See Table 25 in the Appendix).

46. The government set up the Five-year National Plan for Convenience Promotion based on the APC (Article 12). Considering that the convenience facility installation rate was just 77.5 percent despite the goal of 85 percent set out in the Second-stage Five-year National Plan for Convenience Promotion (2005-2009), and that only 55.8 percent of the convenience facilities were installed in compliance with the legal standards, the government has decided to increase the installation rate to approximately 88 percent, and also to enhance the legitimate installation rate in the Third-stage Five-year National Plan for Convenience Promotion (2010-2014). To this end, the government plans to amend the above-mentioned Act to evaluate the installation standards-compliance when public buildings, facilities, and parks are constructed. It will also amend the Framework Act on Building to require more new buildings to install convenience facilities. In addition, in 2009, the government provided financial assistance of 1.9 billion won to the Housing Renovation Project for the Disabled in Rural Areas to improve the accessibility of facilities to persons with disabilities in farming and fishing communities (See Table 26 in the Appendix). (The types and status of other mobility convenience facilities for the disabled are mentioned in detail in Paragraphs 90-94 of this report.)

47. Since 2008, the government has implemented a system to certify roads, parks, passenger facilities, buildings, transportation means, districts, cities, etc. as “Barrier-free Living Environments” under Article 17-2 of the MITDA, when they are built, in accordance with certain standards, for the transportation disadvantaged, including persons with disabilities, to easily access and use them. As of 2009, a total of 22 roads and buildings have been certified as such.

48. The ARPDA stipulates that individuals, corporations, and public institutions shall provide reasonable accommodations to ensure that persons with disabilities can access and use electronic and non-electronic information on an equal basis with persons without disabilities (Articles 20 and 21). Such reasonable accommodations include subtitles, sign language, Braille and Braille conversion, hearing aids, screen readers, and voice services. Furthermore, taking into account the burden of providing reasonable accommodations, the Act stipulates that different entities shall provide reasonable accommodations at different phases. In addition, the Act guarantees the accessibility for persons with disabilities to various equipments used to provide goods and services. The Act forbids the act of providing goods, services, convenience, etc. which would bring benefits unequal to those provided to persons without disabilities in substance (Article 15 (1)). For reference, there are currently 1,104 CD/ATM machines installed for disabled users, and banks will invest a total of 101.5 billion won by 2013 to introduce additional 5,000 CD/ATM machines that are accessible to persons with disabilities. Banks are also planning to spend 21.5 billion won over the next three years to assist disabled customers to easily access bank websites, check financial products, and use internet banking (See Paragraphs 98-100 of this report).

49. The ARPDA states that if persons with disabilities are denied the above-mentioned accessibility, they can file a complaint with the NHRC to pursue remedies (See Table 27 in the Appendix).

Article 10 - Right to Life

50. The Constitution does not expressly include the right to life, but the Constitutional Court recognizes that the right to life is a natural and transcendent right based on survival instincts and reasons for existence, and is guaranteed as the most fundamental right that serves as a foundation for all rights stipulated in the Constitution (Constitutional Court Decision, 95 Hun-Ba 1, November 28, 1996). The right to life is also guaranteed to persons with disabilities.

51. There is no regulation in Korea that allows the arbitrary deprivation of life by reason of disability, but the Mother and Child Health Act (subparagraph 1 of Article 14 (1)) and its Enforcement Decree (Article 15) allow induced abortions in exceptional cases within 24 weeks of pregnancy. This has caused much controversy surrounding the acceptable limits of the above-mentioned operation. In response, the Korean government has amended the Enforcement Decree of the same Act in July 2009 to reduce the scope of induced abortions to cases where “a woman or her spouse has genetic disorders that will highly affect fetuses, such as achondroplasia and cystic fibrosis” (Article 15 (2)).

Article 11 – Situations of Risk and Humanitarian Emergencies

52. Pursuant to the Framework Act on the Management of Disasters and Safety, enacted in March 2004, and the Countermeasures Against Natural Disasters Act, enacted in December 1995, the Korean government shall take measures to ensure the protection and safety of all people in the event of emergencies and disasters that are causing or are capable of causing damages to the lives, bodies, and property of people. The above Acts underline that in emergency situations, the safety of the lives and bodies of people shall take precedence over other values. To this end, it is specified that the government is required to prepare precautions or post-measures. However, neither Article 37 (Emergency Measures) nor Article 40 (Order for Evacuation) found in the current Act on the Management of Disasters and Safety contains any provision that takes persons with disabilities into consideration. Therefore, the Korean government is seeking measures to revise the Act in order to further ensure the safety of persons with disabilities in emergency situations.

53. The Korean government specifies the provision of “alarm and evacuation systems for persons with hearing or visual disabilities” in the APC Enforcement Decree. Under this Enforcement Decree, the owner of a facility is required to make the necessary evacuation arrangements, such as emergency exit lights and path-finding lights for persons with hearing disabilities and alarm systems for persons with visual disabilities (Attached Table 2 related to Article 4 of the Enforcement Decree). As the above-mentioned Article does not specify the provision of evacuation systems for persons with physical disabilities, the Korean government, under the Third-stage Five-year National Plan for Convenience Promotion (2010-2014), is planning to develop an evacuation simulation system to provide tailored support for different types of disabilities in various disasters.

54. With the awareness that persons with disabilities who live in residential facilities may have difficulty evacuating quickly in the event of a crisis, when even a minor accident could lead to human casualties, the Korean government, pursuant to Article 34-3 of the Social Welfare Services Act, enacted in January 1970, makes it mandatory for the head of an institution to conduct regular and frequent safety inspections and report the results to the head of the local government. The types of safety crises include fire, collapse of facilities, natural disasters such as typhoons and downpours, and safety measures involve the establishment of a package of measures for safety management, guidance and inspection of

safety management, and establishment of emergency countermeasures and recovery systems (the Guidelines for Safety Management of Social Welfare Facilities).

55. In accordance with the Emergency Resources Management Act, enacted in August 1984, the Korean government conducts training drills that simulate evacuations to designated temporary shelters. These drills are conducted at social welfare facilities on an annual basis, with the aim of safeguarding residents with disabilities in situations of national emergency. In such emergencies, the said Act obliges the Korean government to safeguard persons with disabilities by supporting the mobility and medical access of persons with disabilities staying at home, providing temporary housing for persons with disabilities who have been abandoned, and selecting them as basic livelihood security recipients.

Article 12 - Equal Recognition before the Law

56. Pursuant to many laws, including the ARPDA, Korea prohibits discrimination against persons with disabilities in all aspects of society, and acknowledges their equal recognition before the law and equal protection by the law. There are no domestic laws that restrict disabled people's capacity to exercise their rights based on their disabilities. Therefore their legal right to inheritance and ownership of property are equally guaranteed regardless of their disabilities.

57. Korea previously found that the system for protecting incompetent and quasi-incompetent persons stipulated in the Civil Act, enacted in February 1958, which safeguards minors with a lack of judgmental capacity, including persons with intellectual disabilities, had many problems such as uniformly restricting their behavioral capacity and self-determination, and placing restrictions on an individuals' usage of the system. Therefore, the Korean government amended the Civil Act in order to change the system in question into "The Adult Guardianship System," which will enter into effect in July 2013. By improving the existing system, which "makes juristic acts committed by incompetent individuals voidable" (Article 13 of the Civil Act), the Korean government allows persons under adult guardianship to independently and freely engage in ordinary activities, such as the purchase of goods for daily use, or other juristic acts as determined by the Family Court. To further improve the existing system, which makes juristic acts committed by quasi-incompetents voidable if they are committed without proxy or consent of the guardian, the Korean government recognizes that persons under limited guardianship have the capacity to fully act in principle and, in exceptional cases, require consent or assistance from the guardian. The new system introduces a specified guardianship providing assistance for specific matters such as inheritance, or for a specific period, and a guardian supervisor system with aims to substantially supervise the guardians, and for the guardian supervisor, instead of the guardian, to represent the ward in cases where conflicts between the guardian and the ward occur.

58. With respect to the provision of goods and services, the ARPDA prohibits discrimination against persons with disabilities on the grounds of disabilities, thereby assuring that in the relevant areas, persons with disabilities enjoy legal capacity on an equal basis with persons without disabilities (Article 15). The Act also forbids the discrimination against persons with disabilities without justifiable grounds in the sale, purchase, or lease of land or building (Article 16), as well as in extending monetary loans, issuing credit cards, and offering a range of financial instruments and services, including insurance policies (Article 17).

59. The Korean government provides education on laws related to persons with disabilities for workers in national and public agencies. For instance, the Ministry of Health and Welfare started offering an educational course related to laws on convenience facilities

for persons with disabilities, and educated a total of 733 public officials from 2006 to 2009. The ministry is also offering education on the ARPDA targeting public institutions, including local governments and police stations (approximately 30 times, 5,530 participants as of 2009). For the purpose of promoting public awareness and preventing similar cases of discrimination from recurring, the NHRC has disseminated cases in which discriminations against persons with disabilities were determined and remedies against them were recommended, through mass media and a compilation of those cases.

Article 13 – Access to Justice

60. The ARPDA prohibits public institutions from discriminating against persons with disabilities in relation to provisions of judicial and administrative procedures and services, thereby ensuring effective access to justice for persons with disabilities on an equal basis with others. The Act also specifies that public agencies shall provide reasonable accommodations that enable persons with disabilities to use judicial and administrative procedures on a substantially equal basis to persons without disabilities (Article 26).

61. The ARPDA stipulates that the justice system is required to identify when an individual involved in a case suffers from disorders that might make it difficult for the said individual to communicate and express his or her opinion. In cases where persons with disabilities apply for assistance in the criminal justice process, their request cannot be rejected without justifiable reasons, and the necessary steps shall be taken for them (Article 26 (6)).

62. The Criminal Procedure Act, enacted in September 1954 and amended in December 2007, requires the court to appoint a defense counsel *ex officio* in the case where the defendant has a hearing disability or is suspected of having a mental and physical disability, and has no defense counsel available (Article 33 (1)). The Act further stipulates that the court shall appoint a defense counsel *ex officio* within the scope that it does not go against the explicit intention of the defendant when the court deems it necessary to protect the rights based on the age, intelligence, educational level, etc. of the defendant (Article 33 (3)). With regard to any case falling under Article 33 (1) of the same Act or to any case for which a defense counsel is appointed under Article 33 (3), the court shall not sit without the defense counsel (Article 282). When the defense counsel fails to attend, the court shall appoint a defense counsel *ex officio* (Article 283). Regarding the cases in 2010 where the court failed to take the appropriate procedures to appoint a defense counsel for a defendant with a grade two visual disability, and where the court turned down the request of a person with a grade three hearing disability for the appointment of a defense counsel, the Supreme Court ruled that these cases were in violation of Article 33 (3) of the Criminal Procedure Act. The Court ruled that the hearing that proceeded without the defense counsel violated the right to defense reserved for the defendant, thereby affecting the ruling (Supreme Court Decision 2010Do881 Decided April 29, 2010; Supreme Court Decision 2010Do4629 Decided June 10, 2010). The Criminal Procedure Act prescribes a system under which, in the procedures of interrogation and trial, if the subject under investigation or interrogation lacks the ability to discern right from wrong or make and communicate a decision due to a physical or mental disability, a person who has a reliable relationship with the suspect is allowed or required to sit in company with the subject. In the case where a public prosecutor or a judicial police officer interrogates a suspect (Article 244-5) or where the presiding judge or a judge examines a defendant (Article 276-2), a reliable person as mentioned above is allowed to sit in company with the suspect or defendant. Where a prosecutor or a judicial police officer investigates the victim of a crime (Article 221 (3)) or where a court has the victim of a crime sit in the witness box for examination (Article 163-2 (2)), the court shall allow a person who has a reliable relationship with the victim to sit in company with the victim, unless there is an inevitable reason. The NHRC determined that

the failure of a police officer to notify a suspect with intellectual disability in advance that he had a right to assistance from those with whom he had a reliable relationship was in violation of the ARPDA.

63. The Guidelines on Investigations Regarding Human Rights Protection, the Instructions of the Ministry of Justice, enacted in December 2002 and wholly amended in June 2006, stipulates that in a case where people with hearing or communication disabilities are under investigation, they should be offered sign language interpreters or text interpreters, or attended by a person who assists communication; and that a suspect with disabilities should be notified that they are eligible for legal aid offered by the Korea Legal Aid Corporation (Article 55). The Rules on Duties by Police Officers for Human Rights Protection, the Instructions of the National Police Agency, stipulates that with respect to the socially weak, including persons with disabilities, police officers shall guarantee the participation of someone who has a reliable relationship or the capacity to communicate with them (Article 10). In a case where police officers are conducting an investigation of persons with disabilities, they shall choose and implement investigative methods that are appropriate to the relevant type of disability, ensuring that persons with disabilities are not placed at a disadvantage during the investigation (Article 75).

64. The Civil Procedure Act, enacted in April 1960, ensures the access to justice by persons with communication disabilities, and states that in the event that persons with disabilities taking part in pleading have any impediment in hearing or speaking, the court shall have an interpreter conduct the interpretation or allow them to ask or make statements in writing (Article 143).

65. In accordance with the Immigration Control Act, enacted in March 1963, when interrogating foreigners due to being subject to forced deportation by the same Act, public officials of the Immigration Control may allow them to have an interpreter present or communicate in writing, if they have hearing or language disabilities (Article 48).

66. With the objective to ensure the access to justice for persons with disabilities who are economically challenged or ignorant of laws, the Korean government has amended the Rules on Handling of Legal Aid Cases to provide *pro bono* legal aid to persons with disabilities (See Table 28 in the Appendix).

67. The Korean government has established courses related to the rights of persons with disabilities in the on-the-job training programs of the National Police Agency and local police agencies to ensure that no police officers discriminate against persons with disabilities in the judicial procedures. As of 2009, an annual number of 220,000 staff of the National Police Agency and local police agencies are taking courses titled “The Police and Human Rights” and “Protection of Victims,” both of which contain information on the protection of human rights of persons with disabilities.

Article 14 - Liberty and Security of Person

68. The Habeas Corpus Relief Act, enacted in December 2007, enables inmates—admitted to a range of facilities operated by the State, local governments, public corporations or private institutions for the purposes of medical services, welfare, institutionalization or detention—to request the court for relief, in the event that they are unlawfully institutionalized or their institutionalization continues even after its original legitimate grounds disappear (Articles 2 and 3). The court is required to order the immediate release of the inmates by ruling, if the hearing recognizes that their request for release is legitimate (Article 13 (1)). In the case where the inmates are released under this Act, they shall never be forcibly placed in such facilities on the same grounds (Article 16). The Korean government amended the Habeas Corpus Relief Act in June 2010 to add

employees of institutionalization facilities to the claimants of relief (Article 3); newly enacted provisions making it mandatory for those facilities to notify inmates of their right to seek relief before being admitted (Article 3-2 (1)). If the facilities fail to do so, the Minister of Justice shall impose and collect a fine of up to five million won on them (Article 20). Since June 2008, when the above Act came into force, until the end of October 2010, the requests for release filed to the court were mostly related to mental health facilities. There were 305 cases in total, among which 32 cases were accepted, and the rulings for the release of inmates were handed down.

69. The personal liberty and basic rights of persons with mental disabilities are specified in the Mental Health Act (MHA), which was enacted in December 1995. The Act stipulates the ensuring of the rights of patients and the proper procedures of admission to or discharge from mental health facilities. However, the NHRC found in a survey that persons with mental disabilities had very high rates of involuntary admission which restricts personal liberty (See Table 29 in the Appendix), and their admission tends to be extended unnecessarily, and in some cases, they are repeatedly re-admitted soon after being discharged. In October 2009, the NHRC published “The National Report on Human Rights Protection and Promotion for Persons with Mental Illness,” which contains the results of the above-mentioned survey and policy recommendations for safeguarding the relevant rights of persons with mental illness. It also recommended that the government amend laws and establish policies with the aim of promoting the human rights of persons with mental illness. In response, the Korean government is planning to amend the MHA to put in place the principle of voluntary admission, and make the appropriate measures to prevent the extension of admission and re-admissions by establishing proper procedures for admission and discharge. According to the 2009 Survey of Residence of Persons with Disabilities, the rate of voluntary admission of persons with disabilities to residential facilities was 9.6 percent, the rate of admission following recommendations of families and relatives was 49.8 percent, and the rate of involuntary admission was 40.5 percent.

70. The ARPDA prescribes that judicial institutions shall provide reasonable accommodations to allow persons with disabilities to maintain a quality of life on a substantially equal basis to persons without disabilities, when they are under confinement or arrest (Article 26 (4)). In the meantime, as certain laws and legislation were under criticism for falling short of safeguarding the human rights of inmates, in 2007 and 2008 Korea amended the Administration and Treatment of Correctional Institution Inmates Act that had been enacted in March 1950. The amended Act specifies that inmates shall not, without justifiable grounds, be discriminated against on the basis of their disability, and that appropriate consideration shall be given to the treatment of the disabled inmates based on the degree of their disability (Articles 5 and 54 (2)). In addition, the Enforcement Rules of the Act requires the head of an exclusive correctional institution to accommodate only inmates with disabilities to develop and implement rehabilitation treatment programs tailored to the types of disabilities (Article 50). In correctional facilities that are not exclusively correctional, the head is required to designate and operate an extra space reserved for inmates with disabilities, and to install bathrooms for persons with disabilities (Article 51). The Act also stipulates that equipment and medical staff specialized for rehabilitating persons with disabilities must be provided (Article 52). As of 2010, a total of nine exclusive correctional institutions for inmates with disabilities are in operation (As a point of reference, there are 49 correctional facilities in total).

Article 15 – Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment

71. The Constitution prohibits torture and compelled testimony against the favor of the person in criminal cases (Article 12 (2)). Criminal punishment and disadvantages for people who commit torture are specified in Articles 105 through 114 of the initial report of the Republic of Korea under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT/C/32/Add.1 para. 105-114). Victims of torture or inhuman treatment can file a complaint to the NHRC. They are also eligible to bring the case to the criminal investigation agencies or file a claim for state compensations. Furthermore, in such cases, if their charges are dropped by a prosecutor, the victims can file the motion for reconsideration to the court. The Guidelines on Investigations Regarding Human Rights Protection, the Instructions of the Ministry of Justice, wholly amended in June 2006, states that the human rights of people involved in the case, including a suspect, shall be respected, and harsh treatment such as torture shall be prohibited (Articles 2 and 3). It also states that officers in charge of protecting human rights shall be appointed at the Public Prosecutor's Office to allow them to take measures in protecting human rights (Articles 67 and 68). In accordance with the Rules on Duties of Police Officers for Human Rights Protection, the Instructions of the National Police Agency, enacted in October 2005 and amended in October 2008, no police officer on duty shall engage in violence, cruel treatment, or use of abusive, coercive, or derogatory language, which may cause disparagement or shame to a person (Article 8). With the aim of safeguarding human rights, the same Rules require the installation of the Human Rights Committee in the National Police Agency (Article 14) and Human Rights Protection Centers (Article 38) responsible for the investigation of human rights violations by police officers on duty (Articles of 21 and 39). The above-mentioned prohibition of torture or inhuman treatment, and the protection and remedies are equally guaranteed for persons with disabilities.

72. The Korean government regulates the exercise of medical or scientific experiment on all people, including persons with disabilities, without informed consent. The Pharmaceutical Affairs Act, enacted in December 1953, requires any person who intends to conduct a clinical demonstration using drugs or other medical equipment to work out a clinical demonstration plan and obtain approval from the Commissioner of the Korea Food and Drug Administration. In particular, the Act prohibits the selection of persons with disabilities institutionalized in social welfare facilities as subjects for clinical demonstration (Article 34 (2)).

Article 16 - Freedom from Exploitation, Violence and Abuse

73. The ARPDA recognizes the right of persons with disabilities to be free from all types of violence, and prohibits anyone from engaging in activities that might ostracize them in schools, facilities, workplaces, local communities and other places, or in derogatory verbal expressions or conduct that might cause offense or disparagement. The Act forbids any activities that are intended to abandon or abuse persons with disabilities, or activities that aim to extort money from them in private spaces, homes, facilities, workplaces, local communities, and other places. It also states that any infringement on the right to sexual self-determination of persons with disabilities, or verbal expressions that cause a sense of shame, are unlawful. The Act also forbids molestation, assault, rape, or taking advantage of persons with disabilities (See Table 30 in the Appendix). The above-mentioned Act recognizes the right of persons with disabilities to receive counseling and treatment, legal aid and other appropriate measures, and prohibits any discriminatory treatment against them for reporting damages incurred due to harassment (Article 32 (2)).

74. In a complaint filed in June 2010, the NHRC determined that the conduct of the head of a disability facility using disability benefits for disabled persons admitted to the facility for personal purposes is an act of extortion as stipulated in the ARPDA. It further stated that the cruel conduct of restraining the use of a disabled person's body because of an inability to take around-the-clock care of residents with disabilities corresponded to abuse as prescribed in the same Act. Based on this determination, the NHRC recommended relief measures to the victims. With regard to the alleged extortion of money, the prosecution is conducting an investigation into the embezzlement by the head of the facility in question. In relation to the alleged abuse, the relevant local government ordered the closure of the facility. In 2010, the Korean government conducted an inspection of residential facilities for persons with disabilities, and issued orders of closure to six of the inspected facilities found to have abused and incarcerated persons with disabilities.

75. The MHA specifies that no mentally ill person shall be institutionalized in a location other than the facilities where medical protection can be provided for persons with mental illness. It also states that neither the head of a mental health facility nor its employees shall engage in acts of violence or perform harsh treatments on mentally ill persons hospitalized or admitted to, or making use of the facilities (Article 43). Nevertheless, complaints alleging harsh treatments and violence in mental health facilities have been filed to the NHRC (See Table 31 in the Appendix). The NHRC has investigated those complaints and recommended the relevant facilities to implement remedial measures, such as the discontinuation of a discriminatory act and disciplinary action against the respondent, while recommending the supervisory institutions to take measures to control and supervise those facilities. The relevant facilities and institutions, following the recommendations, take the necessary measures.

76. Since March 2010, the Center for Prevention of Human Rights Infringement for Persons with Disabilities has been commissioned by the Korean government. The Center operates a hotline to provide professional counseling for persons with disabilities who suffer from physical and emotional abuse, money extortion, or other human rights violations. If necessary, the Center offers relief through means of temporary shelter, legal consultation or public interest litigation. In addition, the Center actively engages in activities to urgently relocate persons with disabilities under emergency situations, conduct an on-site investigation, and secure emergency shelters through the emergency assistance system. Meanwhile, it engages in public relations activities and provides education about violations against persons with disabilities, thereby contributing to raising awareness of human rights violations against persons with disabilities (See Table 32 in the Appendix).

77. In accordance with the Child Welfare Act (subparagraph 7 of Article 29) and the Juvenile Protection Act, enacted in March 1997 (subparagraph 4 of Article 26-2), and other related laws, the Korean government strictly forbids showing children and juveniles with disabilities to the public for the purpose of making profit or entertainment.

78. The Act on Prevention of Sexual Assault and Protection of Victims, enacted in April 2010, requires the State and local governments to establish facilities for victims of sexual assaults and, if necessary, facilities only for persons with disabilities (Article 12) (See Table 13 in the Appendix).

Article 17 – Protecting the Integrity of the Person

79. The ARPDA stipulates that medical facilities and healthcare providers shall provide disabled people with the necessary information on medical undertakings, including medical information suitable to their genders (Article 31 (2)), thereby ensuring that persons with disabilities receive the necessary information and, upon their consent, medical treatment. The same Act also stipulates that no person shall forcibly impose on any women

with disabilities certain roles, or deprive them of certain roles in relation to pregnancy, childbirth, nurturing, and homemaking, based on their disability (Article 33 (2)), thereby protecting women with disabilities from forced sterilization and abortion.

80. With respect to mentally ill persons in need of in-patient treatment, the MHA recommends voluntary admission (Article 2 (5)). In the event that persons with disabilities are hospitalized, or have an extended period of admission, they shall, without delay, be informed of the reasons for doing so in writing (Article 24 (5)). In order to prevent mentally ill persons from having treatment forced upon them after being admitted, the Act expressly provides that the medical institution concerned shall provide information regarding special treatment, including electronic shock therapy, insulin lethargy therapy, hypnosis under anesthesia therapy, and psychiatric surgery therapy, and the consent of the patient in question or the person responsible to provide protection shall be obtained (Article 44 (1)).

81. Medical opinions pertaining to the consent for treatment, as defined in the MHA, shall be offered by the Central Mental Health Deliberative Committee. If persons with mental illness wish to raise complaints about any treatment that was provided without their consent, they may request the Basic Mental Health Deliberative Committee to examine the legality of the treatment. If the Central Mental Health Deliberative Committee finds that human rights violations against persons with mental illness occur, it may request the NHRC to investigate the case (Article 28 (7)). The above-mentioned institutions are independent review organizations that were established to prevent persons with disabilities from receiving medical treatment without informed consent or self-determination.

Article 18 – Liberty of Movement and Nationality

82. The Constitution guarantees the freedom of residence and movement (Article 14), a right that also applies to persons with disabilities.

83. Article 11 of the Immigration Control Act prohibits the entry of foreigners with mental disabilities who are void of the capacity to make decisions on their own and have no person to assist their sojourn, but this provision is one of the measures the government takes to make people who invite them or their relatives guarantee their safety during the stay. So far, no case has been reported in which foreigners are denied entry into Korea due to their disabilities. Also, the Korean government operates the entry/departure inspection dedicated to persons with disabilities in airport/seaport immigration offices across the country, providing reasonable accommodations to ensure that they have no difficulty in their entry/departure.

84. The Nationality Act, enacted in December 1948, which prescribes the requirements to become a national of the Republic of Korea, does not limit the right to attain and change the nationality of persons with disabilities on the grounds of disability. As for foreigners with autistic disorders (grades 1-2), mental or intellectual disabilities, or brain lesion disorder (grades 1-3), whose father or mother is a national of the Republic of Korea, the person in question shall be exempted from taking a written test in the naturalization screening process (Article 7 of the Nationality Processing Guideline).

85. In accordance with the Act on the Registration of Family Relationship, enacted in May 2007, reports of birth for all persons shall be filed within one month from the date of birth (Article 44 (1)). The same Act makes it mandatory to write on the report the matters related to the name of the child, the name of the parents, and their nationality (Article 44 (2)) to ensure that all infants have their names when they are born, take nationality, and know who their parents are. All children, including children born out of wedlock, those who are abandoned or born to stateless parents, are eligible to attain nationality by birth (Article 2).

Article 19 - Living Independently and Being Included in the Community

86. The WDPA stipulates that it is the responsibility of the State and local governments to come up with supportive measures to improve the independent living of persons with disabilities (Article 9). In particular, the Act requires the State and local governments to provide severely disabled persons with the Personal Assistant Service and auxiliary devices necessary to live independently (Articles 53 and 55) as well as other services through the Center for Independent Living of Persons with Disabilities (Article 54).

87. The Center for Independent Living of Persons with Disabilities is a self-help organization in which the majority of the decision-making body shall, in principle, consist of persons with disabilities. The centers provide persons with disabilities in the community with a variety of services, including advocacy, peer-counseling, independent living skills programs, and peer-support. As of 2010, there are 158 centers nationwide, of which 25 are financially supported by the government. In addition, 16 local governments financially support 57 Centers and plan to increase the amount and the number of beneficiaries of the support (See Table 33 in the Appendix).

88. Since 2007, the government has provided severely disabled persons with the Personal Assistant Service, which include self-help and domestic assistance, mobility service to work and school, and support for community participation. In 2010, approximately 30,000 persons with disabilities used the service (See Table 34 in the Appendix). In 2011, the government plans to increase the number of beneficiaries to 50,000 by operating the Disability Care and Support System, which will add visiting nursing and care services to the existing Personal Assistant Service. To meet the increasing demands for the Personal Assistant Service, however, the number of beneficiaries needs to be increased by the government on a continual basis (See Table 35 in the Appendix).

89. Considering that large-size residential institutions undermine the quality of life and independent living of persons with disabilities, the government has pursued a policy to decrease the size. Since 2009, it has limited the number of people to be accommodated in a newly established institution to no more than 30 persons. It has also financially supported the establishment of 90 independent living experience homes nationwide as home-style community-based facilities for persons with disabilities housed in institutions or staying at home who want to live independently. As a result, the average number of residents per residential institution fell from 69 persons in the end of 2007 (a total of 21,709 persons in 314 facilities) to 58 persons in the end of 2009 (a total of 23,243 persons in 397 facilities) (See Table 3 in the Appendix). In addition, through the Center for Independent Living of Persons with Disabilities, starting in 2011, the government plans to implement a program designed to intensively support persons with disabilities housed in institutions who are highly motivated to leave their residential institutions. Now the government lends up to 20 million won in funds per household for the independent living of registered low-income persons with disabilities (a total of 12.8 billion won for 894 persons, as of 2009). Some local governments also grant resettlement funds to persons with disabilities when they are discharged from institutions (a total of 330 million won for 57 persons in five cities/provinces, as of 2010). Furthermore, under Article 27 (1) of the WDPA, the government provides preferential rental housing to persons with disabilities with the aim of supporting them to live independently in their community (See paragraph 142 of this report).

Article 20 - Personal Mobility

90. The MITDA prescribes that transportation service providers and transportation administration agencies shall install mobility improvement facilities to make means of transportation, passenger facilities, and roads accessible and usable to persons with disabilities on an equal basis with others (Article 9). Examples of such accommodations include stop announcements, electronic signboards, wheelchair-boarding equipment, and priority seats for the transportation disadvantaged in the means of transportation; pedestrian access roads and main entrances accessible and usable by persons with disabilities, and disability parking zones at passenger facilities; and paved sidewalks, ramps, and crosswalks at roads to enable persons with disabilities to travel. According to the 2009 Survey on the Installation of Mobility Convenience Facilities with seven metropolitan cities, only 72.3 percent of means of transportation, 73.4 percent of passenger facilities, and 51.7 percent of roads were equipped with mobility convenience facilities that fulfilled the requirements of the law. According to the 2010 Survey on the Installation of Mobility Convenience Facilities conducted with nine provinces, excluding metropolitan cities, the figures were 67.9 percent, 58.2 percent, and 36.7 percent, respectively (See Tables 36-38 in the Appendix).

91. The MITDA requires the State and local governments to introduce low-floor buses for persons with disabilities and other transportation-disadvantaged persons to use them conveniently and safely. To this end, the Act prescribes that a fixed-route bus provider who operates a certain number of low-floor buses (1/2 or 1/3 of the total number of the buses to be operated in a metropolitan city or a local government, respectively) for the convenience of the transportation disadvantaged shall be preferentially given a business license. Furthermore, the fixed-route bus provider who introduces low-floor buses shall be given financial support within the scope of the budget (Article 14 (2 and 4) of the Act and Article 14 of the Enforcement Decree). The government granted a total of 151 billion won to bus operators from 2004 to 2010 to introduce 3,199 low-floor buses, 11 percent of the total number of intra-city buses in the country.

92. The MITDA prescribes that at least one-tenth of the areas in vehicles used for urban rail operation shall be assigned to priority zones for the transportation disadvantaged, including persons with disabilities (Article 15 (1)). It also stipulates the types of mobility convenience facilities and the detailed criteria for their structures and materials. In response, urban rail operators have continued to expand mobility convenience facilities such as elevators. According to a 2010 survey conducted with 17 urban rail stations in nine metropolitan cities, the elevator installment rate stood at 93.8 percent (See Table 39 in the Appendix), and an additional 138 elevators and escalators were installed at 53 urban rail stations in 2010 (See Table 40 in the Appendix). As a point of reference, incidents in which wheelchair users fell and were seriously injured or died while using wheelchair lifts installed in urban rail stations continued to occur (8 cases since 2006). Therefore, in 2009, the NHRC determined that wheelchair lifts could not sufficiently be considered as “reasonable accommodations” as found in the ARPDA. It thus recommended that urban rail companies replace wheelchair lifts with elevators, and furthermore that the government grant financial support for the replacement and revise the Mobility Improvement for the Transportation Disadvantaged Act to exclude wheelchair lifts from the list of mobility convenience facilities. After this recommendation, additional elevators were installed by the urban rail companies.

93. According to the MITDA, the head of a local government shall operate special transport units(referred to as call taxis for persons with disabilities) equipped with wheelchair-boarding equipment to support the mobility of the transportation disadvantaged, including persons with severe disabilities who have great difficulties in traveling (Article 16

of the Act and Article 5 of the Enforcement Rule). As of June 2010, the total number of special transport units introduced in 16 cities/provinces was 1,302 vehicles, and the government plans to expand the service on a continual basis by providing legal grounds for financial support for the introduction of such units.

94. For the safe travel of visually impaired people, the MITDA Enforcement Rule prescribes that Braille signage, Braille blocks, or guidance signal equipment shall be installed, or the texture of floor materials shall be differentiated to be detectable by the visually impaired (Attached Table 1 for Article 2 (1) of the Enforcement Rule, “Detailed Criteria for the Structure and Materials for Mobility Convenience Facilities”).

95. The government has taken various measures for persons with disabilities to buy mobility aids at affordable costs. Among others, it has exempted the value added tax imposed on wheelchairs and other mobility aids to enable persons with disabilities to buy mobility aids cheaply. It has also made the purchase price of an electric wheelchair reimbursable through the National Health Insurance since 2005, and distributed auxiliary devices, including walking aids, for free to persons with disabilities from low-income families having difficulties with living costs (See Tables 41 - 43 in the Appendix).

96. With the aim of promoting the development and supply of auxiliary devices, the WDPA requires the State and local governments to provide production subsidies, technical support and promotion for research and development to corporate entities that produce auxiliary devices for persons with disabilities (Article 67). Under the Act, the government has financially supported development and research projects in healthcare and medical areas to develop core parts and products, including visual, hearing, and everyday life aids. It granted 1,718 million won in support for 10 projects in 2008, 2,320 million won for 13 projects in 2009, and expanded the size of support to 2,426 million won for 13 projects in 2010. Meanwhile, the government has developed a computerized system for integrative authorization and registration of auxiliary devices to distribute and deliver high-quality devices and establish the standards for national safety and quality. The government distributes them to related companies, in order for persons with disabilities to purchase and use high-quality auxiliary devices. Furthermore, it implemented the National Technology Development Project for Convenience Improvement in 2010 to develop eight types of auxiliary devices, including lower extremities exercise machines combined with wheelchair, mobile phones for persons with disabilities, and speech-to-word processors (4.25 billion won).

97. The public and private sectors offer a variety of discount, exemption, and support systems for the mobility rights of persons with disabilities. Ten million won is lent to each person with disabilities who purchases a car, and taxes imposed on automobiles such as individual consumption, registration, acquisition, and automobile taxes are exempted. In addition, an identification mark for a car carrying a person with a disability, which is issued by local governments, entitles the disabled person to use handicap parking spaces, a parking free discount in the public parking facilities, and a 50 percent discount on highway tolls. Furthermore, when persons with disabilities use public transportation services such as railway, urban rail, airplane, or coastal ferry, a 20 to 50 percent discount of fares is available (See Table 44 in the Appendix).

Article 21 - Freedom of Expression and Opinion, and Access to Information

98. In May 2010, the Government amended the ARPDA to expand the range of broadcasters that are obliged to offer watching convenience services to include Internet multimedia broadcasters. The measure was made to ensure that broadcasting information

offered to the general public via a broadcast or website would also be offered to persons with disabilities in a non-discriminatory manner. Under the amended Act, broadcasters, including Internet multimedia broadcasting business, shall provide watching convenience services to persons with disabilities, such as closed captioning, sign language interpretation, and screen readers, so that they can access and use broadcasting programs and services on an equal basis with others (Article 21 (3)). As of November 2010, the ratios of closed captioning, sign language broadcasting, and screen reading broadcasting services of the central terrestrial broadcasters are 96.0 percent, 5.1 percent, and 6.0 percent, respectively. The government plans to gradually raise these ratios. In 2010, the government also provided financial support in the sum of 2.82 billion won to 46 terrestrial and premium broadcasting companies for the provision of closed captioning, sign language broadcasting, and screen reading broadcasting. From 2000 to 2010, it distributed 70,000 broadcasting receivers to persons with visual or hearing disabilities (See Tables 45 and 46 in the Appendix). In addition, the government plans to revise the recommended provision (Article 69 (8) of the Broadcasting Act, established in January 2000), stating that every broadcaster shall endeavor to assist the watching by persons with disabilities, changing it into an obligatory provision in order to improve the accessibility of broadcasted information to persons with disabilities.

99. The ARPDA Enforcement Decree prescribes that public entities shall guarantee the accessibility to their websites so that persons with disabilities can access and use the electronic information via the websites (subparagraph 1 of Article 14 (2)). The Framework Act on National Informatization, which was established in August 1995, prescribes that national agencies, providers of information and communications services and the manufacturers of information and communications products shall ensure the access to their products and services by persons with disabilities and, in particular, the access to their websites through which their information and services are provided (Article 32). To this end, the government has developed and distributed to website designers, administrators, and developers the Accessibility Standard for Persons with Disabilities. From 2006 to 2009, it developed and distributed one national standard and nine types of group standards (See Table 47 in the Appendix). According to these standards, public entities scored an average of 86.6 out of 100 points in a 2009 governmental survey on the website accessibility of public entities. In addition, the government has implemented the Web Accessibility Quality Site Certification Mark since 2007, certifying 153 websites as of 2010.

100. The ARPDA, amended in May 2010, requires common carriers offering telephone services to provide telecommunications relay services, including video relay service and text relay service so that persons with disabilities can access and use telecommunications services on an equal basis with others (Article 21 (4)). Established especially for persons with hearing disabilities, this provision will come into effect in May 2011. The National Information Society Agency and the Gyeonggi Province Association of the Deaf offer telecommunication relay services for three-way calls with a video phone between a sender, a sign language interpreter, and a receiver. The Act prescribes that public institutions and other entities shall provide support as required for the participation and communication of persons with disabilities in any event hosted by the said institutions, including sign language interpreters, text or vocal interpreters, and hearing aids (Article 21 (2)). The government operates sign language interpretation centers (175 centers, as of 2009), providing visiting service for sign language interpretation to hearing impaired people who need the service for their visit to public offices, legal institutions, and doctors' offices.

101. The government has pursued the Project for Establishment of Korean Standard Sign Language since 2000 through the National Institution of the Korean Language, an affiliation to the Ministry of Culture, Sports, and Tourism, and the Korea Association of the Deaf. The project is publishing a sign language dictionary covering everyday conversation

and a variety of legal, religious, and other specialized terminology as well as a grammar dictionary for sign language.

Article 22 - Respect for Privacy

102. The Act on the Protection of Personal Information Maintained by Public Agencies, established in January 1994, aims to protect personal information managed by means of equipment with the capability to process, transmit, and receive information, such as computers or closed-circuit televisions of public agencies. The Act on Promotion of Information and Communications Network Utilization and Information Protection, established in May 1986, aims to protect the personal information of people using information and communications services. In addition, Article 13 of the Framework Act on Health and Medical Services, established in January 2000, Article 19 of the Medical Service Act, established in March 1962, and Article 47 of the Social Welfare Service Act protect sensitive personal information and the privacy of people by prescribing that confidential information in body/health and medical/rehabilitation records, as well as information on patients or social welfare service users shall be perused, disseminated, and used only with the consent of the persons concerned.

103. Some laws have specific provisions that protect the personal information and privacy of persons with disabilities. For example, the ARPDPA prescribes that the personal information of persons with disabilities shall be collected only with the consent of the persons concerned, and that such information be protected from any unauthorized access, misuse or abuse (Article 22 (1)). The Act also states that no member of family, home, welfare facilities, etc. shall disclose to the public the physical features or bodies of persons with disabilities against their will without justifiable grounds (Article 30 (2)), and furthermore that no employer may disclose the personal information about the health conditions, disabilities or previous disability records of persons with disabilities (Article 12 (3)). The WDPA prescribes that counselors shall not reveal confidential information concerning personal conditions obtained while performing duties to improve the welfare of persons with disabilities (Article 33 (2)). The MHA prescribes that no person shall record, videotape, or photograph mentally ill persons, without the consent of the mentally ill person concerned, a person responsible for providing protection, or a person who provides protection. It also prohibits the disclosure or announcement of confidential information of other persons acquired over the course of performing his/her duties (Articles 41 (2) and 42).

104. According to the 2009 Survey on Mental Health Facilities and Their Residents conducted by the NHRC on persons with mental disabilities in psychiatric medical institutions, mental health care facilities, and psychosocial rehabilitation centers, the personal information of the residents was being disclosed without their consent. CCTVs had been installed in private spaces such as toilets, and the residential areas of these facilities were too small and confined to adequately protect the residents' privacy. The NHRC expressed its concern by recommending that the government establish acts and policies to protect the privacy of persons with disabilities in mental health facilities and to prevent their personal information from being exposed. The government is reviewing the recommendations.

Article 23 - Respect for Home and the Family

105. The Korean government takes legal measures to protect the rights of persons with disabilities to choose their spouse on an equal basis with others, to form families by means of marriage and childbirth, to respect their sexuality, to protect disabled children in their homes, and to protect families with a disabled member and respect their rights. To these

ends, the government established such acts as the Framework Act on Healthy Families, the Mother and Child Health Act, the Child Welfare Act, the Act on Special Cases Concerning the Promotion and Procedure of Adoption, which was established in January 1995 and amended in March 2005, the WDPA, and the ARPDA.

106. The Framework Act on Healthy Families guarantees a person's right to enjoy home life, and requires the State and local governments to render active assistance to persons with disabilities (Article 21). Under this Act and the Third-stage Five-year Policy Development Plan for Persons with Disabilities (2008-2012), the government implements the Support Project for Families with a Disabled Child, under which care services and respite programs are offered for up to 320 hours a year to low-income families living and residing with a severely disabled child aged under 18 (See Table 48 in the Appendix). The government plans to provide those services to a total of 2,500 households in 2011. (In addition, see Paragraph 41 of this report for the free childcare benefit and disabled child allowance offered to disabled children in low-income families.)

107. The Child Welfare Act prescribes that children shall not be discriminated against on the grounds of their own or their parents' disabilities and shall be raised in a family (Article 3 (1 and 2)). However, a child requiring protection may be put into suitable child welfare facilities under the Act. The head of a local government shall, in taking the said measure, have a high regard for the child's wishes and consider his/her guardian's opinion (Article 10 (3)).

108. The ARPDA prescribes that no person shall be discriminated against in relation to maternity and paternity rights on the grounds of disability, including rights regarding pregnancy, childbirth, and nurturing (Article 28 (1)). Furthermore, the Act prescribes that no person with disabilities shall be forced to enter into an unfavorable settlement in relation to custodial rights, parental authority and visitation rights, nor be deprived of/restricted from such rights based on a disability (Article 30 (4)). The Act also prescribes that no written waiver of parental authority shall be demanded by the head of a welfare facility on the condition of admission of a person with disabilities into the facility (Article 30 (5)).

109. According to the ARPDA, if a person with disabilities wishes to adopt a child, no adoption agency shall restrict the adoption qualifications based on the person's disability (Article 28 (2)). However, as Article 5 of the Act on Special Cases Concerning the Promotion and Procedure of Adoption prescribes, those who are eligible to be an adoptive parent "shall not have any noticeable mental or physical impediment" (subparagraph 3 of Article 5 (1)). The Act, therefore, could limit the rights of people with disabilities to adopt a child. The relevant ministry is considering revising the provision, for example, by setting the criteria for determining the "noticeable mental or physical impediment."

Article 24 – Education

110. The Acts related to the education of persons with disabilities include the Framework Act on Education and the ASEPD. The Framework Act on Education, which was established in December 1997, requires the State and local governments "to establish and operate schools for those who need special educational care due to physical, mental and intellectual disabilities and to establish and execute policies to support their education" (Article 18). In addition, the ASEPD demands that the government provide disabled persons with an inclusive educational environment and education according to the persons' life cycle by considering the type and degree of their disabilities (Article 1). Based on the aforementioned Acts, the government established the Third-stage Five-year Plan for Development of Special Education (2008-2012), with a goal of providing inclusive and individualized education for students with disabilities. Meanwhile, the ARPDA prohibits

discrimination in offering the opportunity of education to persons with disabilities (Article 13).

111. The ASEPD prescribes that the superintendent of each office of education shall establish and operate one Special Education Support Center (SESC) per subordinated educational administrative agency in charge of early discovery, diagnosis, and evaluation of persons eligible for special education, itinerant education, etc (Article 11). Under the Act, the government has established a SESC at every office of education in the country since 2005 so that students with disabilities can be supported in their special education regardless of the educational setting that they are assigned to, whether it is a home or a regular class, etc. In addition, in 2010, the government equipped SESC with 5,395 assistive technology devices in 2,683 types, 59,174 materials and tools for education in 32,203 types to support the learning of students with disabilities. It also developed multimedia self-study books, Braille information terminals, and sign language video books to enhance the learning of visually impaired students. Furthermore, it developed and disseminated auditory training programs for hearing-impaired students, by establishing an educational website (<http://www.eduable.net>), and furnished FM hearing aids at SESC. As of 2009, every junior and senior high school course offers two types of curricula in which sign language is used as a means of communication

112. The ASEPD requires the superintendent of each office of education or the head of each district office of education to select persons eligible for special education, based on the results of the diagnosis and the evaluation of persons with disabilities by SESC (Articles 15 and 16). It also places the selected persons in regular classes at a regular school, in special classes at a regular school, or in a special school through deliberation by the Special Education Steering Committee concerned, and educates them (Article 17) (See Table 49 in the Appendix). As of 2010, a total of 79,711 students are receiving special education: 23,776 students are being educated in 150 special schools, 42,021 students in 7,792 special classes, 13,746 students in 6,775 regular classes at the kindergarten, elementary, junior high, or senior high school levels, and 168 students in 187 SESC (See Table 50 in the Appendix).

113. With a view to expanding the opportunity of education for children with disabilities, the ASEPD prescribes that the educational courses from kindergarten to primary and secondary school shall be compulsory, and the designated majors and education for disabled infants who have not reached three years of age shall be provided gratis (Article 3 (1)). As of 2010, the government offers compulsory education to 1,921 infants with disabilities in kindergarten who have reached five years of age, and free education to a total of 290 infants with disabilities (See Table 51 in the Appendix). As of 2009, the government offers free education to disabled infants by operating 20 classes for them, and plans to expand the classes from 2010 after conducting a survey on the education of infants with disabilities.

114. To realize the principle of inclusive education, the ASEPD prescribes that special classes shall be established at regular schools and that the regular schools where students with disabilities are placed shall establish and execute a comprehensive plan to educate them. The plan includes curricular adjustment, support of assistants, support of learning assistive devices, and provision of other conveniences (Article 21) (See Table 52 in the Appendix). Under the Act, the government has increased and operated an annual average of about 700 special classes since 2008. According to a survey of installation of convenience facilities for primary and secondary students with disabilities conducted in 2009, an average of 83.5 percent of kindergartens and 92.4 percent of primary and secondary schools that have established special classes were equipped with convenience facilities for persons with disabilities (See Table 53 in the Appendix). The government has recommended via offices

of education in cities/provinces that special classes without convenience facilities for students with disabilities should be provided with such facilities.

115. In order to develop the abilities of persons with disabilities targeted for special education, the ASEPD prescribes that the heads of schools at each level shall establish a plan for individualized education including educational goals, methods, contents, and services related to special education, taking into account the types and nature of disabilities. To this end, the Act stipulates that the schools organize and operate an individualized education support team consisting of experts (Article 22). Furthermore, the Act prescribes that special education teachers and staffs in charge of special education-related services shall conduct “itinerant education” by visiting the targeted persons for special education placed at each level of schools, medical institutions, home, or welfare facilities (Article 25). Under the Act, the government secured 1,407 itinerant teachers and provided itinerant education to the targeted students for special education placed in regular classes in 2010 (See Table 54 in the Appendix).

116. With a goal of expanding the opportunities of higher education for persons with disabilities, since 1995, the government has implemented the Special College Admission System for Persons with Disabilities. Thanks to the system, the number of college entrants with disabilities increased from 113 students at eight schools in 1995 to 656 students at 88 schools in 2010. As of 2010, the total number of disabled students who attended college stands at 5,716 students at 173 schools (See Tables 50 in the Appendix). Under Articles 30 and 31 of the ASEPD, the government has granted financial aid to colleges so that they can install a Support Center for Students with Disabilities where an assistant would be available to provide aid to students with severe disabilities (Article 30) (See Tables 55 and 56 in the Appendix).

117. The ASEPD guarantees lifelong learning for persons with disabilities beyond the school age (Articles 33 and 34). To this end, since 2008, the government has supported a lifelong education program for disabled adults developed at each office of education in the city/province. In an effort to provide disabled adults with the opportunity of education and expanded educational programs, the government established the Promotion Plan for Lifelong Learning for Adults with Disabilities in 2010 and plans to implement it in earnest starting in 2011.

118. The Framework Act on Education prescribes that the government shall devise and implement policies that will promote gender equality more actively (Article 17-2 (1)). It also prescribes that the Deliberation Committee for Equal Education of Male and Female shall be established in order to examine the criteria for and contents of school curricula for the advancement of gender equality in school education (Article 17-2 (4)). In 2010, however, among the students eligible for special education, the proportion of male students (65.1%, or 51,921 students) is about twice as high as that of their female counterparts (34.9%, or 27,790 students).

119. With a goal of enhancing the professionalism in teaching and training students with disabilities, the government introduced special education courses in the training programs of general education teachers who are in charge of inclusive education. It is mandatory for those teachers to take at least 60 hours of courses. Furthermore, since 2009, it has required universities fostering general education teachers to have mandatory special education courses in their curricula. Meanwhile, although the ASEPD Enforcement Decree requires the placement of one special education teacher per four students (Article 22), only 76.5 percent of the number of teachers legally needed have been secured as of 2010 (See Table 57 in the Appendix).

Article 25 – Health

120. The Republic of Korea has endeavored to improve the general physical wellbeing and health of its people under acts, including the National Health Promotion Act, established in January 1995; the National Health Insurance Act, established in February 1999; the Medical Care Assistance Act, established in December 1977; and the Framework Act on Health Examination, established in March 2008. In particular, it has made efforts to protect the right to health for persons with disabilities, by establishing the WDPa and the MHA.

121. The WDPa requires the State and local governments to come up with measures and policies to detect and treat earlier diseases that cause disabilities (Article 17 (1)), as well as provide disabled persons with rehabilitative medical services in order for them to learn or recover their abilities for independence (Article 18). Under the Act, the government has been pursuing the construction of medical rehabilitation centers for persons with disabilities in six regions since 2005 under the Master Plan for Expanding Public Health Care and the Second-stage Five-year Policy Development Plan for Persons with Disabilities (2003-2007) (See Table 58 in the Appendix).

122. According to the 2008 Survey of Disabled Persons, the services most urgently needed by persons with disabilities from the government and society are “medical care support (30.1%),” “income support (21.9%),” and “housing support (15.4%),” with medical care support being the most desired service (See Table 59 in the Appendix). At present, government-subsidized projects for medical rehabilitation of persons with disabilities include the following: expansion and renovation of rehabilitative medical facilities; financial support for medical costs; tax deduction for medical costs; financial support for costs of implanting artificial cochlea to children with hearing disability; and medical cost support for premature babies and congenital abnormalities. In addition, persons with disabilities who are eligible for medical assistance can be provided with free medical services.

123. In order to allow persons with disabilities to access medical rehabilitation services in their communities, the government has implemented Community-based Rehabilitation (CBR), through which various services such as early detection of disabilities, health improvement and rehabilitative treatment for persons with disabilities, and support for families with disabled members are offered. The government has had public health centers at each region develop and implement their detailed action plans for improving the health of persons with disabilities. At present, out of 253 public health centers across the country, 45 centers (17.7%) offer rehabilitation services (See Tables 60 and 61 in the Appendix).

124. The government has established the National Rehabilitation Center, where medical care, counseling and rehabilitation training are offered to persons with disabilities. The government has also granted financial aid to welfare centers for persons with disabilities and residential institutions that offer medical rehabilitation services for persons with disabilities.

125. The Korean government guarantees by law the safe use of sanitation facilities by persons with disabilities. The APC and the Act on Promotion of Convenience and Safety for the Transportation Disadvantaged prescribe that restrooms for persons with disabilities shall be installed, setting forth the standard for the structure, floor materials, attachments, etc. for the convenient use by persons with disabilities.

126. The Korean government has reserved the ratification of Article 25 (e) of the Convention on the grounds that the Article conflicts with Article 732 of the Commercial Act. Considering persons with mental disabilities may not be allowed to purchase a life insurance policy regardless of the degree of their disabilities pursuant to Article 732 of the

Act stating “a contract of insurance which designates the death of a person under 15 years of age, of an insane person or of a mentally incompetent person as an insured event shall be null and void”, the government proposed a revision of the aforementioned article to the National Assembly in August 2008. Once the proposal is passed by the National Assembly, the Korean government will consider withdrawing the reservation of Article 25 (e) of the Convention.

Article 26 – Habilitation and Rehabilitation

127. The WDPA obliges the State and local governments to devise the necessary policies such as the provision of rehabilitative and independence support services tailored to the type and degree of the disability (Article 35), and to make provisions to enable persons with disabilities to receive services at national or public hospitals, health centers, disability welfare facilities through health screenings and rehabilitation consultations (Article 34). In addition, the Act requires them to provide rehabilitative treatment, including functional and psychological treatment, necessary for persons with disabilities to learn or regain life skills and to provide them with the necessary assistive technology devices (Article 18). The Act stipulates that the State and local governments must hold training programs that enable persons with disabilities to undergo a smooth transition into their daily and social lives after their rehabilitative treatment is over (Article 19). The Act also stipulates that they should promote persons with disabilities to pursue an occupation that is suitable to their aptitude and ability when they return to their daily lives by providing services such as vocational guidance for the development of disabled persons’ vocational competence, evaluation of vocational competence, occupational adaptation training and job search assistance (Article 21).

128. The government has established welfare centers for persons with disabilities, which provide services such as rehabilitative treatment and vocational rehabilitation training (190 centers as of 2010). In addition, the government has allocated funds to support rehabilitation training for persons with acquired visual disability and spinal disability. Meanwhile, in the four years following 2010, the National Rehabilitation Center is planning to invest a sum of 25 billion won for the construction of a multi-purpose rehabilitative training facility that combines rehabilitative physical training facilities, training facilities for independent living and social rehabilitation, and driving instruction and evaluation facilities.

129. Professionals in charge of rehabilitation of persons with disabilities include social workers, vocational rehabilitation officers, physiotherapists, prosthetists and orthotists, sign language interpreters, and Braille translators who obtain their qualifications after the process of receiving education above university level, passing the qualification examination or completing the qualification course. Among them, social workers, physiotherapists, prosthetists, and orthotists are officially qualified by national qualification systems. Sign language interpreters and Braille translators are qualified by nationally certified private qualification systems. The government also plans to place speech therapists under a national qualification system. The government provides periodic and continual education to enable the provision of high-quality service to persons with disabilities. The government has instructed the National Rehabilitation Center to provide professionals working at residential institutions, community-based rehabilitation facilities, and vocational rehabilitation facilities with supplementary education regarding care techniques, rehabilitative administration, rehabilitation service case management, etc., as well as to operate the training courses for instructors for the disabled and peer counselors. In addition, the government provides semi-annual, new technique training programs aimed at vocational rehabilitation teachers from the KEAD for improving the quality of vocational training services. It also provides training courses to local government officials responsible for

persons with disabilities to strengthen their disability welfare working capabilities through the Korea Human Resources Development Institute for Health and Welfare.

130. Since 2009, the government has been operating the “disability assistive technology device case management demonstration project” in order to provide customized aid suited to disability characteristics. The demonstration project includes the “case management service” where doctors, therapists, and rehabilitation engineers form teams to assist persons with disabilities to use assistive technology devices befitting their disabilities; the “assistive technology device call centers” that promptly provide disabled persons with information regarding assistive technology devices; and the “disabled assistive technology device education programs” aimed at rehabilitation professionals, which educates them about assistive technology devices. In addition, the government issues assistive technology devices such as speech recognition devices, visual magnifiers, and portable wireless signallers to low-income persons with disabilities as stipulated by the WDPA (Articles 18 and 66). It also provides 77 types of assistive devices through the National Health Insurance scheme (as of 2009, 70,000 beneficiaries with 34.2 billion won, See Table 42 in the Appendix). Furthermore, the government has established and operated the Rehabilitation Research Institute at the National Rehabilitation Center for the promotion of publicity, research, and international cooperation regarding assistive technology devices and assistive engineering.

Article 27 – Work and Employment

131. The Korean government forbids discrimination based on disabilities in the field of employment under several statutes, which include the EVDPA; the Labor Standards Act; the Framework Act on Employment Policy, enacted in December 1993; the Act on the Development of Workplace Skills of Workers, enacted in December 1997; and ARPDA. In particular, the ARPDA forbids employers from discriminating against persons with disabilities when it comes to recruitment, hiring, wages, and employee benefits, as well as training, placement, promotion, transfer, retirement, resignation, and dismissal (Article 10 (1)). Moreover, the ARPDA obligates employers to provide reasonable accommodations in order to enable workers with disabilities to work under equal conditions as persons without disabilities in carrying out allocated jobs (Article 11 (1)) (See Table 62 in the Appendix). However, the Minimum Wage Act, enacted in December 1986, has a provision that excludes from the minimum-wage coverage persons with disabilities with seriously low levels of work capability due to their mental or physical disabilities. According to the 2010 Survey on Economic Activities of Disabled Persons (based on registered persons with disabilities aged 15 or older), the employment-to-population ratio of persons with disabilities in Korea was at 36.0 percent and their unemployment rate was at 6.6 percent (The national employment-to-population ratio and unemployment rates were at 60.0 percent and 3.2 percent, respectively) (See Table 63 in the Appendix).

132. Based on the EVDPA, the government implements the “mandatory employment of disabled workers system” in order to promote employment opportunities for persons with disabilities. The system was originally introduced in 1990 pursuant to the Promotion of Employment of Disabled Persons Act. The mandatory employment system applies to owners of businesses with 50 or more regular workers, including central and local governments and public agencies. Following the system, governmental and public agencies must hire disabled workers to make up at least 3 percent of their workforce, and 2.3 percent for the private sector. To this end, employers with more than 100 regular workers who have failed to meet the mandatory employment quota must pay the “disability employment levy” (560,000 won per person per month). Meanwhile, the government pays the “disability employment subsidy” (150,000 to 500,000 won per person per month) to owners of businesses where workers with disabilities constitute more than 2.7 percent of the regular

workforce. Furthermore, it pays the “disability employment promotion subsidy” to business owners who have newly hired workers with disabilities. Owners of businesses with one or more regular workers are all eligible for the incentives. In an aim to induce businesses to hire persons with severe disabilities, the government also introduced the “double counting system for persons with severe disabilities” in 2010, under which the employment of one person with severe disabilities is considered the same as the employment of two persons with mild disabilities. Conversely, as of late December 2009, when the mandatory employment quota was 2 percent, the actual employment rates of persons with disabilities at the time for governmental agencies, public institutions, and the private sector were at 1.97 percent, 2.11 percent and 1.84 percent respectively (See Table 64 in the Appendix).

133. The “special employment system,” which selects only workers with severe disabilities (Article 20-3 of the Civil Service Examination Decree and Article 51-3 of the Decree on the Appointment of Local Public Officials), has been implemented with the aim of expanding the employment of workers with disabilities in central and local governments. The system of supplementing at least 3 percent (at least 6 percent if the government fails to meet the mandatory employment quota) of newly recruited public officials with separately selected workers with disabilities (“separate recruitment system”) (Article 27 of the EVDPA) is put into operation. During the period of 2008 to 2010, 81 persons with disabilities have been employed through the special employment system.

134. The government is operating the public workplace venture in order to provide employment opportunities for persons with severe disabilities who find it difficult to enter employment in the regular labor market. As an aspect of this venture, the government in 2009 hired workers with disabilities as administrative assistants, traffic wardens, health assistants, library assistants, mail sorters, and peer counsellors at governmental and public sector institutions. As of 2009, 4,172 workers with disabilities are participating in the public workplace venture for the disabled and the government budget for the venture is 2.984 billion won.

135. The Act on the Development of Workplace Skills of Workers prohibits discrimination based on disabilities in workplace skill development training, and specifies that in instances where opportunities for vocational training are being provided, workers with disabilities should be prioritized (Article 3 (3 and 4)). Accordingly, the government allocates the budget and the “Employment Insurance Fund” to ensure that persons with disabilities are provided with vocational competence development programs on an equal basis as persons without disabilities. Furthermore, based on the EVDPA (Article 12), the government separately manages the “Fund for Promoting Employment and Vocational Rehabilitation of Persons with Disabilities” in order to provide vocational training services to persons with disabilities. Such training services are provided by five regional branches of the Vocational Competency Development Center (an affiliated organization of the KEAD under the Ministry of Employment and Labor). The Vocational Competency Development Center provides specialized vocational training by considering the types of disability, and allocates more than 70 percent of the total trainee quota to persons with severe disabilities (As of 2009, 2,434 participants and 68.5 percent of employment). In addition, the government has commissioned about 40 public training centers and 20 private training centers to provide vocational training services for persons with disabilities. Meanwhile, in cases where workers suffer a workplace injury resulting in a disability, the workers with disabilities in question are entitled to receive benefits such as financial support for returning to the original workplace, workplace adaptation training, rehabilitation consultation, and rehabilitative sports treatments under the Industrial Accident Compensation Insurance Act.

136. The government has established “vocational rehabilitation facilities for persons with disabilities” in order to promote the employment of persons with disabilities by providing services such as vocational consultation and vocational adaptation training (See

Table 3 in the Appendix). The government plans to further expand the provision of disabled vocational rehabilitation facilities, taking into consideration the fact that although the disabled population's desire for work is continually rising, the supporting infrastructure has been found to be lacking.

137. The ASEPD requires heads of schools above the middle school level to provide vocational rehabilitation training, including vocational evaluation, vocational education, employment support and follow-up services as well as independent living training, including daily life adjustment training and social adaptation training, in order to support special education recipients with their career path and vocational education suitable to the characteristics and demands of their disability (Article 23 (1)). Subsequently, the government has established and implemented the "Plan for Improving the Substance of Career Choice and Vocational Education for Disabled Students." As of 2010, there are 10 vocational education schools within ordinary schools, along with 12 school-based enterprises within special schools that have been installed in order to strengthen career choices and vocational education for disabled students. The government aims to continue expanding this initiative.

138. The PDEA aims to promote the ventures and business activities of persons with disabilities. The Act obliges the State and local governments to give preference to investments and loans to disabled business founders and enterprises related to supporting disabled persons' ventures (Article 8 (2)) and in supporting mid-sized businesses, to give preference to disabled persons' enterprises (Article 9 (1)). In addition, the Act recommends that heads of public sector organizations purchase goods produced by disabled persons' enterprises (Article 9-2) and makes such purchases tax-deductible (Article 14) (See Tables 66 and 67 in the Appendix). As a side-note, according to the 2010 Survey on Economic Activity Status of Disabled Persons, 35.3 percent of employed persons with disabilities were self-employed, and 54.6 percent were waged workers (See Table 68 in the Appendix) (Out of the nation's employed individuals, 23.5 percent were self-employed and 71 percent waged workers). Meanwhile, the government has been continually fostering "Model Enterprises for Persons with Disabilities" that employ a large number of workers with disabilities. "Model Enterprises for Persons with Disabilities" are private enterprises that hire persons with disabilities as at least 30 percent of their regular workforce and, as of 2010, 102 enterprises have been established (2,554 persons with disabilities, the proportion of the disabled among the regular workforce standing at 54 percent).

139. The KEAD was established in 1990 under the Ministry of Employment and Labor, with the aim of promoting the employment of persons with disabilities. The KEAD helps persons with disabilities find jobs through job placements and vocational training programs, and provides employment promotion incentives and assistive technology devices to business owners who hire workers with disabilities. Support services for the employment of persons with disabilities offered by the KEAD include the evaluation of vocational competence, job placements, and online job portal systems. Furthermore, as part of the efforts to provide those support services, the government is running Work Together (www.worktogether.or.kr), a website specializing in the employment of the disabled.

140. The Trade Union and Labor Relations Adjustment Act, which was enacted in December 1996, guarantees the workers' right to freely engage in trade union activities, by protecting the rights of association, collective bargaining, and collective action (Article 1). The ARPDA further stipulates that there should be no refusal of membership towards workers with disabilities on the part of the trade unions in accordance with the above Act, and that there should be no discrimination against workers with disabilities in the rights and activities of the members (Article 10 (2)).

Article 28 – Adequate Standard of Living and Social Protection

141. According to the 2008 Survey of Disabled Persons, the average monthly income for disabled households was 1.819 million won, which was only 54 percent of that for national households (3.37 million won) (See Table 69 in the Appendix). Also, the absolute poverty rate was at 20.38 percent, which was higher than that of persons without disabilities, which stood at 7.65 percent (See Table 70 in the Appendix). Based on the DPA enacted in July 2010, the government has introduced the Disability Pensions System, which supports a monthly sum of 90,000–150,000 won for low-income earners with severe disabilities aged 18 or over, in compensation for the loss of income and additional costs caused by their disabilities. However, only the lowest earning 56 percent of the severely disabled population are eligible to benefit from the Disability Pensions System, which is somewhat narrow in scope in comparison to the basic senior pensions supporting the lowest earning 70%. Critics have pointed out that the payment sums (approximately 5–8 percent of the average income of disabled households) are limited in compensating for the additional living costs incurred by disabilities (210,000 won). Subsequently, the government is planning to expand the eligibility of the Disability Pensions System to the same level as the basic senior pensions given out to the elderly. Moreover, it is planning to gradually raise the payment level of the additional compensation to be able to cover the extra costs incurred by disabilities, and finally to increase the basic payment by up to 10 percent of the average monthly income over the most recent three years of national pension recipients until 2028. Furthermore, based on Articles 49 of the WDPA, the government provides disability benefits to low-income earners at the age of 18 or over with mild disabilities (See Table 71 in the Appendix), and children disability benefits to in-home children with disabilities under the age of 18 in low-income households (See Table 16 in the Appendix).

142. The WDPA obliges the State and local governments to sell or rent newly constructed housing with special preference to persons with disabilities, taking into consideration the degree of severity of their disabilities. The WDPA also obliges the State and local governments to devise a policy necessary for improving the distribution of housing suitable for the daily lives of persons with disabilities, such as monetary support to persons with disabilities for housing purchase, rent, or renovation/repairs (Article 27). Accordingly, for vulnerable social groups, including persons with disabilities, the government specially provides housing within 10 percent of the supply of housing units for sale or rent with an exclusive area of 85m² or under, and with a preference of within 20 percent of the supply of national rental housing. For reference, the number of national rental housing units provided to persons with disabilities has increased from 840 in 2004 to 1,996 in 2009.

143. The government and public organizations operate a system of various tax deductions and usage fee exemptions in order to alleviate the economic burden for persons with disabilities. This includes income tax deduction, inheritance tax deduction, tax deduction for special education costs for persons with disabilities, tax deduction for medical costs, and donation tax exemption of up to 500 million won of property value. Usage fee exemptions for persons with disabilities are applied to national palaces, royal mausolea, national or public museums and galleries, national or public parks, national or public theaters, and public athletic facilities. Furthermore, persons with disabilities receive discount rates on public utilities, including landline telephone services, mobile phone services, televisions (only for persons with visual or hearing disabilities), high-speed internet, electricity, and gas.

Article 29 – Participation in Political and Public Life

144. In adherence to the Constitution, all citizens have the right to vote as provided by law (Article 24). The Public Official Election Act (POEA), which was enacted in March 1994 and amended in March 2010, grants, in principle, the rights to vote and eligibility for election candidacy to people regardless of disabilities. However, the POEA does not, in exceptional cases, grant such rights to those who have been declared incompetent by the courts due to a mental disorder (subparagraph 1 of Article 18 (1) and 1 of Article 19). As a point of reference, as of 2010, there are seven National Assembly Representatives with disabilities out of 299 current representatives, and 65 local councillors with disabilities out of a total 3,868 councillors nationwide.

145. According to the POEA, those who cannot appear at designated voting places due to being under long-term inhabitancy in hospitals or rest homes, or due to severe disabilities, are permitted to vote at the said facilities or residence. In such cases, voting booths should be installed at residential facilities for persons with disabilities (subparagraph 2 of Articles 38 (3) and 149-2). Furthermore, in cases of voting at designated polling stations, the POEA allows voters who cannot vote in person due to visual or physical disabilities to be accompanied by their family members or two persons designated by the person for assistance in voting (Article 157 (6)).

146. Prohibiting any discrimination against persons with disabilities in exercising their political rights, the ARPDA stipulates that the State and local governments shall provide reasonable accommodations, including facilities and equipment, promoting and conveying information, developing and distributing election support tools, and assigning support staff in order to guarantee their political rights (Article 27 (2)). In addition, the POEA aims to promote convenience for persons with disabilities throughout the election period, including the provision of sign language interpretation, subtitles for televised advertisements for election campaigns or televised candidate speeches (Articles 70 (6) and 72 (2)), as well as special ballot papers or voting assistive technology devices to persons with visual disabilities on voting day (Article 151 (7)). To this end, the National Election Commission provides voting booths for persons with disabilities and voting assistive technology devices at polling stations, and additional convenience facilities (such as provisional ramps) in places that lack access points or convenience facilities for persons with disabilities. In addition, the National Election Commission aims to eliminate inconveniences for persons with disabilities in participating in the voting process, by deploying voting assistants (2–4 persons per polling station) who provide guidance on voting procedure according to the type of disability. The National Election Commission provides information regarding voting methods and procedures in advance, in the form of voting guidelines in Braille and audio CDs. However, during the local elections of June 2010, the rate of Braille campaign bulletins provided to the visually impaired was 58 percent (See Table 72 in the Appendix). Meanwhile, the NHRC deemed that, in the July 2008 elections for the superintendent of education, the designation of buildings with stairs and curbs as polling stations, failing to install convenience facilities for persons with disabilities was a discriminatory act that violated the ARPDA. As a consequence, the NHRC recommended the relevant chairman of the election committee to remedy the situation, and the National Election Commission has accepted the recommendation and put in place measures to prevent another such mistake. According to the 2008 Survey of Disabled Persons, in the National Assembly elections of the same year, it was shown that 74 percent of the disabled population had participated in the voting. Considering that the overall voter turnout in that particular year's election was 46 percent, the turnout of voters with disabilities was relatively high.

147. In cases where persons with disabilities are elected to serve at any level in governmental institutions or appointed to do so under either the State Public Officials Act

or the Local Public Officials Act, the persons shall not be discriminated against due to their disabilities and shall be entitled to be provided with conveniences necessary to perform their jobs in the area of employment according to the ARPDA (Article 11).

148. The government supports the formation and maintenance of organizations representing persons with disabilities through the national treasury. As of 2010, 23 DPOs are receiving government support. The government has appointed persons with disabilities or the representatives of DPOs as members of government committees in order to guarantee the rights of persons with disabilities to participate in the government policymaking process and public decision making process for matters related to persons with disabilities. Those committees include the PCCDP under the Prime Minister's Office; the Convenience Improvement Deliberation Committee, the Committee for Promoting Preferential Purchase of Products Manufactured by Persons with Severe Disabilities, the Social Security Deliberation Committee, the Health and Medical Technology Policy Deliberation Committee, the Central Childcare Policy Committee, the Central Pharmacists' Council under the Ministry of Health and Welfare; the Central Special Education Steering Committee under the Ministry of Education, Science and Technology; the Expert Committee for Promoting Employment of Persons with Disabilities under the Ministry of Employment and Labor; and the Antidiscrimination Deliberation Committee for Persons with Disabilities under the Ministry of Justice (See Table 73 in the Appendix).

149. The Political Parties Act, which was enacted in December 1962 and amended in July 2010, sets no limitation based on disabilities for establishing or becoming members of a political party of citizens with the right to vote in National Assembly elections. In addition, the ARPDA prescribes that political parties shall not discriminate against persons with disabilities when they exercise their political rights such as the rights to vote and be elected (Article 27 (1)).

Article 30 – Participation in Cultural Life, Recreation, Leisure and Sport

150. The ARPDA prohibits the discrimination against persons with disabilities in cultural, artistic, and physical activities, and also obliges the State and local governments to provide reasonable accommodations in order to enable persons with disabilities to participate in those activities on an equal basis as persons without disabilities (Articles 24 (2) and 25 (2)). In addition, the WDPA (Article 28) and the Culture and Arts Promotion Act, enacted in August 1972, (Article 15-2) requires the State and local governments to maintain and financially support facilities, equipment, and other environments for cultural, physical, artistic, and educational activities in order to promote the participation of persons with disabilities in those activities.

151. The government distributes culture vouchers, which allow low-income earners with disabilities to enjoy performances or exhibitions free of charge, and has been assigning professional instructors in dance, music, and other cultural arts to disability welfare centers to provide cultural education programs to persons with disabilities. In addition, the government has supported installation costs for automatic subtitling devices at selected cultural and arts facilities to enable hearing-impaired persons to receive Korean subtitling services even in cases when Korean films are shown. The government has also provided the visually impaired with screen reader services through FM transceivers (See Tables 74 and 75 in the Appendix).

152. The government has been expanding the opportunities for persons with disabilities to participate in life sports, by supporting disabled societies and competitions. In 2009, the government supported the budgets for the disabled life sports societies, sport activity

classes for youth with disabilities and camps for youth with disabilities, and hosted the National Sports Games for Students with Disabilities. In addition, the government is providing life sports programs such as seasonal sports classes, camps for mountain recreational activities, and ski schools and classes for disabled women. It is also providing training expenses for national athletes and future candidates with disabilities in order to actively discover and foster disabled persons with sporting talents (See Table 76 in the Appendix).

153. While the Copyright Act, enacted in January 1957 and amended in March 2009, essentially protects the rights of authors, including their intellectual property rights, it partially restricts those rights in order to secure the right of persons with visual disabilities to have access to information. It does this by prescribing that works made public may be reproduced and distributed in Braille, and facilities promoting the welfare of persons with visual disabilities with no profit-making purpose may produce an audio recording of literary works already made public, or reproduce, distribute or transmit them by an exclusive recording method for the personal use of persons with visual disabilities (Article 33). The Enforcement Decree of the Act prescribes exclusive recording methods for persons with visual disabilities, such as an electronic information recording method aimed at Braille representation and an information recording method aimed at converting printed matters into voice (Article 14 (2)).

154. The ARPDA, amended in May 2010, newly stipulates that publishers of periodic publications and producers and distributors of film and video shall make an effort to enable access to their products by persons with disabilities on an equal basis with persons without disabilities. In particular, the amended Act obliges the National Central Library to offer newly produced or distributed publications in the form of Braille, sound or large print (Article 21 (5)). The National Central Library has set up the National Library Assistance Center for the Disabled to be placed under its control in order to manufacture and distribute reading materials, teaching aids, instructions, etc. for the use of persons with disabilities. If necessary for performing such duties, it may request a person who has published library materials to present them in a digital file format, and the person in receipt of such request shall comply therewith unless any special ground exists to the contrary (Article 20 (2) and subparagraph 3 of Article 45 (2) of the Libraries Act).

Article 31 – Statistics and Data Collection

155. The government collects statistical data relating to persons with disabilities as stipulated by Article 2 of the Statistics Act, enacted in January 1962. Governmental agencies relating to persons with disabilities use the collected statistical data for the establishment, implementation, and evaluation of policies aimed at promoting the rights of persons with disabilities. The Ministry of Health and Welfare annually publishes the “Yearbook on Health and Welfare Statistics,” which includes the number of registered persons with disabilities disaggregated by disability type, disability rating, age and district, number of residential facilities for persons with disabilities, and number of residents. The Yearbook also records the progress in the installation of convenience facilities for persons with disabilities, as well as the progress in distributing rehabilitation assistive technology devices to persons with disabilities, based on which the Ministry issues a Ministry of Health and Welfare White Paper describing the progress in promoting the policy and establishing the plans for its improvement (See Table 77 in the Appendix).

156. The government conducts a triennial survey on persons with disabilities under Article 31 (1) of the WDPA. The survey categories include information regarding general characteristics of persons with disabilities such as gender, age, and family relations; disability characteristics, including the type, degree, and cause of disability; economic

situation of persons with disabilities, including employment, occupational training, income, and residence; matters relating to welfare desires for rehabilitation service or convenience facilities installation for persons with disabilities; and pregnancy, childbirth or child rearing for women with disabilities (Article 18 (2) of the Enforcement Decree).

157. The government widely circulates the collected statistics for swift and convenient use by the citizens under Articles 2 (1), 27, and 28 of the Statistics Act. Each governmental agency must publish key statistical data on its internet websites, and guarantee web accessibility for persons with disabilities as stipulated by the ARPDA and the Guidelines on Internet Web Contents Accessibility, ensuring the easy access of persons with disabilities to statistical data.

158. The government must protect privacy regarding the personal information and the private life of all individuals in the process of collecting and providing statistical data under Articles 2 (3), 31, 33, and 34. In cases where the relevant articles have been violated, the violators are placed under imprisonment, fines, and penalties (Articles 39 and 41). In addition, the government protects the personal information of individuals by applying the rules corresponding to international norms in the collection and processing of personal information, under Article 3-2 of the Act on the Protection of Personal Information Maintained by Public Institutions. The personal information of persons with disabilities is also protected under these statutes.

159. Governmental agencies or state-operated institutions collecting information or conducting research on behalf of governmental agencies consult persons with disabilities or DPOs in the establishment of research plans, data collection, or evaluation on research results, and at times promote their participation in data collection or even as researchers. As an example, the Ministry of Health and Welfare, the Ministry of Land, Transport and Maritime Affairs and the NHRC are promoting the participation of persons with disabilities and personnel related to DPOs in various disability-related surveys, including a study on statutes infringing the ARPDA, surveys on disability convenience facilities, and surveys on the human rights of persons with disabilities in residential facilities. Also, they are promoting the participation of persons with disabilities or DPOs in the process of consultation on research or evaluation on research results.

Article 32 – International Cooperation

160. As a member of the UN Economic and Social Commission for Asia and the Pacific (ESCAP), the government has been sharing and exchanging exemplary legislations, policies and programs regarding persons with disabilities in Korea with ESCAP members and associate members. In particular, the government is planning to host the “High-level Intergovernmental Meeting on the Final Review of the Implementation of the Second Asia and Pacific Decade of Disabled Persons, 2003 – 2012.” It is also planning to formulate strategies for the Third Asia and Pacific Decade of Disabled Persons, scheduled to begin in 2013, as the host nation. For ESCAP-related projects, the government contributed 60,000 dollars to the ESCAP Secretariat in 2010, and plans to increase it to the level of about 200,000 dollars in 2011.

161. The NHRC shared the efforts of regional nations in the universal implementation of the Convention on the Rights of Persons with Disabilities, at the March 2010 International Symposium for the Effective Implementation of the Convention on the Rights of Persons with Disabilities in Asia-Pacific Region hosted in Seoul. Also, the NHRC shared its activities with regard to human rights protection and promotion, including its investigation of and remedies for disability discrimination under the ARPDA, at the October 2009 Annual Partnership Program for Human Rights Officers of National

Institutions, with NHRC officials from Mongolia, Philippines, Nepal, Indonesia, East Timor, Thailand, and Afghanistan.

162. The government has supported and will support non-governmental international events, including the 10th World Blind Union Asia-Pacific Regional Seminar on Massage in 2010, the 20th Asian Conference on Intellectual Disabilities in 2011, 2012 Rehabilitation International World Congress, 2012 Asia-Pacific Disability Forum Conference, and 2012 Asia-Pacific Disabled Peoples' Assembly of Disabled Peoples' International for the purpose of strengthening the international capability and vitalizing international exchange of DPOs.

163. From 2005 to 2009, the government operated capability-strengthening programs, having invited 78 leaders in the field of employment of persons with disabilities from 11 countries, including Vietnam, as a part of the cooperation plan with the International Labor Organization (ILO) Regional Office for Asia and the Pacific. In addition, the government formed sisterhood relations with Thailand, Mongolia, and Fiji for supporting the vocational competency development of persons with disabilities in those countries, and shared information regarding Korea's policy on the employment of persons with disabilities, the vocational competency development system and assistive technology devices for persons with disabilities. In particular, in 2008 and 2009, the government provided the Mongolian National Rehabilitation Center with assistive technology devices, computers, and restroom convenience equipment for persons with disabilities. The government and the ILO Regional Office for Asia and the Pacific advised relevant developing countries to include women and youths with disabilities when selecting the participants of these training programs. Subsequently, approximately 10 percent of those invited annually have consisted of women and youths with disabilities.

164. The Korea International Cooperation Agency (KOICA), responsible for Korea's grant aid programs, supports various international development cooperative initiatives for persons with disabilities. Examples include the construction of the Korea-Colombia Rehabilitation Center, which provides vocational training and specialized rehabilitation services to patients, including war veterans and anti-personnel mine victims in need of rehabilitative treatment (2009 – 2012); the provision of rehabilitation services and the support for social inclusion of persons with disabilities suffering from poverty in Vietnam (2009); the provision of apparatus to the Sichuan Rehabilitation Center in China (2009); and the provision of IT equipment to the Lebanon Health and Rehabilitation Center (2006). The 2010 KOICA budget for international cooperation initiatives for persons with disabilities is at the scale of 4.28 million dollars.

165. Korea has newly joined the OECD Development Assistance Committee (DAC) in 2010. The Korean government aims to meet the DAC's various aid regulations stipulated by the 2005 Paris Declaration on Aid Effectiveness, the 2008 Acra Agenda for Action, and the mainstreaming of cross-cutting issues on international development cooperation. At present, there are no Official Development Assistance (ODA) initiatives where the main strategy is the mainstreaming of disability, or where persons with disabilities participate in the development or evaluation of initiatives. The government aims to actively deliberate on a plan to promote the participation of persons with disabilities in the development and evaluation of international development cooperation initiatives and to reflect the disability mainstreaming strategy onto the overall cross-sector linkage plans, which are currently focused around the environment and gender equality.

Article 33 – National Implementation and Monitoring

166. The Korean government assigns matters related to persons with disabilities to 11 governmental agencies (See Table 79 in the Appendix). The government, in accordance

with its system of organization, has designated the Bureau of Policy for Persons with Disabilities at the Ministry of Health and Welfare as the focal point to inspect the aspects relating to the implementation of the Convention. The Bureau of Policy for Persons with Disabilities had reviewed the implementation of the Convention by analyzing domestic statutes, systems, and policies regarding persons with disabilities, and based on the results, created this national report. The Bureau of Policy for Persons with Disabilities has been overseeing and monitoring the progress of the Five-year Policy Development Plan for Persons with Disabilities, which has been under promotion on a pan-governmental basis since 1998, with the aim of improving the rights and quality of life for persons with disabilities, and has periodically monitored whether the ARPDA, which will serve as the foundation for the implementation of the Convention, is being adhered to in the public and private sectors.

167. In order to establish an overall policy on persons with disabilities, adjust the opinions of relevant governmental agencies, and supervise and evaluate the implementation of the said policy, the government has established and operated the Policy Coordination Committee for Disabled Persons (PCCDP) as a non-standing body under the Office of the Prime Minister, under Article 11 of the WDPA. The matters deliberated and coordinated by the PCCDP are the matters concerning (1) the basic direction of disability welfare policies, (2) institutional improvement and budgetary support for the improvement of disability welfare, (3) the coordination of important special education policies, (4) the significant coordination of employment promotion policies for persons with disabilities, (5) the coordination of policies for ensuring the mobility of persons with disabilities, (6) the financing for the promotion of disability policies, and (7) cooperation of the Ministries regarding disability welfare. The PCCDP has reviewed the draft of this report.

168. The NHRC, based on the NHRCA, enacted in May 2001, is adhering to the “Principles relating to the Status of National Institutions” (the so-called Paris Principles) by executing all of its assigned functions, including tasks pertaining to the domestic implementation of international treaties, independently from other national institutions (Article 3). Furthermore, the NHRC is responsible for “research, recommendation or presentation of opinions, with respect to the ratification and the implementation of any international treaties on human rights (subparagraph 7 of Article 19), and presents its opinion on state party’s reports prepared under the provisions of any international treaties on human rights (Article 21). Accordingly, the NHRC has reviewed the draft of this report and presented its opinion on it. Furthermore, the NHRC investigates statutes, systems, policies, and practices regarding the human rights of social minorities, including persons with disabilities, and presents recommendations or opinions for their improvements, pursuant to the NHRCA, the ARPDA, etc. which are based on or implement international human rights standards. In addition, the NHRC investigates and remedies petitions against cases of human rights violation and, if necessary, initiates an ex officio investigation and survey on human rights violations fulfilling the role of enhancing and monitoring the domestic implementation of international human rights standards, including the Convention (See Table 80 in the Appendix).

169. The government has been promoting persons with disabilities and DPOs to participate in monitoring legislation and policies pertaining to persons with disabilities. The Ministry of Health and Welfare and the NHRC have encouraged the active participation of persons with disabilities and DPOs in monitoring the implementation of the ARPDA.