UNITED NATIONS

CRC

Distr.

GENERAL

CRC/C/OPSC/CHL/Q/1/Add.1

21 December 2007

ENGLISHOriginal: SPANISH

Convention on the Rights of the Child

COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-seventh session

14 January-1 February 2008

Written replies submitted by the Government of CHILE to the list of issues (CRC/C/OPSC/CHL/Q/1) to be taken up in connection with the consideration of the initial report of CHILE (CRC/C/OPSC/CHL/1) submitted under article 12, PARAGRAPH 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*

[Replies received on 5 December 2007]

Question 1.Please provide (if available) disaggregated statistical data (including by sex, age group, urban/rural area) for the years 2004, 2005 and 2006 on:

(a) The number of reported cases of sale of children, child prostitution and child pornography, with additional information on type of follow-up provided on the outcome of the cases, including prosecution, withdrawals and sanctions for perpetrators;

1.See tables 1 to 7 below.

Table 1

Cases registered 2004-2006,by offence and year of receipt of case

Offence	Year of receipt	Total		
2004	2005	2006		
Promoting or facilitating prostitution of minors (art. 367)	80	123	94	297
Production of child pornography (art. 366 quinquies)	3	52	69	124
Sale of child pornography (art. 374 bis)	0	2	3	5
Acquisition or storage of child pornography (art. 374 bis)	1	18	44	63
Obtaining sexual services of a minor (art. 367 ter)	5	2	12	19
Total	89	197	222	508

Source: Public Prosecutor's Office, October 2007.

Table 2

Persons charged, by offence and sex

Offence	Sex of person charged	Total		
Not specified	Female	Male		
Promoting or facilitating prostitution of minors (art. 367)	113	95	125	333
Production of child pornography (art. 366 quinquies)	44	4	79	127
Sale of child pornography (art. 374 bis)	4	0	1	5
Acquisition or storage of child pornography (art. 374 bis)	17	1	48	66
Obtaining sexual services of a minor (art. 367 ter)	1	0	19	20
Total	179	100	272	551

Source: Public Prosecutor's Office, October 2007.

Table 3

Persons charged, by offence and age group

Offence	Age group of person charged		Total		
Under 16	16-18	Over 18	Not specified		
Promoting or facilitating prostitution of minors (art. 367)	4	3	162	164	333
Production of child pornography (art. 366 quinquies)	1	0	64	62	127
Sale of child pornography (art. 374 bis)	0	0	0	5	5
Acquisition or storage of child pornography (art. 374 bis)	0	0	40	26	66
Obtaining sexual services of a minor (art. 367 ter)	0	0	18	2	20
Total	5	3	284	259	551

Source: Public Prosecutor's Office, October 2007.

Table 4

Victims, by offence and sex

Offence	Sex of victim		Total	
Not specified	Female	Male		
Promoting or facilitating prostitution of minors (art. 367)	26	235	30	291
Production of child pornography (art. 366 quinquies)	53	36	26	115
Sale of child pornography (art. 374 bis)	5	0	0	5
Acquisition or storage of child pornography (art. 374 bis)	39	6	15	60
Obtaining sexual services of a minor (art. 367 ter)	0	15	14	29
Total	123	292	85	500

Source: Public Prosecutor's Office, October 2007.

Table 5

Victims, by offence and age group

Offence	Age group of victim		Total		
Under 7	7-14	15-18	Over 18	Not specified	
Promoting or facilitating prostitution of minors (art. 367)	6	73	138	19	55	291
Production of child pornography (art. 366 quinquies)	4	25	14	12	60	115
Sale of child pornography (art.374 bis)	0	0	0	0	5	5
Acquisition or storage of child pornography (art.374 bis)	1	5	6	3	45	60
Obtaining sexual services of a minor (art.367 ter)	0	4	21	1	3	29
Total	11	107	179	35	168	500

Source: Public Prosecutor's Office, October 2007.

Table 6

Type of proceedings, by offence

Offence	Proceedings		Total		
No proceedings	Ordinary	Simplified	Summary	Admonitory	
Promoting or facilitating prostitution of minors (art.367)	256	49	1	18	1	325
Production of child pornography (art.366 quinquies)	45	23	1	18	0	87
Sale of child pornography (art.374 bis)	2	1	0	0	0	3
Acquisition or storage of child pornography (art.374 bis)	24	13	1	6	0	44
Obtaining sexual services of a minor (art.367 ter)	2	13	0	2	0	17
Total	325	99	3	44	1	476

Source: Public Prosecutor's Office, October 2007.

Table 7

Outcome of proceedings, by offence

	Offences	Total			
Promoting or facilitating prostitution of minors (art. 367)	Production of child pornography (art. 366 quinquies)	Sale of child pornography (art. 374 bis)	Acquisition or storage of child pornography (art. 374 bis)	Obtaining sexual services of a minor (art. 367 ter)	
Judicial outcomes	Admonitory proceedings and a fine accepted	1	0	0	0 0 1
Decision not to proceed with inquiries	15	7	0	8	0 30
Acquittal	3	4	0	9	3 19
Conviction	22	28	0	6	12 68
Dismissal	8	7	0	0	0 15
Stay of proceedings	1	0	0	0	0 1
Conditional suspension of proceedings	2	0	0	1	0 3
Total	52	46	0	24	15 137
Discretionary outcomes	Temporary suspension	191	27	2	12 0 232
Decision not to proceed	35	0	1	5	0 41
Lack of jurisdiction	12	3	0	1	0 16
Total	238	30	3	18	0 289
Other outcomes	Merged with another case	34	7	0	2 2 45
Administrative annulment	1	1	0	0	0 2
Closed for other reasons	0	3	0	0	0 3
Total	35	11	0	2	2 50

Source: Public Prosecutor's Office, October 2007.

(b) The number of children trafficked to and from Chile, as well as trafficked within the country;

2.The National Service for Minors (SENAME) keeps a register and statistics on children and adolescents who are commercially sexually exploited, for whom it provides rehabilitation programmes in 9 of the country's 15 regions. In particular, these programmes are designed to assist children whose rights have been violated and who are commercially sexually exploited, whether as victims of prostitution, of pornography, of trafficking for sexual purposes or of commercial sexual exploitation related to tourism. According to SENAME records, 1,105 children were admitted to special programmes addressing these issues between 2003 and 2006.

3.Concerning trafficking in particular, the central register and intervention system on the worst forms of child labour, a registration tool administered by SENAME, has received reports from programmes in the network concerning children and adolescents whose rights are violated and who are described as victims of "trafficking for sexual purposes"; these appear to be victims of commercial sexual exploitation identified in a region other than that of origin and/or previous residence.

4.Assistance under these specialized projects is guaranteed to foreign children and adolescents who are victims of commercial sexual exploitation, including that resulting from trafficking. Persons whose rights are violated may also seek assistance, whether at their own initiative or on referral by a local authority or institution, from the nationwide network of prevention, protection, recovery and rehabilitation programmes.

(c) The number of child victims provided with recovery assistance and compensation as indicated in article 9, paragraphs 3 and 4, of the Protocol.

5.Working with accredited organizations, SENAME provides rehabilitation support to child victims of commercial sexual exploitation, including victims of offences such as the promotion and facilitation of prostitution and use in pornography. Programmes of this kind increased substantially from 2002 to 2006. Today there are 14 such programmes in the Tarapacá, Antofagasta, Atacama, Coquimbo, Valparaíso, Bio Bio, Araucanía, Los Lagos and Metropolitan regions. A new type of assistance has been added in the form of comprehensive specialized intervention programmes to permit the resignification of children and adolescents in extremely complex situations and facilitate their family and social reintegration.

6.As stated above, 1,105 child victims of commercial sexual exploitation were admitted to special rehabilitation programmes for victims of this type of violation between 2003 and 2006; 77.2 per cent were girls and 22.8 per cent boys. In 2003, 53 children were admitted; 315 were registered the following year; the figure increased to 412 in 2005, and 325 were registered in 2006. Most of the children (73.8 per cent) were in the 14 to 18 age group.

7.The areas with the highest numbers of children admitted to the SENAME network are the Metropolitan region, with 25.5 per cent, followed by Antofagasta region with 14 per cent, Valparaíso region with 13.9 per cent and Bio Bio region in fourth place, with 8.4 per cent.

8.In addition, 527 children identified as being at risk of the worst forms of child labour and/or commercial sexual exploitation were assisted by technical teams through 15 miniprojects developed in 2006 in eight regions of Chile in cooperation with the International Labour Organization (ILO). These children were provided with various forms of assistance, in particular support for their reintegration and/or to enable them to stay in school. At the same time, the initiative facilitated the participation of 265 of the children's families and significant adults, by helping to strengthen their parental role and meet their basic needs and by making intersectoral arrangements for them to be assisted by local authorities and services.

Question 2.Please clarify whether the National Service for Minors (SENAME) is the governmental body in charge of the implementation of the Optional Protocol and further elaborate on its role and activities in this respect.

9.Chile carries out its commitments under the Optional Protocol by assigning the issues dealt with in the instrument to the various public services competent to deal with each of them. In the preparation of reports on the implementation of the Protocol, it is generally the Ministry of Planning that coordinates the collection of information from the various competent services, with support from the Ministry of Foreign Affairs, which produces the final report submitted to the Committee.

10.To strengthen compliance with obligations under the Protocol, SENAME has concluded agreements with international organizations, including the International Organization for Migration (IOM) and ILO, to develop strategies for the prevention and elimination of the worst forms of child labour, in particular commercial sexual exploitation of children and adolescents, estimated to affect 3,719 children and adolescents in Chile, according to a study carried out by SENAME and ILO in 2003.

Question 3.Please provide more information on measures taken to establish an effective system of data collection on the issues covered by the Optional Protocol.

11.One of the main methods of data collection coordinated by SENAME is the central register and intervention system on the worst forms of child labour, which includes trafficking in children and adolescents as one of the categories of commercial sexual exploitation. This is an intersectoral tool which was implemented in 2003 in five regions (Antofagasta, Valparaíso, Bio Bio, Araucanía and the Metropolitan region) and extended to the whole country in 2004.

12.It is an integrated system for the identification, registration, referral and removal of children in such situations, which promotes the involvement of key actors and strengthening of capacities within and across institutions. The system uses technological tools that facilitate coordination and registration at the national level, including remote areas. It can be extended to other institutions, replicated and gradually refined. It also enables the development of a common language to refer to serious violations of children's and adolescents' rights.

13.The purpose of the system is to determine how many children and adolescents are in exploitative situations and their characteristics and, especially, to help put a stop to the situation and protect their rights through the coordination of regional and local institutional measures. Detection is carried out by the Carabineros, the criminal investigation police, the Labour Department and the SENAME project network, with coordination under way to include the Ministries of Education and Health.

14.Substantial efforts were made in 2006 and 2007 to improve the system, focusing on graphics, reports and the recording of intervention results. To date, 2,476 children in the worst forms of child labour have been registered, 30 per cent of them victims of commercial sexual exploitation.

Question 4.Please briefly clarify the nature of the Framework for Action against the Commercial Sexual Exploitation of Children and Adolescents and elaborate on its activities.

15.In June 1999, Chile held its First National Conference on Violence against and Commercial Sexual Exploitation of Children and Adolescents, for the purpose of exchanging experiences, reviewing international commitments and adopting a final declaration, with agreements involving all sectors of society.

16.The Conference was supported by the following organizations: Chilean United Nations Association (ACHNU); the Psychosocial Rehabilitation and Study Centre (CERSO), the National AIDS Committee (CONASIDA), the NGO Raíces, the Margen Foundation, the InterIAmerican Children's Institute (INN), the Ministry of Justice, the United Nations Children's Fund (UNICEF), the judiciary, other ministries and government departments, municipalities, universities, the Carabineros, the criminal investigation police and NGOs.

17.One of the main outcomes of the Conference was the establishment of working parties which formulated a national plan of action, based on the agreements reached in Stockholm and Montevideo, to address commercial sexual exploitation of children through a systematic approach. To that end, a technical secretariat was set up, comprising the Ministry of Justice, UNICEF, INN, ACHNU and the Margen Foundation.

18.In 1999, together with the organizations mentioned above, the Ministry of Justice drafted a "Framework for Action against the Commercial Sexual Exploitation of Children and Adolescents", an important instrument in the design of coordinated policies and action on this issue, which will enable Chile to meet its international commitments in this regard.

Framework for Action against the Commercial Sexual Exploitation of Children and Adolescents

19.Theoretical framework: defines sexual exploitation, which may or may not be commercial, as "any activity in which a person uses the body of a child or an adolescent for sexual gratification and/or financial gain, based on a relationship of power; both the person facilitating or offering the possibility of sexual relations to a third party and the person engaging in such relations with a minor, are deemed to be exploiters, irrespective of whether the relations are frequent, occasional or permanent". It goes on to examine the issue, highlighting income distribution inequity in Chile as a risk factor.

20.Framework for action: points to avenues for action, including research (social, legal and criminal), promotion and secondary and tertiary prevention, social policy reform and legislative reform. **For reasons of space, detailed information on the activities carried out under each course of action by the various ministries and government departments is given in the annex to this document**.

21.Generally speaking, they focus on the following areas:

(a)Social research: the numerous programmes carried out since 2002 were planned and executed in close cooperation with the ILO International Programme on the Elimination of Child Labour (IPEC), the NGO Save the Children and IOM. The programmes have been aimed at producing a highly accurate social analysis of the problems in order to develop the most appropriate policies;

(b)Legal research and regulatory reform: this research helped streamline legal procedures for the application of international standards and legislative reform to improve protection for minors;

(c)Criminal law research: programmes implemented to review penal law on sexual offences against minors and ways of making it more effective;

(d)Promotion: programmes are regularly implemented to raise public awareness of the tragedy of child sexual exploitation;

(e)Secondary prevention: SENAME is developing a preventive strategy targeting vulnerable families. A central register has been set up to detect the worst forms of child labour, including commercial sexual exploitation of children, where they occur, in order to put a stop to them and start the process of rehabilitation. This has been done in cooperation with ILO and IOM;

(f)Tertiary prevention: SENAME has implemented a rehabilitation strategy to develop responses targeting direct victims of commercial sexual exploitation and trafficking. This has been done in cooperation with ILO and IOM;

(g) Social policy reform: in the case of immigrant children or adolescents unaccompanied by a parent or guardian, SENAME coordinated its efforts with the Aliens and Migration Department of the Ministry of the Interior to prevent violations of their rights.

22.Undocumented migrants who are under investigation by the Carabineros are handed over to the family court, which determines protective measures, usually in the form of placement in a residential protective facility. The competent prosecutor's office is informed of the case if an offence has been committed. At the same time, the court carries out the necessary procedures to arrange for the foreign minor under investigation to return to their country of origin. SENAME contacts the competent State authorities in the countries concerned to coordinate the execution of the decision, with due regard for the integrity and protection of the child concerned.

23.The National Committee for the Prevention and Progressive Elimination of Child Labour, coordinated by the Ministry of Labour and Social Security, has developed a Plan for the Prevention and Progressive Elimination of Child Labour as part of the National Policy on Children and Adolescents 2001-2010.

Assistance disaggregated by sex as at December 2006

24.In December 2006 there were 635 children and adolescents in commercial sexual exploitation programmes financed by SENAME, of whom 77.3 per cent were girls and 22.7 per cent boys. The number of children leaving the programmes in 2006 totalled 284, of whom 35.6 per cent left as a result of action taken under the project and 44 per cent dropped out of the programme for one reason or another.

25.Bilateral cooperation with Bolivia: SENAME is a member of the Chile-Bolivia Border Committee, which deals with smuggling, trafficking and sexual exploitation of children and adolescents. In July 2007 a bilateral project was launched with the Bolivian Government, including intersectoral workshops in both countries; this resulted in the development of a joint strategic plan aimed at eliminating trafficking and the worst forms of child labour in border areas of both countries. The first workshop was held in La Paz, with the participation of SENAME, the Public Prosecutor's Office, the Ministry of Labour and Social Security, the Ministry of the Interior, the Ministry of Foreign Affairs, the Carabineros, the criminal investigation police and representatives of UNICEF, the NGO Raíces and Corporación Opción.

Question 5.Please update the Committee on any significant legislative measure taken in the areas covered by the Optional Protocol other than the adoption of Act No. 19,927 amending the Criminal Code and the Code of Criminal Procedure in 2004.

26.In addition to the adoption of the above Act amending the Criminal Code and the Code of Criminal Procedure in regard to sexual offences, the following legislative measures have been taken.

27.Act No. 20,207 of 31 August 2007 provides that the period of limitation for sexual offences against minors shall run from the date on which the minors in question attain their majority. This amendment covers the offences of sexual abuse, rape and statutory rape, in addition to the offence of promoting or facilitating prostitution of minors, which is the form in which commercial sexual exploitation of children and adolescents is penalized in Chile. Prior to the amendment, the period of limitation began to run from the date on which the offence was committed, which in practice left the child legally defenceless.

28.Act No. 20,032 of 25 July 2005 establishes a support system for children and adolescents through the SENAME network and subsidy scheme.

29.The Act also provides for subsidies for the offices for the protection of children's and adolescents' rights, residential facilities, programmes and diagnosis. It covers special protection programmes providing specialized rehabilitation care for children whose rights have been seriously violated, such as those in the following situations: homelessness, drug abuse, serious child abuse, child commercial sexual exploitation and other situations jeopardizing the child's or adolescent's normal development.

30.Act No. 19,968 of 30 August 2004, establishing family courts, provides for concentrated, oral proceedings, based on the

principles of ex officio action and protection of children's and adolescents' privacy and best interests and their right to be heard. There is a procedure for special precautionary measures, which shall not last more than 90 days and are intended to safeguard the rights of the persons concerned. The procedure requires quarterly reporting, as a rule, on the measures taken, and visits to residential facilities by family judges every six months.

31.The courts are competent, inter alia, to hear all cases involving children or adolescents whose rights have been seriously violated or endangered, and in which protective measures are required under article 30 of the Minors Act. Such measures consist in ordering that the minors and their parents or guardians participate in support, rehabilitation or guidance programmes or activities to address and overcome the crisis situation and draw up an individual intervention plan tailored to the minor's needs.

32.The Minors Act, No. 16,618, which is still in force, provides that placement of the minor in a protective facility should be the measure of last resort, to be taken when it has become essential to remove the minor from their family environment or carers in order to ensure their well-being. This measure cannot be ordered for more than one year and must be reviewed by the court every six months; it may be renewed on the same terms and conditions, as long as the reason for it continues to exist; the court may also replace or revoke it before the expiry of the period for which it was ordered.

33.Entry into force on 16 February 2005 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

34.The following bills are currently under consideration by the legislature:

(a)Bill to supplement Act No. 19,927 on child pornography, to bring the provisions on the granting of conditional release into line with the amendments to the Criminal Code on the offence of rape of a minor;

(b)Bill on the protection of children's and adolescents' rights;

(c)Bill increasing the penalties for the offences of production, sale and storage of child pornography. This measure will limit the possibility of persons accused and convicted of such offences being granted conditional release, benefiting from alternative sentencing or obtaining a conditional stay of proceedings;

(d)Bill criminalizing the production of virtual child pornography.

Question 6.Please inform the Committee on measures taken to address the increase in two worrisome phenomena, i.e. sex tourism and child pornography on the Internet. In respect of the latter, please also clarify the extent and significance of the so-called "Pokemon" phenomenon which has been brought to the Committee's attention.

35.Although sex tourism is not defined as a separate offence in the Chilean legal system, and there have therefore been no specific investigations on the subject, there is international cooperation with those countries that have established it as an offence and investigate it, in cases involving acts that are described as offences in Chilean criminal legislation.

36.Mention may be made of the following legislative measures relating to sex tourism and child pornography using the Internet:

(a)Entry into force in 2005 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

(b)Entry into force in 2005 of the United Nations Convention against Transnational Organized Crime and its Protocols, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air.

37.Criminal investigation and prosecution, as well as care and protection of victims of offences related to child pornography, are the responsibility of the Public Prosecutor's Office, with the focus on the following:

(a)Prosecutors specialized in sex offences in all the local prosecutors' offices, which are the operational units of the Public Prosecutor's Office;

(b)Each regional prosecutor's office has a special legal adviser dealing with sex offences, who is responsible for advising the regional prosecutors on these issues;

(c)There is a special national unit on sex offences and violent crime, one of whose tasks is to advise the Public Prosecutor on these issues and to train the specialized prosecutors;

(d)The regional units have victims and witnesses units, which are multidisciplinary teams providing comprehensive services;

(e)Participation in prevention activities, intersectoral coordination and training of other actors involved in these issues.

38.The second institution involved in this domain is the criminal investigation police, which has a Cybercrime Squad that constantly monitors the Internet to identify websites containing such material or serving as contact points between virtual communities involved in the consumption and sale of child pornography.

39.This task is supported by international cooperation networks, primarily with European countries, through the INTERPOL National Central Bureau. International criminal rings have been dismantled as a result. The Cybercrime Squad has incorporated the Child Exploitation Tracking System (CETS) software developed by Microsoft to support criminal investigation of child sexual

exploitation.

40.In 2004 the National Office on Crimes against the Family was established, with nationwide competence in respect of sex offences and offences against minors. It carries out technical supervision of the 21 investigation squads for sex offences and crimes involving minors throughout the country and has implemented effective preventive and investigative measures.

41.Concerning prevention of child pornography on the Internet, starting in early 2007 SENAME developed a "Safe Surfing" programme to prevent cyberharassment and child pornography. The programme was developed with the participation of public and private actors, most notably the criminal investigation police, the Public Prosecutor's Office, Microsoft and the Internet service provider VTR.

42.The project was aimed at disseminating information and educational content to children, parents, guardians and staff of schools in five communities with different socio-economic profiles in the Metropolitan region. Activities consisted of presenting material for children between the ages of 10 and 15 concerning proper use of the Internet and identification of risk situations.

43.To date, 10 workshops have been held, providing training to 420 children and adolescents and 40 guardians. A manual on safe use of the Internet is currently being developed at the initiative of VTR with SENAME sponsorship.

44.Concerning "Pokemon", this is the name of one of several emerging urban youth tribes generally distinguished by their forms of social interaction, in terms of body language, distinctive clothing styles, identification with a particular type of music and, in particular, the tendency to use technology as a means of communication, with the Internet in first place.

45.These groups socialize daily through blogs, forums and photologs, massively visited sites for viewing and uploading videos; the Internet is a favourite space for them to display themselves, reaffirm group and personal identities, and express their views on issues of interest to their generation and age group. Several of these emerging groups, including the one known as "Pokemon", are made up of schoolchildren, most of them adolescents in the 13 to 17 age group.

7.Please clarify whether:

(a)Possession of child pornography is prohibited and punished in the State party'slegislation according to article 3, paragraph 1 (c), of the Optional Protocol;

46.Act No. 19,927 (2004) amended the Criminal Code and Code of Criminal Procedure in the area of sex offences by increasing penalties in cases involving underage victims, and extending punishment if the offence is committed by persons responsible for their care. Another advantage of the Act is that it redefines behaviour covered by the offence of rape, statutory rape and sexual abuse committed against persons under the age of 18, which contributes to the protection of children and the prosecution and punishment of the perpetrators of such offences.

47.Current legislation punishes the production of child pornography in which persons under the age of 18 are used. The second sentence of article 366 quinquies of the Criminal Code defines child pornography as "any representation of [minors] involved in explicit sexual activities, whether real or simulated, or any representation of their genitals for predominantly sexual purposes". This offence is punishable by ordinary imprisonment within the maximum range (from three years and one day to five years).

48.The sale, import, export, distribution, dissemination and exhibition of child pornography (article 374 bis of the Criminal Code) is subject to punishment similar to that established in the Cinematic Productions (Certification) Act, namely ordinary imprisonment within the medium or maximum range (541 days to 5 years). The same article punishes - for the first time in Chilean legislation - the acquisition and storage of child pornographic material with malicious intent by ordinary imprisonment within the medium range (541 days to 3 years).

49.The foregoing has made it possible to improve the effective coordination of entities in the public, private and police sectors, making them aware of and allowing them to participate in measures to prevent and combat serious violations that affect children and adolescents in our country. In this area, the National Service for Minors (SENAME) provides legal advice to guarantee victims' access to justice and represents them as complainant, whenever possible, in accordance with current legislation.

(b)Sale of children is an offence qualitatively distinguishable from trafficking of children;

50.Chilean legislation does not define the offence of sale of children or the offence of trafficking in children. There is only the offence of facilitating prostitution and trafficking in persons for the purpose of sexual exploitation, covered by articles 367 and 367 bis of the Criminal Code. These articles punish "anyone who promotes or facilitates the prostitution of minors to satisfy the desires of others" and "anyone who promotes or facilitates the entry into, or departure from, the country in order that such persons may engage in prostitution in the national territory or abroad".

51.Act No. 19,620 (Adoption Act) contains a provision that punishes "anyone who, through abuse of confidence, trickery, simulation, attribution of identity, civil status or other similar condition, gains possession of a minor for themselves or for a third party, or in order to take the minor out of the country, for the purpose of adoption", and "anyone who requests or accepts any form of consideration for facilitating the transfer of a minor for adoption".

52.Similarly, a bill designed to criminalize trafficking in children and adults establishes rules for its prevention and more effective criminal prosecution that punish "anyone who, for gainful purposes, facilitates or promotes the illegal entry into the country of a person who is not a national or resident", and "anyone who, through violence, intimidation, coercion, deception or abuse of power, obtains, transfers, accepts or receives persons for their use in any form of labour or sexual exploitation, including pornography or the removal of organs".

(c)Sale of children for the purpose of adoption is prohibited and punished inconformity with article 3, paragraphs 1 (a) (ii), 3 and 5, of the Optional Protocol;

53.Act No. 19,620 (Adoption Act) prohibits the sale of children for adoption and punishes "anyone who, through abuse of confidence, trickery, simulation, attribution of identity, civil status or other similar condition, gains possession of a minor for themselves or for a third party, or in order to take the minor out of the country, for the purpose of adoption", and "anyone who requests or accepts any form of consideration for facilitating the transfer of a minor for adoption".

54.In the first case, the punishment is ordinary imprisonment within any range (61 days to 5 years) and a fine of between 10 and 20 monthly taxation units (MTU); in the second case, the punishment is ordinary imprisonment within the minimum or medium range (61 days to 3 years) and a fine of between 10 and 15 MTU.

55.The aforementioned penalties are increased to the next higher range when the offence is committed by a person in authority, a public servant, a lawyer, a physician, a midwife, a nurse, a social worker or anyone who has custody of the child, when such persons perform the act in question by making wrongful use of their office, post or profession.

(d)The draft law against trafficking in children has been approved by the Chamber of Deputies;

56.The bill that "criminalizes the offence of trafficking in children and adults and establishes rules for its prevention and more effective criminal prosecution" was adopted by the Chamber of Deputies. However, it is still being considered by Congress. This initiative seeks to establish comprehensive regulations that contain: an appropriate definition of the offence; special investigative means; and specific provisions for the protection of victims, in accordance with the conceptual framework suggested by international agreements that Chile has ratified.

57.In this regard, the content of the bill implies changes in three areas:

(a)In the area of criminal law, definitions of offences are being incorporated into the Criminal Code in order to maintain due proportionality of penalties, so that their maximum is not higher than the penalties for offences that involve a greater violation, such as grievous injuries or mutilation, and consequently incur a greater penalty;

(b)In the area of procedural law, it is necessary to incorporate effective protective measures;

(c)In the area of victim protection, it is important to ensure that the child or adolescent victims are reunited with their families, provided that this is not contrary to their best interests. It should be noted that the concept of the "best interests of the child or adolescent" is widely reflected in our legal system, not only in substantive legislation (article 222 of the Civil Code), but also in procedural law (article 16 of Act No. 19,968 (Family Courts Act)).

58.Although the bill has not yet been adopted, what is important is that in 2007 there was considerable progress in the legislative consideration of this initiative. Currently, the bill is in second constitutional reading in the Senate, for the report of the Senate Commission on Human Rights, Nationality and Citizenship.

59.The bill has been put forward as a result of a number of government proposals. These proposals relate to the need to incorporate special offences and grant new powers to criminal prosecution bodies in order to give them an effective tool for dealing with the offences of smuggling and trafficking in persons, bearing in mind that the current definition of the offence of trafficking in persons, contained in article 367 of the Criminal Code, limits such trafficking to the purpose of sexual exploitation, and is therefore not sufficient for combating this phenomenon.

(e)The draft law on the use of children in illicit activities has been adopted.

60.This last question is related to the bill referred to in a previous report to the Committee; the bill amends Act No. 16,618 with a view to preventing the departure of minors for illicit purposes and to ensure their return to the country. This initiative, which originated in a parliamentary motion, has not yet been adopted by Congress. It is currently before the Chamber of Deputies, in the Commission on the Family, in first constitutional reading; to date, there has been no substantial progress.

61.The aim of this bill is to amend the Minors Act, by always requiring juvenile court authorization in cases where a minor leaves the national territory in the charge of a third party who is not the person responsible for the minor's custody or care. The bill also proposes that the return of a minor who left the country with the father, the parents or an accompanying third party should be registered.

62.However, Act No. 20,069, published on 21 November 2005, introduces a second paragraph in article 17 of the Labour Code that allows public right of action with regard to violations of the provisions on the work of minors, and indicates that any person may report violations relating to child labour to the competent authorities.

63.Act No. 20,189 amending the Labour Code in respect of admission of minors to employment and their completion of compulsory education, was published in June 2007. The Act regulates the entry of adolescents under the age of 18 and over the age of 15 into the job market, with regard to: authorization; school attendance; extension of the workday and work week (maximum of 8 hours a day and 30 hours a week); prohibition of certain types of labour; and the condition on the adoption of regulations that specify activities considered to be dangerous to the health and development of working adolescents.

64.These regulations were adopted on 17 August 2007, by Decree No. 50 of the Ministry of Labour and Social Security, in order to implement article 13 of the Labour Code. This instrument lists activities considered to be dangerous to the health and development of

minors under the age of 18, and which prevent the conclusion of labour contracts with minors. The regulations also provide for special protection and prevention measures for adolescents between the ages of 15 and 18 who are employed.

8.With reference to paragraph 38 of the State party's report, please inform the Committee whether the State party may establish its jurisdiction over all the offences referred to in the Optional Protocol in all cases indicated in article 4, and notably in its paragraph 2, i.e. when the crime is committed abroad by or against a Chilean national, or when the alleged offender is present on the State party's territory.

65.Chile has adapted its legislation to meet international requirements, with a view to making criminal prosecution more effective. To this end, it has adopted provisions on the extraterritoriality of criminal law, establishing that, in cases of offences involving the promotion or facilitation of prostitution and the production of child pornographic material that endangers or harms a Chilean's sexual integrity or freedom, or if the offence was committed by a Chilean or a person normally resident in Chile, Chilean courts shall have jurisdiction to try these offences. Chilean legislation also deals with the offence of distribution, sale or exhibition of pornography that makes use of Chileans under the age of 18.

9.Please inform the Committee on the number of investigations, trials and convictions/acquittals, including sanctions imposed, for crimes covered by the Optional Protocol in the years 2004-2006

66.See tables 1 and 2 below.

Table 1

Convictions and acquittals, by offence

Offence	Decisions	
Acquittal (final)	Conviction (final)	
Promotion of facilitating the prostitution of minors (art. 367)	3	22
Production of child pornographic material (art. 366 quinquies)	4	28
Sale of child pornographic material (art. 374 bis)	0	0
Acquisition or storage of child pornographic material (art. 374 bis)	9	6
Obtaining sexual services from minors (art. 367 ter)	3	12
Total	19	68

Source: Public Prosecutor's Office, October 2007.

Table 2

Sentences handed down in cases of final convictions

Sentence	Offences	Total		
Promoting or facilitating the prostitution of minors (art. 367)	Production of child pornographic material (art. 366 quinquies)	Acquisition or storage of child pornographic material (art. 374 bis)	Obtaining sexual services of minors (art. 367 ter)	
100 days' ordinary imprisonment (minimum range)	0	1	1	0 2
3 years and 1 day of ordinary imprisonment (maximum range)	3	0	0	2 5
3 years' ordinary imprisonment (maximum range)	1	0	0	0 1
3 years' ordinary imprisonment (medium range)	1	2	0	0 3
301 days' ordinary imprisonment (minimum range)	0	0	1	0 1
4 years' ordinary imprisonment (maximum range)	0	2	0	0 2
5 years and 1 day of rigorous imprisonment (minimum range)	0	1	0	0 1
5 years and 1 day of ordinary imprisonment (minimum range)	1	1	0	1 3
5 years' ordinary imprisonment (maximum range)	1	1	0	0 2
540 days' ordinary imprisonment (minimum range)	0	1	0	0 1
541 days' ordinary				

541 days' ordinary imprisonment (medium range)	2	4	1	0 7
541 days' secondary claims, no costs	1	0	0	0 1

Table 2 (*continued*)

Sentence	Offences	Total		
Promoting or facilitating the prostitution of minors (art. 367)	Production of child pornographic material (art. 366 quinquies)	Acquisition or storage of child pornographic material (art. 374 bis)	Obtaining sexual services of minors (art. 367 ter)	
6 years' ordinary imprisonment (maximum range)	1	0	0	0 1
600 days' ordinary imprisonment (medium range)	1	0	0	0 1
61 days' ordinary imprisonment (minimum range)	1	2	1	0 4
7 years' rigorous imprisonment (minimum range)	1	0	0	0 1
71 days' ordinary imprisonment (minimum range)	0	0	0	1 1
818 days' ordinary imprisonment (medium range)	1	0	0	0 1
918 days' ordinary imprisonment (medium range)	1	0	0	0 1
6 MTU, no costs payable in three equal instalments	1	0	0	0 1
Fine	0	0	1	0 1
Unclassified	0	1	1	0 2
Total	17	16	6	4 43

Source: Public Prosecutor's Office, October 2007.

10.Please provide more information on measures taken to strengthen international assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences covered by the Optional Protocol.

67.Chile is party to various international human rights conventions, including the Convention on the Rights of the Child, the United Nations Convention against Transnational Organized Crime, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. These Conventions provide a protective and preventive legal framework for these types of offences.

68.The Public Prosecutor's Office is responsible for investigating, exclusively, criminal cases and instituting public criminal proceedings and executing, requesting and processing applications for international assistance. In this context, in order to handle the applications in the most efficient and effective way possible, the Public Prosecutor's Office has made vigorous efforts to increase and coordinate international cooperation at both the domestic and international levels, as indicated below:

(a)Participation in various international forums, including the Meeting of Ministers of Justice and Procurators-General of America held by the Organization of American States (OAS), the International Association of Prosecutors and the Ibero-American Association of Public Prosecutors, which is chaired by the national prosecutor of Chile;

(b)Development of a strategy for promoting institutional ties with foreign countries;

(c)Training of prosecutors and consuls in the processing of international applications and requests concerning these offences;

(d)Development of ongoing communication with INTERPOL in order to ensure confidentiality and efficiency in the processing of international reports of child pornography.

11.Please provide the Committee with updated information on the social reintegration assistance as well as physical and psychosocial recovery measures available for victims of offences covered by the Optional Protocol.

69.Further to the information contained in the reply to question 2, SENAME, through its network of national programmes implemented jointly with appropriate accredited institutions, guarantees support for all children and adolescents whose rights have been violated, including victims of commercial sexual exploitation as a result of trafficking, either at the direct request of the child or at the request of a guardian, an Office for the Protection of Children's Rights (OPD) a competent court or SENAME itself.

70.In this regard, support for child victims of commercial sexual exploitation and their inclusion in rehabilitation processes has been an

important challenge for SENAME, as shown by the fact that, from a single special project in 2002, in the Metropolitan region, SENAME now runs 14 projects in 9 regions of the country.

71.In order to improve the quality of services and the results of the support given to children who have been subjected to serious violations of their rights, SENAME is reformulating its specialized programmes. Specifically, it is giving priority to comprehensive interventions with a view to avoiding fragmentation in the treatment of problems experienced by children in highly complex situations, and is promoting effective social reintegration. This will mean reducing the number of programmes that focus on commercial sexual exploitation of children and replacing them with special comprehensive intervention programmes across the country that will be able to act in situations of commercial sexual exploitation.

72.Both modalities define the respective support models, the objectives to be achieved and the areas to be dealt with using multidisciplinary teams from the fields of law, social work, physical and psychological health, education and training. The principal objective is to restore ties with significant protective figures. SENAME and other public and private organizations conduct intersectoral activities that facilitate the provision of comprehensive benefits for child victims with limited resources.

12.Please comment on the information that children involved in prostitution in some cases may not be considered as victims, but be deprived of their liberty and held in detention together with children in conflict with the law.

73.SENAME does not have information on children or adolescents involved in situations of commercial sexual exploitation who are victims but have been deprived of their liberty as though they could be held responsible.

74.The regulations in force in Chile concerning sexual offences against minors guarantees the protection of a victim under or over the age of 14, specifies those responsible and describes the punishment, including the punishment of clients or facilitators. The new Adolescent Criminal Responsibility Act, which has been in force since June 2007, will apply only in cases where a person under 18 and over 14 is a victim.

75.This Act makes no distinction between specific offences but holds young people accused of committing an offence accountable. This means that, if after due process an offence that merits punishment is found and proven by the court, the adolescent will be deemed an offender in accordance with regulations currently in force.

76.In this regard, the various strategies carried out by SENAME have always considered the child or adolescent exploited or accused of some offence to be a *subject of law*, with regard to both protection and guarantees of due process.

13.Please indicate whether special training, particularly legal and psychological, is provided to persons working in the area of recovery and social reintegration of child victims of the offences under the Optional Protocol.

77.In order to help improve the management of institutions responsible for implementing programmes concluded with SENAME, the Service has developed various training programmes for technical teams specializing in support for child victims of commercial sexual exploitation. The purpose of such training is to update knowledge, exchange lessons learned and good practices, identify areas that need to be improved and promote coordination of and agreements on regional and/or local activities. This has facilitated progress in and improvement of intervention models and support for child victims of commercial sexual exploitation.

78.In 2005, in the context of activities carried out with international cooperation, a strategy entitled "Support for the prevention of commercial sexual exploitation of children and adolescents and assistance for victims in the city of San Antonio in the Valparaíso region" was implemented jointly with the International Organization for Migration (IOM). Technical guidelines were provided for the training of multidisciplinary government teams and NGO teams participating in the SENAME support network and who provide assistance and rehabilitation in the area of child commercial sexual exploitation. Seven workshops for professionals and/or technicians providing support for child and adolescent victims of commercial sexual exploitation were held in the regions of Tarapacá, Antofagasta, Valparaíso, Bío Bío, Los Lagos and the Metropolitan Region.

79.In 2006, IOM and SENAME carried out a programme entitled "Support in assessment information, training and prevention in respect of child commercial sexual exploitation, migrant smuggling and human trafficking in the province of Los Andes". The aim of the programme was to contribute to the assessment of, information on, training in and prevention of these activities through the implementation of four components. One component is an advanced training programme for specialists working in this area, under which 200 people were trained in three regional training sessions held in the cities of Iquique (Tarapacá), Viña del Mar (Valparaíso) and Temuco (Araucanía).

80.In 2007, in the context of a programme supported by the International Labour Organization (ILO), entitled "Building networks against commercial sexual exploitation in Chile", 14 intersectoral training workshops in the worst forms of child labour, particularly commercial sexual exploitation, were held in all regions of Chile. The aim of the programme, which was carried out jointly with ILO, was to improve the technical skills of 457 specialists, technicians and other staff of the Carabineros, the criminal investigation police, the Labour Department, the Ministry of Health, the Ministry of Education and the SENAME network, in the identification, registry and timely referral of children found in any of the worst forms of child labour, including trafficking and commercial sexual exploitation. It should be pointed out that 78 of those participating have replicated the training activity at the institutional and/or territorial level, yielding a further 790 trained workers.

81.In this context, five training workshops were held in five of the country's regions: Antofagasta, Coquimbo, Valparaíso, Bío Bío and the Metropolitan region, in order to publicize the results and findings of a study on the implementation of legislation to combat, prevent, suppress and punish the commercial sexual exploitation of children and adolescents in Chile, carried out by SENAME, ILO and Diego Portales University. Two hundred people were trained and two information manuals were prepared: a "Guide for the legal treatment of the commercial sexual exploitation of children and adolescents", for members of the Public Prosecutor's Office, and

another information manual for territorial actors. In addition, two training modules were developed (for prosecutors and local actors), and terms of reference were devised for future training on the subject, which will be carried out by the Judicial Academy.

82.Within the framework of 15 miniprojects for the prevention of child commercial sexual exploitation, run in cooperation with ILO, the preventive strategy was supplemented by activities to sensitize communities to the subjects of the worst forms of child labour and commercial sexual exploitation, in territories and in local governments, by means of 14 seminars, attended by an average of 60 key actors.

Annex

1.In June 1999, Chile held its First National Conference on Violence against and Commercial Sexual Exploitation of Children and Adolescents, for the purpose of exchanging experiences, reviewing international commitments and adopting a final declaration, with agreements involving all sectors of society.

2.The Conference was supported by the following organizations: Chilean United Nations Association (ACHNU); the Psychosocial Rehabilitation and Study Centre (CERSO); the National AIDS Committee (CONASIDA); the NGO Raíces; the Margen Foundation; the InterIAmerican Children's Institute (INN); the Ministry of Justice; the United Nations Children's Fund (UNICEF); the judiciary, other ministries and government departments, municipalities, universities, the Carabineros, the criminal investigation police and NGOs.

3.One of the main outcomes of the Conference was the establishment of working parties which formulated a national plan of action, based on the agreements reached in Stockholm and Montevideo, to address commercial sexual exploitation of children through a systematic approach. To that end, a technical secretariat was set up, comprising the Ministry of Justice, UNICEF, INN, ACHNU and the Margen Foundation.

4.In 1999, together with the organizations mentioned above, the Ministry of Justice drafted a "Framework for Action against the Commercial Sexual Exploitation of Children and Adolescents", an important instrument in the design of coordinated policies and action on this issue, which will enable Chile to meet its international commitments in this regard.

Framework for Action against the Commercial Sexual Exploitationof Children and Adolescents

5.Theoretical framework: defines sexual exploitation, which may or may not be commercial, as "any activity in which a person uses the body of a child or an adolescent for sexual gratification and/or financial gain, based on a relationship of power; both the person facilitating or offering the possibility of sexual relations to a third party and the person engaging in such relations with a minor are deemed to be exploiters, irrespective of whether the relations are frequent, occasional or permanent". It goes on to examine the issue, highlighting income distribution inequity in Chile as a risk factor.

6.Framework for action: points to avenues for action, including research (social, legal and criminal), promotion and secondary and tertiary prevention, social policy reform and legislative reform.

Measures taken by the various ministries and government departmentsin each field of action

Social research

7.In 2002 the National Service for Minors (SENAME) signed two technical and financial cooperation agreements with the International Programme on the Elimination of Child Labour (IPEC), giving rise to two projects, the first a nationwide study to assess child labour and identify its worst forms, which is being conducted by the Ministry of Labour, the National Statistical Institute and SENAME, the other a study entitled "Commercial sexual exploitation of children and adolescents: study of the problem, social awareness, prevention and support for victims", which is being conducted entirely by SENAME.

8.In 1992 the Government launched a joint project involving SENAME, the Ministry of Labour and Social Security and IPEC to create a central, progressive system for registering the worst forms of child labour, as part of the nationwide study to assess child labour and identify its worst forms, (paragraph 7 above). As a result of this project it has been possible to identify cases and provide follow-up, and also obtain children's and adolescents' views regarding their needs in order to formulate more appropriate policies for rehabilitation. The most extensive headings in the register are intolerable forms of child labour and work of a dangerous nature or that is carried out in dangerous conditions. The database, which is maintained by the police, the Labour Department and the SENAME project network, recorded a total of 2,409 cases between June 2003 and May 2007.

9.The IPEC-funded project, "Commercial sexual exploitation of children and adolescents: study of the problem, social awareness, prevention and support for victims", was carried out between 2002 and January 2004. The project included a nationwide assessment of the prevalence of the problem, an awareness campaign and the opening of a centre for specialist support, applying a model of rehabilitative action. The research consisted in a quantitative and qualitative assessment of the extent and nature of commercial sexual exploitation of children and adolescents in Chile and specifically their use for prostitution. The study demonstrated the need to formulate intersectoral policies and programmes involving the justice, health, education and labour sectors. In 2004 ILO and SENAME commissioned a study from the Universidad de Arte y Ciencias Sociales (ARCIS), entitled "Prevalence of child and adolescent commercial sexual exploitation in Chile", focusing on three regions (I, VIII and the Metropolitan region). The study showed that the problem of commercial sexual exploitation affected around 3,719 children and adolescents.

10.In 2004 a study was conducted to assess the impact of action taken by State institutions to combat commercial sexual exploitation of children. This initiative has helped, among other things, in identifying best practices and devising new measures in areas that have received less attention, and has also produced an assessment of the impact of rehabilitative action on child commercial sexual

exploitation, through a study commissioned by ILO and SENAME from the University of Chile in 2004. This study demonstrated the desirability of strengthening measures aimed at boosting self-esteem and strengthening the family, and of taking action to promote reintegration into education and, in particular, into work, by raising awareness in the business sector, for example.

11.In May 2005 a support agreement was signed between Save the Children, the Ministry of the Interior, the Public Prosecutor's Office, the Carabineros, the criminal investigation police and SENAME, on implementation of the Disappeared Chileans programme, which establishes a central register of missing persons, among other things to prevent smuggling and trafficking of children, adolescents and adults for commercial sexual purposes.

12.Between April and August 2006 the International Organization for Migration (IOM) carried out a survey in six regions of the country in order to obtain a global overview of the problem of trafficking in persons for the purposes of sexual exploitation in Chile and assess developments. The study concluded that trafficking in persons for the purposes of sexual exploitation was a reality at the national and the international levels and confirmed the urgent need for a State policy and a legal instrument defining the crime of trafficking, consistent with international legal frameworks and commensurate with the increase in migrant smuggling.

13.SENAME and IPEC (ILO) are running a study (preliminary phase) entitled "Worst forms of child and adolescent labour among migrants, with emphasis on trafficking, in the Tarapacá and Antofagasta regions: analysis and proposals for a model for action".

Legal research and legislative reform

14.Legislative instruments and initiatives:

(a)Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption: entry into force 4 October 1999;

(b)ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Convention No. 182): entry into force 17 November 2000;

(c)Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography: entry into force 6 September 2003;

(d)United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention: entry into force 16 February 2005;

(e)Act No. 19,617 amending the Criminal Code, the Code of Criminal Procedure and other legislation in respect of sex offences: entry into force 12 July 1999;

(f)Act No. 19,927 amending the Criminal Code and the old and new Codes of Criminal Procedure in respect of child pornography offences: entry into force 14 January 2004;

(g)Act No. 19,620 regulating child adoption: entry into force 5 August 1999;

(h)Act No. 20,207, by which the period of limitation for sex offences against minors will run from the day on which the minors in question attain their majority: entry into force 31 August 2007;

(i)Act No. 19,968, the Family Courts Act: entry into force 30 August 2004;

(j)Draft legislation in the pipeline: bill defining the offence of trafficking in children and adults, prescribing preventive measures and providing for more effective criminal prosecution; bill to protect children's rights.

Legal research

15.As part of the SENAME/IPEC Programme on the Prevention and Elimination of Commercial Sexual Exploitation of Children, 2002-2004, a study was conducted to assess the impact of action taken by State institutions to combat commercial sexual exploitation of children, including legislative advances.

16.SENAME and ILO commissioned a joint study from the Diego Portales University on the implementation and operation of current legislation on sex offences against minors. The assessment was carried out in 2007 and was subsequently publicized in a series of five one-day workshops at which the main results and findings were made known to three groups, namely relevant local actors, deputy prosecutors and judges presiding over oral hearings in criminal, judicial guarantee and family cases, in the Antofagasta, Coquimbo, Valparaíso, Bío Bío regions and the Metropolitan region: 200 people in all.

Criminal law research

17.The purpose of the amendments to the Criminal Code and the Code of Criminal Procedure in respect of child pornography (Act No. 19,927) is, among other things, to provide the police with legal instruments that will allow them to mount a more effective investigation into such offences. To that end the following provisions have been made:

(a)Where there are well-founded suspicions that a person or criminal ring has committed or has been preparing to commit the offences of encouraging child prostitution, trafficking in persons for the purposes of sexual exploitation, becoming the client of children in a situation of commercial sexual exploitation, or production, sale, import, export, distribution, dissemination or exhibition of child pornography, and the investigation so requires, authorization may be given for the interception or recording of telecommunications from that person or members of the ring, and for the use of photography or film or any other means of reproducing images as may

assist in establishing the facts, and for the recording of communications;

(b)Under the same circumstances authorization may be given for the use of undercover agents; to that end the police forces concerned shall maintain a restricted registry of products of the kind under investigation, and controlled deliveries may be made of material relevant to the investigation of events resulting from or arising out of the exchange of such products, in any form;

(c)Companies or establishments providing communication services must, as soon as they can, place at investigators' disposal all the resources they require to complete their investigation;

(d)The court shall hand over confiscated technological devices to SENAME or departments of the corresponding police authorities specializing in this field.

Promotion

18.In 2001, in the framework of the programme entitled "Commercial sexual exploitation of children and adolescents: study of the problem, social awareness, prevention and support for victims", SENAME ran a campaign called "Child commercial sexual exploitation is a reality in Chile", to expose offences relating to the commercial sexual exploitation of children and adolescents. Another campaign was run in 2006 called "There is no excuse".

19.Chile has proclaimed 18 May its National Day against Commercial Sexual Exploitation of Children.

20.In the area of sex education in State schools, the Ministry of Education is running a programme entitled "Towards Responsible Sexuality", coordinated jointly with the National Service for Women and the Ministry of Health. In recent years the programme has included large-scale training schemes for teachers in preventing maltreatment and sexual abuse of children. The Ministry now has a National Plan for Education on Sexuality and Emotional Health up to 2010, which includes the prevention of sexual abuse of children.

Secondary prevention

21.SENAME is developing a preventive strategy for vulnerable families. In this context a central register has been set up with the aim of detecting the worst forms of child labour, including sexual exploitation, determining their extent and characteristics, and mapping the location of the children and adolescents involved, in order to put a stop to violations and make a start on rehabilitation.

22.Starting in 2005 the SENAME network was extended by providing additional support for the Offices for the Protection of Children's Rights (OPD), which take concrete preventive action under agreements with 174 municipalities, involving 105 such offices nationwide.

23.In 2006 and 2007, with technical and financial support from ILO, 15 miniprojects on selective prevention of commercial sexual exploitation of children were carried out from Tarapacá region to Los Lagos region, involving nine OPDs, five child and juvenile centres (CIJ) and one municipality in the east of Santiago. Multidisciplinary teams worked with 527 children on rights protection, social rehabilitation and remaining in the education system, and, with 200 of their families, on prevention; in addition 14 awareness-raising seminars on the subject of child commercial sexual exploitation were held with major local actors.

24.More and more international agencies are pledging support for efforts to combat child commercial sexual exploitation, and in late 2003 SENAME and IOM concluded an agreement to develop a training programme for the Government and NGO specialists and technicians involved in the SENAME support network, in connection with the opening of a centre for victims of child commercial sexual exploitation in region V; SENAME is now technically and financially responsible for this programme.

25.For 2008 SENAME has submitted to IOM a further project comprising two strategic components, one training component aimed at strengthening the technical skills of child assessment and protection officials in six regions of the country, and the other a strategy for direct support to children and adolescents victims of commercial sexual exploitation, and of trafficking in particular, through a specialist centre to be opened in Arica.

26.In the second half of 2006 SENAME and IOM jointly organized another national training course in the cities of Iquique, Viña del Mar and Temuco, for specialists providing rehabilitative support to victims of child commercial sexual exploitation, members of the network, those involved in miniprojects to prevent child commercial sexual exploitation, and members of OPDs.

27.Under an agreement between SENAME and ILO, additional technical training was provided nationwide between January and June 2007 to 457 specialists, technicians and other staff of both police forces and the Labour Department, as well as those in health, education and the SENAME network, in the identification, registry and timely referral of children found in any of the worst forms of child labour.

28.In this context, two information manuals were also prepared: a "Guide for the legal treatment of the commercial sexual exploitation of children and adolescents", for members of the Public Prosecutor's Office, now published, and another information manual for territorial actors, currently being circulated. In addition, two training modules were developed, one for the Public Prosecutor's Office, targeting prosecutors, the other for use in training local actors.

29.A National Forum for specialists in child commercial sexual exploitation, convened by SENAME and ILO, was recently held in Santiago, bringing together various actors involved in work being done in Chile under the "Building Networks" regional project against child commercial sexual exploitation. One of the aims of the meeting was to identify best practices in respect of the worst forms of child labour, particularly commercial sexual exploitation, and to propose a plan for follow-up action in Chile.

Tertiary prevention

30.Applying its rehabilitative strategy in this regard, SENAME has developed a series of responses targeting the immediate victims of commercial sexual exploitation and people trafficking and smuggling:

(a)In late 2001 the first project on child commercial sexual exploitation was launched in the Metropolitan region, providing support to 60 child victims (total 1);

(b)Another project was launched in January 2003 in region VIII to run for 14 months, and providing support to 60 children victims of commercial sexual exploitation, with funding from IPEC and ILO and under SENAME supervision (total 2);

(c)In 2004 seven projects were launched, in Iquique, Antofagasta, Valparaíso, San Antonio, Concepción, Puerto Montt, San Miguel, Recoleta and Puente Alto, the San Antonio project being funded by IOM (total 9);

(d)In 2005 seven projects were launched, in the municipalities of Iquique, Calama, Copiapó, La Serena/Coquimbo, Santiago, Talca and Temuco (total 16, total 720 places);

(e)In 2006, with IOM funding, a further project was launched in Los Andes; this one will also attempt to detect child trafficking and smuggling, as Los Andes is a border town (total 17).

31.The implementation of these special support programmes, focusing on recovery from the harm caused by exploitation, has resulted in a gradual increase in the investment in support for victims of child commercial sexual exploitation, which has risen from US$ 63,753 in 2001 (one project) to the current total of 17 special centres across regions I to X, run by arrangement with accredited partner institutions, and an investment of public funds amounting to US$ 1,998,102, providing support for 745 children.

32.These intervention strategies aim to repair the psychological, social and legal harm resulting from victimization.

33.There is also a special telephone helpline for reporting sex offences against children.

34.A joint Intersectoral Programme for Educational Rehabilitation has been set up by the Ministry of Education, the Narcotics Control Board (CONACE), the Public Safety Division and the Social Investment and Solidarity Fund (FOSIS).

35.The 2003 SENAME-IOM agreement includes a pilot scheme to assist child and adolescent victims of all forms of commercial sexual exploitation, including trafficking for sexual purposes, and to generate conditions and methodologies for rehabilitation.

36.SENAME also provides legal advice to guarantee victims' access to justice and also represents them as ad litem guardian and as complainant, where possible. Seven such legal aid projects are currently under way, thereby guaranteeing the victims' access to justice, some in criminal proceedings and some in the area of protection.

Assistance disaggregated by sex as at December 2006

37.In December 2006 there were 635 children and adolescents in commercial sexual exploitation programmes financed by SENAME, 77.3 per cent of them girls and 22.7 per cent boys.

38.The number of children leaving the programmes in 2006 was 284, of whom 35.6 per cent left as a result of action taken under the project and 44 per cent dropped out of the programme for one reason or another.

Social policy reforms

39.For immigrant children or adolescents unaccompanied by a parent or guardian, Chile has set up a system for coordination between the Department of Aliens and Migration of the Ministry of the Interior and SENAME. The procedure is that whenever a residence application is made to the Department of Aliens and Migration on behalf of unaccompanied children or adolescents, the Department asks SENAME for a report on their social situation. This procedure allows specialist staff from SENAME to make an in-depth assessment of cases and ensure that the children are not at any risk, in order to prevent violations of their rights.

40.Similarly, undocumented migrant children who are under investigation by the police are handed over to the family court, which determines protective measures, usually placement in a residential protective facility. The competent prosecutor's office is also informed of the case if an offence has been committed. At the same time, the court carries out the necessary procedures to arrange for the return of the foreign minor under investigation to their country of origin. SENAME contacts the competent State authorities in the countries concerned to coordinate the execution of the decision, with due regard for the integrity and protection of the child.

41.Since 2002 the Ministry of Justice has been a member of the National Committee for the Prevention and Progressive Elimination of Child Labour, coordinated by the Ministry of Labour and Social Security. In 2001, as part of its remit, the Committee developed a Plan for the Prevention and Progressive Elimination of Child Labour, which is part of the National Policy on Children and Adolescents for the period 2001-2010. The Ministry of Justice has made specific undertakings in the Plan, notably in the legislative and programmatic spheres (the latter through SENAME).

42.In 2002, the National Advisory Committee for the Prevention and Progressive Elimination of Child Labour was set up under Presidential Decree No. 131.

43.SENAME is a member of the Chile-Bolivia Border Committee which deals with smuggling, trafficking and sexual exploitation of children and adolescents. In July 2007 a bilateral project was launched with the Bolivian Government, with intersectoral workshops in both countries; this resulted in the development of a joint strategic plan aimed at eliminating trafficking and the worst forms of child labour in border areas of both countries. The first workshop was held in La Paz, with the participation of SENAME, the Public Prosecutor's Office, the Ministry of Labour and Social Security, the Ministry of the Interior, the Ministry of Foreign Affairs, the

Carabineros, the criminal investigation police and representatives of UNICEF, the NGO Raíces and Corporación Opción.

44.These initiatives are consistent with the aim of optimizing coordination between public services.
