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COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-sixth session

SUMMARY RECORD OF THE 1271st MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 26 September 2007, at 3 p.m.

Chairperson: Ms. LEE

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of France under the Optional Protocol on the involvement of children in armed conflict (continued) (CRC/C/OPAC/FRA/1; CRC/C/OPAC/FRA/Q/1 and Add.1; HRI/CORE/1/Add.17/Rev.1)

Initial report of France under the Optional Protocol on the sale of children, child prostitution and child pornography (continued) (CRC/C/OPSC/FRA/1; CRC/C/OPSC/FRA/Q/1 and Add.1; HRI/CORE/1/Add.17/Rev.1)

1. At the invitation of the Chairperson, the members of the delegation of France resumed places at the Committee table.
2. Ms. TISSIER (France) said that Security Council resolution 1612, which had created the working group, had not explicitly referred to the Convention and the Optional Protocol. However, a side event was to be held at the General Assembly on 1 October 2007 to promote the Paris Declaration and call for the ratification of the Convention and, in particular, the Optional Protocol.
3. Ms. RUHARD (France) said that France was bound by the European Union Code of Conduct on Arms Exports, which prohibited the export of arms to countries that employed child soldiers. The first two criteria of the Code, respect for the international commitments of EU member States and for human rights in the country of final destination, provided for the rights of the child to be taken into account in the country of export. With regard to violations of children's rights by French military personnel involved in peacekeeping operations abroad, protection was afforded by international humanitarian law under the guidance of the United Nations principles and by the French Criminal Code, which applied to personnel even when outside French territory. Furthermore, the commanders of the armed forces organized awareness-raising campaigns and took other measures to ensure that military personnel were aware of and respected human rights, including the rights of the child.
4. Ms. TISSIER (France), turning to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, said that there was no specific coordinating body for the Protocol. However, there was a mechanism for coordination in that the provisions of the Protocol were incorporated into the various policies dealing with the family, child protection, law enforcement, justice, trafficking and crime. The Prime Minister's office had overall responsibility for the coordination of all national policies.
5. Mr. PERALDI (France) said that the National Observatory for Children at Risk (ONED) had been established in 2004 to coordinate the activities of the State, regional councils and child protection agencies and to collect and disseminate data on prevention and screening practices and medical, social and judicial information on child abuse. The observatory submitted a yearly report to the Minister for Family Affairs and also conducted investigations and studies and organized tenders for the collection and study of data. A law introduced in 2007 stipulated that all regional councils should set up observatories in each administrative department to collect data for the national centre, which would then analyse the data and provide a summary report to the Minister for Family Affairs. The first data would be available in 2008.

6. Ms. DIEGO (France) said that the Ministry of Justice kept statistics on the number of convictions for the various offences covered by the Protocol and, if the Committee so wished, she could give specific examples.
7. Mr. KOTRANE, Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography, requested clarification as to whether the data collected by the National Observatory for Children at Risk related only to domestic child abuse and the statistics kept by the Ministry of Justice concerned only actual convictions. If that were so, there would be a major discrepancy between the reality of the number of offences against children in France and the reported situation, which was based on data on convictions. It was important to have statistics on all offences covered by the Protocol.
8. Mr. ZERMATTEN asked whether data were available on the number of victims.
9. Mr. SIDDIQUI wished to know whether the number of victims was decreasing or increasing.
10. Ms. TISSIER (France) said that she would research and provide the additional information and statistics requested by the Committee on her return to Paris.
11. Mr. MALON (France) said that misleading statistics had been cited regarding the number of child prostitutes or beggars in France. The figure of 3,000 was based on inaccurate press reports and the figure of 8,000 by definition confused child prostitutes and children forced into begging. There had been 2,054 cases of adult or child soliciting recorded in 2006, compared with 2,859 in 2005, which was evidence of a downward trend. There were estimated to be fewer than 100 child prostitutes in France, thanks to swift intervention measures implemented by the State via the justice system. Most child prostitutes were between the ages of 17 and 18, with no known cases of any under 16-year-olds being involved in prostitution. France was perhaps one of the only countries to make a distinction in its data collection between adult and child prostitutes.
12. Ms. BERTRAND (France) said that, when child prostitutes were picked up by the police in Paris, rather than being charged with soliciting, they were taken to a specialized unit to be interviewed and referred to a juvenile judge, so that educational measures could be implemented. Educational assistance was considered a very important part of the process of inducing children to withdraw from prostitution. With regard to reports of there being 3,000 child prostitutes in France, she agreed that that figure was highly exaggerated.
13. Turning to child victims of sexual abuse, she said that special protective measures had been implemented to take into account the particular circumstances and difficulties faced by a child witness. One such measure was a law, adopted in 1998, to provide for the possibility of child victims giving audio-visual testimony, which had since become mandatory. The importance of that technique was that it enabled the child to testify once only, thereby obviating the need to attend court and retell the traumatic experience over and over again. Facial expressions and gestures were also a valuable aspect of such testimony, especially in the case of very young children. Police and gendarmerie units received specialized training to help them deal with child victims of sexual abuse. In the audio-visual testimony procedure, suggestive questioning was avoided and the child was allowed to speak freely about his/her experience before more specific questions were asked about details of the abuse. Two copies of the

recording were made and then immediately sealed, so as not to interfere with potential court proceedings. Furthermore, French law stipulated that the accuser had to confront the accused, so the audio-visual testimony of a child victim was used when it was clear that the child could not face his/her aggressor.

14. With regard to specialized units in hospitals, currently about 50 administrative departments had judicial accident and emergency units where, at the request of the judge, a medico-legal examination of a child victim could be conducted. The judge might also ask a child psychologist to assess the personality of the child and decide whether there were any problems or anomalies likely to affect his/her psychological balance and also to assess what psychological impact the traumatic experience might have had. An important step forward was that the credibility of the child was no longer called into question.

15. Mr. PARFITT requested additional information on whether the specialized medical units used by the police were the same units that tested for bone density in children and whether the child's consent was obtained prior to a medical examination, in cases where the child had already reached the age of consent, especially if he/she was detained on a charge of child prostitution.

16. Ms. HERCZOG asked whether France had a sex offender treatment programme to help prevent further cases of sexual abuse.

17. Mr. CITARELLA asked whether audio-visual testimony was regarded as sufficient evidence to bring a case against the offender or whether the child would be required to repeat his/her testimony.

18. Mr. ZERMATTEN asked whether there was a minimum age limit for a child to give audio-visual testimony and a limit to the number of times he/she could do so.

19. Mr. FILALI asked whether audio-visual testimonies were recorded at police facilities. He also asked who was present and who had access to the recordings. He wished to know whether the defence lawyer would have access to the recording and be able to use it in preparing his/her case for the defence.

20. Ms. BERTRAND (France) said that children had the right to refuse a medical examination but that right was exercised very rarely. The doctor was also a legal specialist and made every effort to gain the confidence of the child prior to conducting the examination. The medical examination was a significant part of the proceedings but by no means the only one. The audio-visual testimony of a child was an important piece of evidence in the trial but of equal importance were the investigative work carried out to establish a case, the testimonies of family members, teachers and other people close to the child and the interrogation of the offender.

21. There was no minimum age for a child to be heard as a witness, since children developed communications skills at different ages. If child victims were able to express themselves they should be granted the right to be heard. Setting a minimum age would be restrictive, as would limiting the number of times a child could return to give evidence. Although children were usually given one comprehensive hearing, which was generally sufficient, they were allowed to request further hearings to give additional information if they so wished. There were a number of different practices in respect of where children were heard. Large services dealing with minors

had ad hoc interview rooms. Children giving evidence had the right to be accompanied by legal counsel or an ad hoc administrator or doctor. In some cases hospitals had rooms in which children could be interviewed, and in others investigation departments had special facilities for that purpose. The video recordings of interviews with children were copied onto two DVDs, one of which was placed under official seal at the beginning of the investigation procedure, while the other was used by the investigator, and would later be placed under official seal at the end of the investigation. The two recordings would later be used by the judges and other officials involved in the proceedings. A specific prohibition was in place to ensure that persons outside of the procedure could not view the recordings under any circumstances. Transcripts of the recordings were also made.

22. Mr. KOTRANE said that the Committee had been informed that the conditions in which children were heard and levels of training for police officers involved in interviewing child victims of sexual exploitation varied from region to region, and that not all hospitals had facilities for interviewing children. He asked what measures were being taken to ensure that conditions were harmonized throughout the country.

23. Ms. BERTRAND (France) said that the national police force had a training division that ran courses on how to interview child victims, techniques for dealing with sexual offenders and how to give evidence before an assize court. Such courses were held several times per year. In large services that worked regularly with children the working practices were likely to be better than in smaller services that only had contact with children occasionally, and where police officers should undergo continuous training.

24. Mr. ALLONSIUS (France) said that training for judges and prosecutors was provided by the Legal Service Training College (école nationale de la magistrature), which was part of the network of public service training institutions. Certain aspects of the training provided by the College were also used in training schemes for police cadets and prison wardens, and for education workers in the directorate for legal protection of young people. Several training days for judges were dedicated to the manner in which children expressed themselves, the particularities of receiving testimonies from children according to their age, knowledge of the different stages of child development and the development of communications skills, and how to put information received from children into context. Existing case files were made anonymous and used for training purposes, and panels of paediatricians, child psychologists, doctors and lawyers participated in the simulation of legal procedures involving children, for training purposes. Such measures were taken to raise awareness of the specificities of hearing children among trainee family court judges, prosecutors and investigating judges. Continuous training activities had been planned for 2008 on the decision-making process in respect of protection for children, hearing testimonies from children, training for appeal court judges dealing with children's issues, and dealing with minors who had been victims of sexual violence. Such training sessions could also be opened to persons who were not employed in the judiciary, such as teachers and police officers.

25. Ms. TISSIER (France) said that while testimonies given by child victims were taken seriously, they were not the sole grounds for bringing an accused person before the courts and detailed investigations were therefore conducted. Although special protection measures were in place for children, since they were particularly vulnerable, those measures must not restrict the right of the accused to a fair trial.

26. Mr. FILALI said that the Special Rapporteur on the sale of children, child prostitution and child pornography had recommended, in his report E/CN.4/2004/9/Add.1, that an independent body should investigate failures of justice for child victims of sexual abuse. He wondered whether that investigation had been carried out, and if so, what the outcome had been.

27. Mr. ZERMATTEN requested statistics on the number of child victims of sexual exploitation, the protection provided for them, rehabilitation programmes in place and compensation that had been granted.

28. Ms. TISSIER (France) said that statistics could be forwarded to the Committee in due course. Failures in justice were addressed by the Judicial Service Commission (Conseil supérieur de la magistrature) which could take disciplinary measures in the event that failures were detected. It would be difficult to establish a body specifically for that purpose. It was thought that dealing with the situation of children who were considered victims of sexual crimes in specialized establishments could result in stigmatization and the prolongation of the child's status as a victim. Protection measures were adopted on a case-by-case basis without being subject to a prescribed methodology.

29. Mr. KOTRANE said that although the psychological examination of persons accused of having committed sexual crimes against children was compulsory, paediatric psychological assessments of child victims were only carried out at the specific request of the judge. That could be considered to be a gap in the system and he wondered if it would be rectified.

30. Mr. ALLONSIUS (France) said that the issue of paediatric psychological examinations of child victims was particularly delicate, since efforts were made not to oblige the child repeatedly to describe the trauma to which he or she had been subjected. That principle should be applied flexibly in accordance with the situation and the age and stage of development of the child concerned. Criminal procedures were entirely separate from the protection measures established for child victims, and under no circumstances would the outcome of the criminal case affect the child's right to protection. In the event that the defendant was acquitted, proceedings to establish protection measures would continue, since that issue was addressed under civil law and the two procedures were entirely separate. All provisions for child protection aimed to protect children without stigmatizing them. The protection process must not isolate the child concerned and maintain his or her victim status, but rather should aim to reintegrate victims into society.

31. Mr. MALON (France) said that pursuant to the Criminal Code, any visual representation of minors engaged in sexual activity was prohibited. The provision had broad scope, and included all forms of images broadcast on television, drawings, photographs and sculptures, inter alia.

32. Turning to the issue of the sale of children, and in particular the sale of Bulgarian babies in France, he said that 22 babies had been sold in a fraudulent adoption scheme. The lead members of the criminal network that had organized the sale of the babies had been imprisoned, and the families that had bought the babies in question had also received symbolic sentences. The judges had decided to leave the babies in the custody of their adoptive families, following an investigation into each child's circumstances and well-being.

33. Ms. BERTRAND (France) said that there had been cases in the early 1990s in which physicians had provided medical certificates for children in support of a personal description or a complaint, which had not been objective. Appropriate disciplinary measures had been taken.

34. Mr. ALLONSIUS (France), responding to questions on asylum applications in respect of foreign children, said that no statistics were available on the number of children who had been granted refugee status. Minors in holding areas were represented by an ad hoc administrator, and their applications were examined on the basis of information provided. The length of time spent in a holding area depended on the time required to conduct the necessary investigations. Minors who were not admitted into French territory were returned to their country of origin, and measures were taken to ensure that they would be met on arrival. The Public Prosecutor was informed of all such cases.

35. A bilateral agreement had been concluded between France and Romania in 2002 for a period of three years, which aimed to protect Romanian minors on French territory and to combat trafficking and organized crime networks. The agreement promoted coordinated action, which was overseen by an operational liaison group. The agreement had regulated the issue of the return of Romanian minors from French territory. Minors could only be returned following an investigation period during which information was gathered on their family environment in Romania, in order to ensure their protection after their return. In some situations minors had been returned on condition that their situation would be monitored in Romania, or that arrangements were made to house them in the event that they could not return to their families, or that they would be cared for by the child protection authorities in Romania. The Romanian authorities had renewed their commitment to make efforts to ensure child protection and to establish adequate facilities, including a centre in Bucharest; an exchange of information, experience and training had taken place with French officials, including social workers. Preventive measures were also being taken to dispel the myth that Romanian minors were usually successful in obtaining asylum in France. Although the bilateral agreement had been renewed, it had not yet re-entered into force.

36. Mr. KOTRANE said that he was aware of a debate under way in France among judges, experts and associations, including the French Red Cross, on the situation of children in holding areas, who were often returned, without their cases having been filed, within the 96-hour period in which they were supposed to be brought before the courts. There were also reports of border police returning minors in order to meet targets set with respect to annual return figures. Those two issues should be addressed as swiftly as possible. Turning to the issue of universal jurisdiction, he asked whether all of the offences under the Optional Protocol were subject to universal jurisdiction in France.

37. The CHAIRPERSON recalled the question posed previously about the repatriation of a child prostitute, not to his/her home country, but to the place where the problem had originated, for example to the country where the child had been recruited for prostitution. She also wished to know whether any progress had been made in combating situations in which young foreign prostitutes were controlled by a third party outside of France and supervised by a child intermediary in that country.

38. Mr. PARFITT asked what procedure would apply, hypothetically, if a 15-year-old girl was picked up by the juvenile crime squad (brigade des mineurs) under suspicion of soliciting,

along with the man with whom she appeared to be negotiating; both were taken to the police station for questioning; and the girl was referred to a medical laboratory for bone density tests which she refused for fear of jeopardizing fellow prostitutes.

39. Mr. SIDDIQUI, referring to the bilateral agreement between France and Romania, asked whether the French Government planned to conclude similar agreements with other countries, in particular those of West Africa.

40. Mr. ALLONSIUS (France) said that, with regard to minors engaged in prostitution, two changes had taken place. The first was in connection with the Act of 4 March 2002 whereby all minors engaged in prostitution must benefit from the educational assistance procedure, meaning that a child protection measure was envisaged systematically. The second change, relating to foreign minors who were victims of human trafficking and procuring, stemmed from the Act of 24 July 2006, the implementing decree for which had been issued on 13 September 2007. The Act provided for protective measures for victims who cooperated with the authorities in order to dismantle trafficking rings. Residence permits could be granted to victims of child-trafficking or procuring who cooperated with the authorities. They would also benefit from protective measures for children at risk, such as shelter and educational assistance. The Justice Ministry did not, to his knowledge, have any information regarding the conclusion of agreements with other countries drafted in the spirit of the agreement established between Romania and France.

41. Ms. TISSIER (France), replying to the Chairperson, said that residence permits would be granted to child prostitutes based on their status as victims. With regard to the repatriation of child prostitutes, the law did not require the French authorities to send them back to the country from which they had entered France. Generally, they would be sent back to their country of nationality, unless there were grounds for not doing so, such as the risk of ill-treatment in that country, in which case the authorities would seek a third country that would agree to receive them.

42. Ms. BERTRAND (France), referring to the hypothetical case of a 15-year-old girl suspected of engaging in prostitution, explained that the French Criminal Code contained a provision, enacted in 2003, calling for the prosecution of any individual who attempted to engage in sexual relations with a minor that involved the exchange of money. Should a minor's age, based on her appearance, seem to contradict the age stated in her identity papers, or if she was undocumented and had visibly reached the age of puberty, the judge could requisition emergency medical and legal services to determine the minor's bone age. The procedure began with an interview between a physician and the minor in her native tongue, with, if necessary, the services of an interpreter, followed by a medical and dental examination of the minor, a wrist X-ray and a reading by two radiologists. Based on the results, the physician would establish an age range, such as 15 to 19, or 16 to 18 years of age. The age most favourable to the minor would be chosen, i.e. the younger age. The minor had the right to refuse to take the bone density test, but it would be in her interest to undergo the test because she could benefit from child protection measures, depending on the test results.

43. Ms. KHATTAB wished to know whether the Committee's previous recommendations to the French delegation to use more modern age determination techniques had been implemented.

44. Ms. BERTRAND (France) said that emphasis was placed on interviews and medical examinations and that appropriate action was taken to find the minor's identity papers in order to determine his or her age.

45. Mr. KOTRANE recalled that the Committee had indeed issued a general recommendation, echoed in other recommendations made by other United Nations bodies and the Council of Europe, to the effect that children should be given the benefit of the doubt with regard to their age. The use of bone density tests should be avoided if at all possible. He asked whether the French Government was considering the possibility of discontinuing that practice.

46. Ms. TISSIER (France) explained that the bone density test had evolved over the years to include other factors besides X-rays and their readings. Further, judges were not bound by the test results, especially if they found them irrelevant or contradictory, and could declare the person to be a minor on their own judgement. It was true that the test had its limitations, and the French courts were urged to use it with caution. However, there were currently no plans to replace the test with other means of determining a person's age.

47. The CHAIRPERSON said that it was becoming more and more difficult to determine the age of puberty because children were becoming pubescent at a younger age. She wished to know whether the French Government envisaged the possibility of reviewing the age of puberty in connection with pornography so as to criminalize pornography that involved the use of children in pornographic images.

48. Mr. PERALDI (France) said that the French criteria regarding prepuberty were aligned with those of many Western countries and contained in case law. There were more and more cases in which child prostitutes operating in France were controlled by pimps abroad, which was also the case for prostitutes of legal age. In such circumstances, the child prostitute would travel outside France to hand over money to the pimp, or a member of the prostitution ring would go to France to pick up the money, making the police investigation difficult, but not impossible. International and European arrest warrants were a valuable tool in those investigations. In response to another question, he said that a new French law, enacted in 2006, had established universal jurisdiction in matters relating to procuring and the prostitution of minors. French law relating to France's universal jurisdiction over French nationals and residents dated back to 1998 and established jurisdiction over matters relating to sex tourism. Articles 222-22, 227-27-1 and 225-12-3 of the French Criminal Code were especially relevant. Sex tourism was not an offence per se in France, but all offences against minors committed by French citizens or residents abroad, such as rape or child pornography, were covered by the legislation.

49. Mr. KOTRANE wished to know whether universal jurisdiction under French law would be extended to cover all the offences described in the Optional Protocol, such as the sale of children, forced labour of children, child prostitution and child pornography, when committed by a French national overseas. According to current French legislation, which recognized dual criminality, offences such as the sale of children or illegal adoption were not necessarily subject to universal jurisdiction if there was no sexual connotation.

50. Ms. TISSIER (France) said that if a French national or resident committed an offence against a minor abroad, such as the sale of children, he/she would be prosecutable in France if the country where the act was committed recognized a similar offence, or if dual criminality

applied. In addition to adequate legislative means, extensive cooperation with the police and judiciary of the country concerned was required, in order to resolve only a few such cases per year. It would perhaps be more effective to focus on cases of child pornography and prostitution, rather than the sale of children. The French Government was not ready to extend universal jurisdiction to the sale of children when the number of cases was not very significant.

51. Ms. SMITH suggested that the French Government should eliminate the dual criminality requirement, thus making it possible to prosecute some of those cases.

52. Mr. PARFITT said that it was his understanding that there were exceptions, under French law, to the rule of dual criminality, which did not apply to the full range of crimes that had been discussed at the current meeting.

53. Mr. CITARELLA wished to know what measures had been implemented in France to prevent sex tourism, such as campaigns involving travel agencies or international organizations.

54. Ms. TISSIER (France) explained that, according to the notion of dual criminality, a person who had committed an offence against a minor abroad could be prosecuted as long as the act was considered to be an offence in the country where it had been perpetrated. However, dual criminality did not apply where sexual offences were concerned. For example, French nationals guilty of incitement to prostitution in a country where child prostitution was not considered to be an offence were liable for prosecution in France. Those cases were extremely rare.

55. Ms. MERLOZ (France), elaborating on French measures aimed at combating sex tourism, said that the Government employed a very pragmatic approach that focused on information, education, training and awareness-raising. A national programme to prevent sex tourism had been launched in 2006. Sex education classes in schools included the theme of money and sexuality and awareness-raising measures were aimed at students who went on to study tourism or hotel management. In addition to repressive measures, measures targeting the tourism sector had been implemented. Some 20 travel agents in France had signed an ethics charter promoting tourism that was respectful of children's rights. Long-standing awareness programmes had been expanded to contain an awareness-building component targeting tourists and travel agents who dealt with countries known for sex tourism. Brochures and video films were distributed in travel agencies and airports. National measures were supplemented by international measures carried out in cooperation with the World Tourism Organization, the Organization for Security and Cooperation in Europe and the European Union. The French Government was currently negotiating with the European Union to promote ethical tourism throughout the Union.

56. Ms. AIDOO asked whether the explanations given by the French delegation in respect of awareness-raising campaigns and child protection measures also applied to the French overseas departments and territories.

57. Ms. TISSIER (France) said that they did, except in matters relating to adoption. In reply to a previous question as to how effective the Government's preventive measures had been, she said that it was difficult to give a precise answer. It was difficult to pinpoint the extent of sex tourism involving French nationals because there were no statistics on the number of French people travelling abroad for that purpose. Further, she did not know of any country that possessed such data.

58. The CHAIRPERSON said that some countries had been able to provide data on the number of persons involved in sex tourism involving children and that there should be a way to obtain those figures.

59. Ms. DIEGO (France) said that the reform of France's adoption legislation in 2005 had been aimed at improving its adoption procedures and aligning them more closely with the best interests of the child. Before issuing visas to children involved in intercountry adoptions from countries that had not ratified the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, which accounted for 68 per cent of all intercountry adoptions in France, French authorities verified the legality of the adoption procedures of such countries. If there was reason to doubt their legitimacy, France suspended the approval of adoptions from the country in question until the problem could be resolved. The two countries of origin accounting for the largest number of intercountry adoptions in France were Viet Nam and Haiti, whose adoption procedures were considered to be in conformity with the provisions of the Hague Convention.

60. Mr. KOTRANE, Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography, said that, because the international instruments did not contain any provisions prohibiting the adoption of children from countries that had not ratified the Hague Convention, it was essential to ensure that such adoptions were in the best interests of the child. The delegation should provide additional information on the function of the recently established French Adoption Agency.

61. Mr. PARFITT asked whether the 22 Bulgarian children referred to previously had been lawfully adopted in France. He wished to know whether French citizenship was granted automatically to children born on French territory.

62. Ms. ORTIZ asked why the children involved in the majority of intercountry adoptions in France were from countries that had not ratified the Hague Convention. She enquired whether France approved intercountry adoptions of children from Guatemala.

63. Ms. DIEGO (France) said that the functions of the French Adoption Agency, which had begun operations in September 2006, included providing information and advice to adoption applicants, processing individual cases and verifying the accreditation of adoption agencies in States that were not parties to the Hague Convention. Approval was not granted for intercountry adoptions from Guatemala owing to that country's current lack of the capacity and resources needed to align its adoption procedures with the provisions of the Hague Convention, particularly with regard to the establishment of a central adoption authority. The French Adoption Agency offered assistance in such efforts and was currently in the process of helping to establish a central adoption authority in Madagascar.

64. Mr. CITARELLA, Alternate Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict, asked whether there were accredited adoption agencies in France and, if so, what conditions they had to meet in order to function as intermediaries in the adoption process.

65. Ms. DIEGO (France) said that some 40 adoption agencies had been accredited by the central international adoption authority on the basis of a number of criteria. Those included: that

they should be registered as an association; that they should be sufficiently established in the countries in relation to which they were offering to serve as intermediaries; and that their staff should possess the requisite professionalism, skills and knowledge of both French law and the law of the country in question, to act as competent providers of the services they were offering.

66. Mr. ZERMATTEN requested additional information on the scope of the declaration made by France under article 45 of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

67. Ms. MERLOZ (France) said that that declaration, made in 1998 when France had ratified the Hague Convention, had been justified by the situation prevailing at the time, which was that distinct laws in the overseas territories and metropolitan France applied to matters dealt with in the Hague Convention. It was possible to envisage a re-examination of France's declaration under article 45 of the Convention given the changes that had taken place since 1998, which had resulted in the uniform applicability of French domestic legislation in metropolitan France and all overseas departments and territories. In response to the many questions posed by Committee members with respect to the overseas departments and territories, a detailed report on that subject had been annexed to France's third and fourth periodic reports under the Convention on the Rights of the Child, which would be taken up by the Committee in due course.

68. Ms. AIDOO requested information on the challenges faced by the overseas departments and territories in their implementation of the optional protocols that were due to their particular socio-economic or socio-cultural circumstances.

69. Mr. FILALI asked whether the French Government had taken any measures to implement European Court of Human Rights judgement No. 25389/05 of 26 April 2007 in the case of *Gebremedhin v. France*, which concerned the lack, under French law, of a remedy with suspensive effect against decisions refusing leave to enter or directing removal of the applicants concerned.

70. Ms. TISSIER (France) said that France's immigration legislation was currently being re-examined with a view to incorporating provisions for an appropriate remedy with suspensive effect in conformity with the Court's judgement.

71. Mr. KOTRANE asked whether illegally adopting a child or forcing a child to engage in one of the worst forms of child labour was punishable under an offence explicitly defined as the sale of children, and not merely as an act of forced labour or an infringement of adoption laws, thereby incurring a more severe punishment.

72. Mr. MALON (France) said that French legislation did not explicitly define the sale of children as an offence, but that efforts were currently being made to rectify that situation. In the case of the Bulgarian babies mentioned previously, the convictions handed down had resulted from charges of incitement to abandon a child and trafficking in human beings, which were set out in articles 225-4-1 et seq. of the Criminal Code.

73. Ms. TISSIER (France) said that the mere fact of being born on French territory did not confer French nationality.

74. Mr. POLLAR, Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict, thanked the members of the delegation for the thoroughness of their replies. He commended France's efforts to combat the involvement of children in armed conflict at home and abroad through the provision of international assistance. He would be interested in receiving additional information pertaining to the following areas: France's role in the United Nations Security Council Working Group on Children and Armed Conflict; the sale of arms to organizations that were potential recruiters of child soldiers; and France's definition of the term "direct part in hostilities".

75. Mr. KOTRANE, Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography, commended France for its highly developed legislation with regard to the provisions of the Optional Protocol and its compliance with the requirement to go beyond its own borders in giving effect to the Optional Protocol. The Committee's recommendations would address such issues as universal jurisdiction, the criminalization of the offences set out in the Optional Protocol, statistical data, training and the work of civil society organizations.

76. Mr. BETTATI (France) thanked the members of the Committee for their questions and comments, which would help his country to improve its practices and increase the effectiveness of its laws. France would continue to work hard and remain vigilant in the areas covered by the optional protocols and in those to be highlighted in the Committee's recommendations. As reflected by the recently established procedures for admitting child victims in a number of French hospitals, one of the strongest motivating factors behind France's efforts was its commitment to ending the suffering of children.

77. The CHAIRPERSON thanked the members of the delegation for their participation. She requested that the outcome of the dialogue with the Committee and the Committee's concluding observations should be widely disseminated to professionals, children and the general public in all parts of France, including the overseas departments and territories.

The meeting rose at 5.55 p.m.