



# Convention on the Rights of the Child

## Committee on the Rights of the Child

### Consideration of reports submitted by States parties 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

### Initial reports of States parties due in 2007

#### Japan \*

[22 April 2008]

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## I.Introduction

1.The Government of Japan ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (hereinafter referred to as “the Protocol”) on January 24, 2005, which entered into force in Japan on February 24, 2005. Article 12, paragraph 1, of the Protocol stipulates that each State Party shall, within two years following the entry into force of the present Protocol for that State Party, submit a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Protocol, in accordance with which this Government Report is submitted.

2.On ratifying the Protocol, the Government of Japan revised the Child Welfare Law and the Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children (hereinafter referred to as the “Law Banning Child Prostitution and Pornography”), in light of the need to guarantee the implementation of the Protocol and of the criminal situation in Japan. After the ratification, the Ministry of Foreign Affairs informed the relevant ministries and agencies of the contents of the Protocol, which have been working in concert to ensure the implementation of the Protocol.

3.The implementation of the Protocol, which includes provisions related to various fields, requires efforts of several ministries and agencies and cooperation with local authorities, civil society and NGOs. The present report will outline the current status of such efforts undertaken and cooperation involved. The major ministries and agencies concerned include the National Police Agency, the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Health, Labor and Welfare, the Cabinet Secretary, the Cabinet Office, the Ministry of Internal Affairs and Communications, and the Ministry of Land, Infrastructure and Transport. The present Government Report was written based upon reports from these ministries and agencies on legislation and policies for the implementation of the Protocol with careful consideration of the purpose of the Convention on the Rights of the Child and of the opinions of civil society and NGOs.

4.Due to the extensiveness of the activities related to the Protocol, it is difficult to have a comprehensive understanding of the budgets for the activities that either directly or indirectly contribute to the realization of the rights stated in the Protocol. Although an assessment of the budgetary trends related to the Protocol is not simple to perform, the present report includes some examples of financial assistance provided as a part of international cooperation by the Government of Japan in the fields concerned with the Protocol.

5.The relevant ministries and agencies offer human rights education and seminars on the contents of the Protocol as well as training programs to the related personnel, as described below.

### National Policy Agency

6.Police departments, using the occasion of national meetings, disseminate information to police personnel regarding the Protocol and contents of the amendments made in 2004 to the Law Banning Child Prostitution and Pornography and the Child Welfare Law, which are part of domestic legislations assuring the implementation of the Protocol internally, in order to exercise strict control over such offenses.

7.In addition, police officers who are engaged in controlling offenses such as child prostitution which harm the welfare of youth receive education and training aimed at increasing knowledge and skills necessary for criminal investigations and the protection of the child. At the same time, juvenile officers who work in juvenile support centers established by prefectural police departments receive education on counselling techniques by university professors and experts such as counsellors.

### Ministry of Justice

8.With regard to public prosecutors, supervisors provide guidance on individual cases during the course of their normal duties and various training programs are provided according to such factors as the number of years of prosecutorial experience. During the training public prosecutors receive lectures on “children and women’s issues” and “conventions related to international human rights” to ensure that the prosecutors have full knowledge of the contents of the Protocol.

9.As regards personnel working in correctional institutions, various training programs are offered in the Training Institute for Correctional Personnel and in its branch offices (8 nationwide), where lectures on human right issues including child prostitution, child pornography and child abuse are given, to ensure that the correctional officials have substantial knowledge of the contents of the Protocol.

10.As regards probation officers, learning and training opportunities on the protection and welfare of juveniles (less than 20 years old) including children (less than 18 years old) are offered. More specifically, various training programs are offered according to the years of probation officers’ experience, based on curricula that include practical training at child counselling centers and youth developmental psychology, as well as study of psychotherapy, including counselling. In addition, various training programs organized by probation offices provide learning opportunities for volunteer probation officers on the protection and welfare of juveniles, including children under probationary supervision.

11.As regards immigration officials, education on topics concerning human rights conventions, including the Convention on the Rights of the Child, is offered by visiting lecturers (such as university professors) through various training programs. In 2004 FY, a training program on human rights with a focus on trafficking in persons was conducted for personnel engaged in the duties of immigration

control and treatment of foreigners in the detention facilities, providing education on issues such as human trafficking, including offenses that involve children under 18 years old.

### **Ministry of Foreign Affairs**

12. The Ministry of Foreign Affairs offers human rights education through training programs for new officials to inform them of the content of the major conventions on human rights, including the Protocol.

### **Ministry of Education, Culture, Sports, Science and Technology**

13. As regards the people who have concern with school, the Ministry of Education, Culture, Sports, Science and Technology promotes the appropriate understanding of the concept of the Convention on the Rights of the Child, the service regulations such as the prohibition on obscene acts, and consideration for children who have been abused.

### **Ministry of Health, Labor and Welfare**

14. Personnel in child guidance centers and child welfare facilities receive training on how to deal with children who have been abused and children who have suffered psychologically and physically from various causes. In addition, the content of the Protocol has been disseminated through training programs organized by various agencies.

## **II. Criminal statutes on the prohibition of the sale of children, child pornography and child prostitution**

### **A. Definition of the child**

15. Criminalization of the acts specified in Article 3 (1) of the Protocol is covered by the provisions of the Law Banning Child Prostitution and Pornography, the Child Welfare Law, the Penal Code, and the Immigration Control and Refugee Recognition Act. A “child” described in the constituent elements of the offenses provided for in the Law Banning Child Prostitution and Pornography and the Child Welfare Law shall be read as a person who has not reached 18 years of age (Article 2, paragraph 1, of the Law Banning Child Prostitution and Pornography, Article 4 of the Child Welfare Law).

### **B. Criminalization of each of the acts specified in article 3, paragraph 1, of the Protocol**

#### **1. Criminalization of the offering, delivering, and accepting of a child for the purpose of sexual exploitation of the child (article 3 (a) (i) a)**

##### **16. Offering**

Article 8, paragraph 1, of the Law Banning Child Prostitution and Pornography (trafficking in persons for the purpose of child prostitution, etc.): imprisonment with work for not less than 1 year but not more than 10 years

Article 60, paragraph 2, Article 34, paragraph 1, item 7, of the Child Welfare Law (act of transferring the custody of a child to a person who is likely to commit an act violating punitive laws): imprisonment with work for not more than 3 years or a fine of not more than 1,000,000 yen, or both

Article 60, paragraph 2, Article 34, paragraph 1, item 9, of the said Law (act of keeping a child under one’s control for the purposes of having the child engage in an act harmful to the child mentally or physically): imprisonment with work for not more than 3 years or a fine of not more than 1,000,000 yen, or both

Article 220 of the Penal Code (unlawful capture and confinement): imprisonment with work for not less than 3 months but not more than 7 years

Article 224 of the Penal Code (kidnapping or abduction of a minor): imprisonment with work for not less than 3 months but not more than 7 years (note: stiffer penalties implemented since the 2005 revision)

Article 225 of the Penal Code (kidnapping or abduction for the purpose of obscenity): imprisonment with work for not less than 1 year but not more than 10 years

Article 226 of the Penal Code (kidnapping or abducting for transportation out of a country): imprisonment with work for a definite term of not less than 2 years

Article 226-2, paragraph 4, of the Penal Code (selling of human beings): imprisonment with work for not less than 1 year but not more than 10 years (note: newly established since the 2005 revision)

Article 226-2, paragraph 5, of the Penal Code (trafficking in persons for transportation out of a country): imprisonment with work for a definite term of not less than 2 years (note: newly established since the 2005 revision)

Article 73-2, paragraph 1, item 2, of the Immigration Control and Refugee Recognition Act (act of placing a foreign national under one’s control for the purpose of having the foreign national engage in illegal work): imprisonment with work for not more than 3 years or a fine of not more than 3,000,000 yen, or both

## 17.Transfer

Article 8, paragraph 1, of the Law Banning Child Prostitution and Pornography (trafficking in persons for the purpose of child prostitution, etc.): imprisonment for not less than 1 year but not more than 10 years

Article 8, paragraph 2, of the Law Banning Child Prostitution and Pornography (act of transferring a child, who has been abducted, kidnapped, or sold or brought in a foreign country, out of that country): imprisonment with work for a definite term of not less than 2 years

Article 60, paragraph 2; Article 34, paragraph 1, item 9, of the Child Welfare Law (act of keeping a child under one's control for the purpose of having the child engage in an act harmful to the child mentally or physically): imprisonment with work for not more than 3 years or a fine of not more than 1,000,000 yen, or both

Article 220 of the Penal Code (unlawful capture and confinement): imprisonment with work for not less than 3 months but not more than 7 years

Article 224 of the Penal Code (kidnapping or abduction of a minor): imprisonment at forced labor for not less than 3 months but not more than 7 years

Article 225 of the Penal Code (kidnapping or abduction for the purpose of obscenity): imprisonment with work for not less than 1 year but not more than 10 years

Article 226 of the Penal Code (kidnapping or abduction for transportation out of a country): imprisonment with work for a definite term of not less than 2 years

Article 226-2, paragraph 4 of the Penal Code (selling of human beings): imprisonment with work for not less than 1 year but not more than 10 years

Article 226-2, paragraph 5, of the Penal Code (trafficking in persons for transportation out of a country): imprisonment with work for a definite term of not less than 2 years

Article 226-3 of the Penal Code (act of transferring a person who has been abducted, kidnapped, or sold or bought in a foreign country, out of that country): imprisonment with work for a definite term of not less than 2 years (note: newly established since the 2005 revision)

Article 73-2, paragraph 1, item 2, of the Immigration Control and Refugee Recognition Act (act of placing a foreign national under one's control for the purpose of having the foreign national engage in illegal work): imprisonment with work for not more than 3 years or a fine of not more than 3,000,000 yen, or both

Article 74, paragraph 1, of the said Act (act of having collective stowaways under one's control or charge and having them enter Japan or land in Japan): imprisonment with work for not more than 5 years or a fine of not more than 3,000,000 yen

Article 74-2, paragraph 1, of the said Act (act of transporting collective stowaways under one's control or charge toward Japan or to a place of landing in the territory of Japan): imprisonment with work for not more than 3 years or a fine of not more than 2,000,000 yen

Article 74-4, paragraph 1, of the said Act (act of receiving collective stowaways from a person who has had them under his control, transporting, harboring or concealing such collective stowaways): imprisonment with work for not more than 5 years or a fine of not more than 3,000,000 yen

## 18.Receipt

Article 8, paragraph, of the Law Banning Child Prostitution and Pornography (trafficking in persons for the purpose of child prostitution, etc.): imprisonment with work for not less than 1 year but not more than 10 years

Article 60, paragraph 2, Article 3, paragraph 1, item 9 of the Child Welfare Law (act of keeping a child under one's control for the purpose of having the child engage in an act harmful to the child mentally or physically): imprisonment with work for not more than 3 years or a fine of not more than 1,000,000 yen, or both

Article 220 of the Penal Code (unlawful capture and confinement): imprisonment with work for not less than 3 months but not more than 7 years

Article 224 of the Penal Code (kidnapping or abduction of a minor): imprisonment with work for not less than 3 months but not more than 7 years

Article 225 of the Penal Code (kidnapping or abduction for the purpose of obscenity): imprisonment with work for not less than 1 year but not more than 10 years

Article 226 of the Penal Code (kidnapping or abducting for transportation out of a country): imprisonment with work for a definite term of not less than 2 years

Article 226-2, paragraph 1, of the Penal Code (buying human beings): imprisonment with work for not less than 3 months but not more than 5 years (note: newly established since the 2005 revision)

Article 226-2, paragraph 2, of the Penal Code (buying a minor): imprisonment with work for not less than 3 months but not more than 7 years (note: newly established since the 2005 revision)

Article 226-2, paragraph 3, of the Penal Code (buying human beings for the purpose of profit, obscenity or injury): imprisonment with work for not less than 1 year but not more than 10 years (note: newly established since the 2005 revision)

Article 226-2, paragraph 5, of the Penal Code (trafficking in persons for transportation out of a country): imprisonment with work for a definite term of not less than 2 years

Article 227, paragraph 3, of the Penal Code (receiving a kidnapped or abducted person): imprisonment with work for not less than 6 months but not more than 7 years

Article 73-2, paragraph 1, item 2, of the Immigration Control and Refugee Recognition Act (act of placing a foreign national under one's control for the purpose of having the foreign national engage in illegal work): imprisonment with work for not more than 3 years or a fine of not more than 3,000,000 yen, or both

Article 74-4, paragraph 1, of the said Act (act of receiving collective stowaways from a person who has had them under his control, transporting, harboring, or concealing such collective stowaways): imprisonment with work for not more than 5 years or a fine of not more than 3,000,000 yen

## **2.Criminalization of the offering, transfer and receipt of a child to deliver the organs of the child for profit (article 3, paragraph1 (a) (i) b)**

### **19.Offering**

Article 60, paragraph 2; Article 34, paragraph 1, item 7, of the Child Welfare Law (act of transferring the custody of a child to a person who is likely to commit an act violating punitive laws): imprisonment with work for not more than 3 years or a fine of not more than 1,000,000 yen, or both

Article 60, paragraph 2; Article 34, paragraph 1, item 9, of the said Law (act of keeping a child under one's control for the purpose of having the child engage in an act harmful to the child mentally or physically): imprisonment with work for not more than 3 years or a fine of not more than 1,000,000 yen, or both

Article 220 of the Penal Code (unlawful capture and confinement): imprisonment with work for not less than 3 months nor more than 7 years

Article 224 of the Penal Code (kidnapping or abduction of a minor): imprisonment with work for not less than 3 months but not more than 7 years

Article 225 of the Penal Code (kidnapping or abduction for profit): imprisonment with work for not less than 1 year but not more than 10 years

Article 225-2, paragraph 1, of the Penal Code (kidnapping for ransom): life imprisonment with work or imprisonment with work for not less than 3 years

Article 226 of the Penal Code (kidnapping or abducting for transportation out of a country): imprisonment with work for a definite term of not less than 2 years

Article 226-2, paragraph 4, of the Penal Code (selling of human beings): imprisonment with work for not less than 1 year but not more than 10 years

Article 226-2, paragraph 5, of the Penal Code (trafficking in persons for transportation out of a country): imprisonment with work for a definite term of not less than 2 years

Article 226-3 of the Penal Code (act of transporting a person, who has been abducted or kidnapped in a foreign country, out of that country): imprisonment with work for a definite term of not less than 2 years

Article 73-2, paragraph 1, item 2, of the Immigration Control and Refugee Recognition Act (act of placing a foreign national under one's control for the purpose of having the foreign national engage in illegal work): imprisonment with work for not more than 3 years or a fine of not more than 3,000,000 yen, or both

### **20.Transfer**

Article 60, paragraph 2; Article 34, paragraph 1, item 9, of the said law (act of keeping a child under one's control for the purpose of having the child engage in an act harmful to the child mentally or physically): imprisonment with work for not more than 3 years or a fine of not more than 1,000,000 yen, or both

Article 220 of the Penal Code (unlawful capture and confinement): imprisonment with work for not less than 3 months but not more than 7 years

Article 224 of the Penal Code (kidnapping or abduction of a minor): imprisonment at forced labor for not less than 3 months nor more than 7 years

Article 225 of the Penal Code (kidnapping or abduction for profit): imprisonment with work for not less than 1 year but not more

than 10 years

Article 225-2, paragraph 1, of the Penal Code (kidnapping for ransom): life imprisonment with work or imprisonment with work for not less than 3 years

Article 226 of the Penal Code (kidnapping or abducting for transportation out of a country): imprisonment with work for a definite term of not less than 2 years

Article 226-2, paragraph 4, of the Penal Code (selling of human beings): imprisonment with work for not less than 1 year but not more than 10 years

Article 226-2, paragraph 5, of the Penal Code (trafficking in persons for transportation out of a country): imprisonment with work for a definite term of not less than 2 years

Article 226-3 of the Penal Code (act of transporting a person, who has been abducted or kidnapped in a foreign country, out of that country): imprisonment for a definite term of not less than 2 years

Article 73-2, paragraph 1, item 2, of the Immigration Control and Refugee Recognition Act (act of placing a foreign national under one's control for the purpose of having the foreign national engage in illegal work): imprisonment with work for not more than 3 years or a fine of not more than 3,000,000 yen, or both

Article 74, paragraph 1, of the said Act (act of having collective stowaways under one's control enter Japan or land in Japan): imprisonment with work for not more than 5 years or a fine of not more than 3,000,000 yen

Article 74-2, paragraph 1, of the said Act (act of transporting collective stowaways under one's control or charge toward Japan or to a place of landing in the territory of Japan): imprisonment with work for not more than 3 years or a fine of not more than 2,000,000 yen

Article 74-4, paragraph 1, of the said Act (act of receiving collective stowaways from a person who has had them under his control, transporting, harboring or concealing such collective stowaways): imprisonment with work for not more than 5 years or a fine of not more than 3,000,000 yen

## 21. Receipt

Article 60, paragraph 2; Article 34, paragraph 1, item 9 of the said law (act of keeping a child under one's control for the purpose of having the child engage in an act harmful to the child mentally or physically): imprisonment with work for not more than 3 years or a fine of not more than 1,000,000 yen, or both

Article 220 of the Penal Code (unlawful capture and confinement): imprisonment with work for not less than 3 months but not more than 7 years

Article 224 of the Penal Code (kidnapping or abduction of a minor): imprisonment with work for not less than 3 months but not more than 7 years

Article 225 of the Penal Code (kidnapping or abduction for profit): imprisonment with work for not less than one year but not more than 10 years

Article 225-2, paragraph 1 of the Penal Code (abducting for ransom): life imprisonment with work or imprisonment with work for not less than 3 years

Article 226 of the Penal Code (kidnapping or abduction for transportation out of a country): imprisonment with work for a limited term of not less than 2 years

Article 226-2, paragraph 1 of the Penal Code (buying human beings): imprisonment with work for not less than 3 months but not more than 5 years

Article 226-2, paragraph 2 of the Penal Code (buying a minor): imprisonment with work for not less than 3 months but not more than 7 years

Article 226-2, paragraph 3 of the Penal Code (buying human beings for the purpose of profit, obscenity or injury): imprisonment with work for not less than 1 year but not more than 10 years

Article 226-2, paragraph 5 of the Penal Code (trafficking in persons for transportation out of a country): imprisonment with work for a definite term of not less than 2 years

Article 227, paragraph 3 of the Penal Code (receiving a kidnapped or abducted person): imprisonment with work for not less than 6 months but not more than 7 years

Article 73-2, paragraph 1, item 2 of the Immigration Control and Refugee Recognition Act (act of placing a foreign national under one's control for the purpose of having the foreign national engage in illegal work): imprisonment with work for not more than 3 years or a fine of not more than 3,000,000 yen, or both

Article 74-4, paragraph 1 of the said Act (act of receiving from a person who has had them under his control or charge, transporting, harboring or concealing such collective stowaways): imprisonment with work for not more than 5 years or a fine of not more than

3,000,000 yen

### **3.Criminalization of the offering, delivering, and accepting a child for the purpose of having the child engage in forced labor (article 3, paragraph 1 (a) (i) c)**

#### **22.Offering**

Article 60, paragraph 2; Article 34, paragraph 1, item 7, of the Child Welfare Law (act of transferring the custody of a child to a person who is likely to commit an act violating punitive laws): imprisonment with work for not more than 3 years or a fine of not more than 1,000,000 yen, or both

Article 60, paragraph 2; Article 34, paragraph 1, item 9, of the said Law (act of keeping a child under one's control for the purpose of having the child engage in an act harmful to the child mentally or physically): imprisonment with work for not more than 3 years or a fine of not more than 1,000,000 yen, or both

Article 220 of the Penal Code (unlawful capture and confinement): imprisonment with work for not less than 3 months but not more than 7 years

Article 224 of the Penal Code (kidnapping or abduction of a minor): imprisonment with work for not less than 3 months but not more than 7 years

Article 225 of the Penal Code (kidnapping or abduction for profit): imprisonment with work for not less than 1 year but not more than 10 years

Article 225-2, paragraph 1, of the Penal Code (kidnapping for ransom): life imprisonment with work or imprisonment with work for not less than 3 years

Article 226 of the Penal Code (kidnapping or abducting for transportation out of a country): imprisonment with work for a definite term of not less than 2 years

Article 226-2, paragraph 4, of the Penal Code (selling of human beings): imprisonment with work for not less than 1 year but not more than 10 years

Article 226-2, paragraph 5, of the Penal Code (trafficking in persons for transportation out of a country): imprisonment with work for a definite term of not less than 2 years

Article 226-3 of the Penal Code (act of transporting a person, who has been abducted or kidnapped in a foreign country, out of that country): imprisonment with work for a definite term of not less than 2 years

Article 73-2, paragraph 1, item 2, of the Immigration Control and Refugee Recognition Act (act of placing a foreign national under one's control for the purpose of having the foreign national engage in illegal work): imprisonment with work for not more than 3 years or a fine of not more than 3,000,000 yen, or both

#### **23.Transfer**

Article 60, paragraph 2; Article 34, paragraph 1, item 9, of the Child Welfare Law (act of keeping a child under one's control for the purpose of having the child engage in an act harmful to the child mentally or physically): imprisonment with work for not more than 3 years or a fine of not more than 1,000,000 yen, or both

Article 220 of the Penal Code (unlawful capture and confinement): imprisonment with work for not less than 3 months but not more than 7 years

Article 224 of the Penal Code (kidnapping or abduction of a minor): imprisonment with work for not less than 3 months but not more than 7 years

Article 225 of the Penal Code (kidnapping or abduction for profit): imprisonment with work for not less than 1 year but not more than 10 years

Article 225-2, paragraph 1 of the Penal Code (kidnapping for ransom): life imprisonment with work or imprisonment with work for not less than 3 years

Article 226 of the Penal Code (kidnapping or abducting for transportation out of a country): imprisonment with work for a definite term of not less than 2 years

Article 226-2, paragraph 4, of the Penal Code (selling of human beings): imprisonment with work for not less than 1 year but not more than 10 years

Article 226-2, paragraph 5, of the Penal Code (trafficking in persons for transportation out of a country): imprisonment with work for a definite term of not less than 2 years

Article 226-3 of the Penal Code (act of transporting a person, who has been abducted or kidnapped in a foreign country, out of that country): imprisonment with work for a definite term of not less than 2 years

Article 73-2, paragraph 1, item 2, of the Immigration Control and Refugee Recognition Act (act of placing a foreigner under one's

control for the purpose of having the foreigner engage in illegal work): imprisonment of not more than 3 years or a fine of not more than 3,000,000 yen, or both

Article 74, paragraph 1, of the said Act (act of having collective stowaways under one's control enter Japan or land in Japan): imprisonment with work for not more than 5 years or a fine of not more than 3,000,000 yen

Article 74-2, paragraph 1, of the said Act (act of transporting collective stowaways under one's control or charge toward Japan or to a place of landing in the territory of Japan): imprisonment with work for not more than 3 years or a fine of not more than 2,000,000 yen

Article 74-4, paragraph 1, of the said Act (act of receiving collective stowaways from a person who has had them under his control, transporting, harboring or concealing such collective stowaways): imprisonment with work for not more than 5 years or a fine of not more than 3,000,000 yen

#### 24. Receipt

Article 60, paragraph 2; Article 34, paragraph 1, item 9 of the Child Welfare Law (act of keeping a child under one's control for the purpose of having the child engage in an act harmful to the child mentally or physically): imprisonment with work for not more than 3 years or a fine of not more than 1,000,000 yen, or both

Article 220 of the Penal Code (unlawful capture and confinement): imprisonment with work for not less than 3 months but not more than 7 years

Article 224 of the Penal Code (kidnapping or abduction of a minor): imprisonment with work for not less than 3 months but not more than 7 years

Article 225 of the Penal Code (kidnapping or abduction for profit): imprisonment with work for not less than 1 year but not more than 10 years

Article 225-2, paragraph 1, of the Penal Code (kidnapping for ransom): life imprisonment with work or imprisonment with work for not less than 3 years

Article 226 of the Penal Code (kidnapping or abduction for transportation out of a country): imprisonment at forced labor for a definite term of not less than 2 years

Article 226-2, paragraph 1, of the Penal Code (buying human beings): imprisonment with work for not less than 3 months but not more than 5 years

Article 226-2, paragraph 2, of the Penal Code (buying a minor): imprisonment with work for not less than 3 months but not more than 7 years

Article 226-2, paragraph 3, of the Penal Code (buying human beings for the purpose of profit, obscenity or injury): imprisonment with work for not less than 1 year but not more than 10 years

Article 226-2, paragraph 5, of the Penal Code (trafficking in persons for transportation out of a country): imprisonment with work for a definite term of not less than 2 years

Article 227, paragraph 3, of the Penal Code (receiving a kidnapped or abducted person): imprisonment with work for not less than 6 months but not more than 7 years

Article 73-2, paragraph 1, item 2, of the Immigration Control and Refugee Recognition Act (act of placing a foreign national under one's control for the purpose of having the foreign national engage in illegal work): imprisonment with work for not more than 3 years or a fine of not more than 3,000,000 yen, or both

Article 74-4, paragraph 1, of the said Act (act of receiving collective stowaways from a person who has had them under his control, transporting, harboring or concealing such collective stowaways): imprisonment with work for not more than 5 years or a fine of not more than 3,000,000 yen

#### **4. Criminalization of improper inducement to consent for the adoption of a child in violation of applicable international legal instruments (article 3, 1 (a) (ii))**

25. Article 3 (1) (a) (ii) and Article 3 (5) of the Protocol regarding the international legal instruments on adoption were stipulated in view of the fact that there are cases where child trafficking takes place in the name of adoption. The "applicable international legal instruments" referred to in the articles is understood from the process of negotiations to be the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (hereinafter referred to as the "Hague Convention on Adoption"). Meanwhile, it was confirmed during the negotiating process of the Protocol that countries which have not signed the international legal instruments on adoption shall not assume the obligations based upon Article 3 (1) (a) (ii) and Article 3 (5). Therefore, it is understood that the Government of Japan is not obliged to undertake the obligations as stipulated in Article 3 (1) (a) (ii) and Article 3 (5), as it has not signed the Hague Convention on Adoption.

#### **5. Criminalization of offering, obtaining, procuring or providing a child for child prostitution (article 3, paragraph 1 (b))**



## 26. Offering and providing

Article 8, paragraph 1, of the Law Banning Child Prostitution and Pornography (trafficking in persons for the purpose of child prostitution, etc.): imprisonment with work for not less than 1 year but not more than 10 years

Article 60, paragraph 2; Article 34, paragraph 1, item 7, of the Child Welfare Law (act of transferring the custody of a child to a person who is liable to commit an act violating punitive laws): imprisonment with work for not more than 3 years or a fine of not more than 1,000,000 yen, or both

Article 60, paragraph; Article 34, paragraph 1, item 9, of the said Law (act of keeping a child under one's control for the purpose of having the child engage in an act harmful to the child mentally or physically): imprisonment with work for not more than 3 years or a fine of not more than 1,000,000 yen, or both

Article 73-2, paragraph 1, item 2, of the Immigration Control and Refugee Recognition Act (act of placing a foreign national under one's control for the purpose of having the foreign national engage in illegal work): imprisonment with work for not more than 3 years or a fine of not more than 3,000,000 yen, or both

## 27. Obtaining

Article 8, paragraph 1, of the Law Banning Child Prostitution and Pornography (trafficking in persons for the purpose of child prostitution, etc.): imprisonment with work for not less than 1 year but not more than 10 years

Article 60, paragraph; Article 34, paragraph 1, item 9, of the said Law (act of keeping a child under one's control for the purpose of having the child engage in an act harmful to the child mentally or physically): imprisonment with work for not more than 3 years or a fine of not more than 1,000,000 yen, or both

Article 73-2, paragraph 1, item 2, of the Immigration Control and Refugee Recognition Act (act of placing a foreign national under one's control for the purpose of having the foreign national engage in illegal work): imprisonment with work for not more than 3 years or a fine of not more than 3,000,000 yen, or both

## 28. Procuring

Article 5, paragraph 1, of the Law Banning Child Prostitution and Pornography (act of acting as an intermediary in child prostitution): imprisonment with work for not more than 5 years or a fine of not more than 5,000,000 yen, or both

Article 73-2, paragraph 1, item 3, of the Immigration Control and Refugee Recognition Act (act of mediating the procurement of a foreign national to engage in illegal work): imprisonment with work for not more than 3 years or a fine of not more than 3,000,000 yen, or both

## **6. Criminalization of producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography (article 3, paragraph 1(c))**

### 29. Producing

Article 7, paragraph 2, of the Law Banning Child Prostitution and Pornography (act of producing child pornography for the purpose of offering it to a few, specific persons): imprisonment with work for not more than 3 years or a fine of not more than 3,000,000 yen

Article 7, paragraph 3, of the Law Banning Child Prostitution and Pornography (act of producing child pornography by making the child assume a certain pose): imprisonment with work for not more than 3 years or a fine of not more than 3,000,000 yen

Article 7, paragraph 5, of the Law Banning Child Prostitution and Pornography (act of producing child pornography for the purpose of offering it to the general public): imprisonment with work for not more than 5 years or a fine of not more than 5,000,000 yen, or both

### 30. Distributing and disseminating

Article 7, paragraph 4, of the Law Banning Child Prostitution and Pornography (act of offering to the general public or displaying in public child pornography): imprisonment with work for not more than 5 years or a fine of not more than 5,000,000 yen, or both

### 31. Importing

Article 7, paragraph 2, of the Law Banning Child Prostitution and Pornography (act of importing child pornography for the purpose of offering it to a few, specific people): imprisonment with work for not more than 3 years or a fine of not more than 3,000,000 yen

Article 7, paragraph 5, of the Law Banning Child Prostitution and Pornography (act of importing child pornography for the purpose of offering it to the general public): imprisonment with work for not more than 5 years or a fine of not more than 5,000,000 yen, or both

Article 109, paragraph 2, of the Customs Law (Article 69-8, paragraph 1, item 8): imprisonment with work for not more than 5 years or a fine of not more than 5,000,000 yen, or both

### 32. Exporting

Article 7, paragraph 1, of the Law Banning Child Prostitution and Pornography (act of offering child pornography): imprisonment with

work for not more than 3 years or a fine of not more than 3,000,000 yen

Article 7, paragraph 2, of the Law Banning Child Prostitution and Pornography (act of exporting child pornography for the purpose of offering it to a few, specific persons): imprisonment with work for not more than 3 years or a fine of not more than 3,000,000 yen

Article 7, paragraph 5, of the Law Banning Child Prostitution and Pornography (act of exporting child pornography for the purpose of offering it to the general public): imprisonment with work for not more than 5 years or a fine of not more than 5,000,000 yen, or both

Article 108, paragraph 4 and Article 69-2, paragraph 1, item 2, of the Customs Law: imprisonment with work for not more than 5 years or a fine of not more than 5,000,000 yen, or both

### 33. Offering

Article 7, paragraph 1, of the Law Banning Child Prostitution and Pornography (act of offering child pornography): imprisonment with work for not more than 3 years or a fine of not more than 3,000,000 yen)

### 34. Selling

Article 7, paragraph 4, of the Law Banning Child Prostitution and Pornography (act of offering child pornography to the general public): imprisonment with work for not more than 5 years or a fine of not more than 5,000,000 yen, or both

### 35. Possessing

Article 7, paragraph 2, of the Law Banning Child Prostitution and Pornography (act of possessing child pornography for the purpose of offering it to a few, specific persons): imprisonment with work for not more than 3 years or a fine of not more than 3,000,000 yen

Article 7, paragraph 5, of the Law Banning Child Prostitution and Pornography (act of possessing child pornography for the purpose of offering it to the general public): imprisonment with work for not more than 5 years or a fine of not more than 5,000,000 yen, or both

## **C. Aggravating and mitigating circumstances applicable to the penalties**

36. Conditions under which the penalties for offenses specified in section B above are aggravated or mitigated are prescribed by the Penal Code. Aggravating circumstances include second conviction (Article 57) and consolidated punishments (Article 47 and 48), while mitigating circumstances include statutory reductions such as attempts to commit an offense (Article 43) and criminal insanity and diminished capacity (Article 39), and reduction of punishment in light of extenuating circumstances (Article 66).

## **D. Period of prescription of prosecution for each of the offenses**

37. The prosecutor may institute a prosecution until the period of prescription of prosecution prescribed by the Code of Criminal Procedure (Article 250) elapses. The period of prescription of prosecution is, pursuant to the provisions of the Code of Criminal Procedure revised in 2004, based upon the severity of punishment, and for the crimes specified in section B above. It consists of 3 years for those who are liable for imprisonment for not more than 5 years, 5 years for those liable for imprisonment for not more than 10 years, 7 years for those liable for imprisonment for not more than 10 years, 10 years for those liable for imprisonment for not more than 15 years, and 15 years for those liable for life imprisonment.

## **E. Other acts or activities which are criminalized**

38. In addition to the above, the Government of Japan criminalizes the following acts and activities, which is consistent with the intent of the Protocol, whose aim is to defend the rights of the child:

Child prostitution (Article 4 of the Law Banning Child Prostitution and Pornography) (note: the person who has committed child prostitution is punishable)

Act of offering image data (electro-magnetic records) of child pornography or storing data for such purpose (latter part of Article 7, paragraph 1, paragraph 2, paragraph 4, paragraph 5, of the said law)

Act where a Japanese national imports to a foreign country or exports from a foreign country child pornography for the purpose of offering it to the general public (Article 7, paragraph 6, of the said law)

Act of soliciting another person to commit child prostitution for the purpose of intermediating in child prostitution (Article 6 of the said law)

Act of inducing a child to practise obscene acts (Article 60, paragraph 1 and Article 34, paragraph 1, item 6, of the Child Welfare Law)

Act where a person not working in a legitimate employment agency for adults and children intermediates in the raising of a child for the purpose of gaining a profit (Article 60, paragraph 2 and Article 34, paragraph 1, item 8, of the said law)

Act where a person who runs a store-type sex-related special business or a non-store-type sex-related special business forces a child under 18 to be engaged in customer service (Article 50, paragraph 1, item 5; Article 28, paragraph 12, item 3; Article 50, paragraph 1, item 6; Article 31-3, paragraph 3, item 1, of the Law on Control and Improvement of Amusement and Entertainment)

Businesses)

## **F. Definition of “legal person” and liability of the legal person for the acts and activities enumerated in article 3, paragraph 1, of the Protocol**

39. In Japan, a “legal person” is defined as an entity, other than a natural person, that is granted the ability, pursuant to provisions of the Civil Code or other laws of Japan, to enjoy legal rights and owe legal obligations.

40. Under Japanese law, the provisions under which a legal person bears liabilities include the vicarious penalty provisions in criminal laws, claims for damage under civil laws (e.g., Articles 44 and 709 of the Civil Code), and administrative orders as administrative sanctions.

41. Vicarious penalty provisions are provisions that separately impose a criminal penalty on a person (including a legal person) who has a certain relationship with the offender who has actually committed the crime. In relation to the Protocol, the laws that include vicarious penalty provisions are as follows:

Article 11 (Articles 5 and 7) of the Law Banning Child Prostitution and Pornography

Article 60, paragraph 5 (Article 34, paragraph 1, items 7 and 9, of the Child Welfare Law

Article 76-2 (Article 73-2, Article 74, Article 74-2, Article 74-4) of the Immigration Control and Refugee Recognition Act

Article 117 (Article 109) of the Customs Law

42. Administrative orders are executed by the administrative power to grant rights, impose obligations or give other legal effects in accordance with laws and regulations in specific cases. Administrative orders imposed as sanctions on legal persons in relation to the Protocol include (without limitation) suspension of all or some of the businesses under the Law on Control and Improvement of Amusement and Entertainment Businesses (Article 26 etc. of the Law on Control and Improvement of Amusement and Entertainment Businesses).

## **G. Criminalization of attempted offenses and complicity or participation in any of the offenses referred to previously**

43. The Protocol stipulates that attempted offenses shall be criminalized in accordance with the domestic laws of the States Parties. In Japan, attempts to commit an offense under the Protocol are subject to punishment under the provisions of Article 228 of the Penal Code (Articles 224, 225, 225-2, 226, 227), Article 8, paragraph 3, of the Law Banning Child Prostitution and Pornography (trafficking in persons for the purpose of child prostitution); Article 74, paragraph 3 and Article 74-4, paragraph 3, of the Immigration Control and Refugee Recognition Act; and Article 109, paragraph 3, of the Customs Law.

44. As regards complicity and participation, in cases where complicity corresponds to the conditions that constitute co-principals (Article 60 of the Penal Code), inducement (Article 61 of the said law) or assistance (Article 62 of the said law), they shall each, under the Penal Code, be subject to punishment.

## **III. Penal/criminal procedure**

### **A. Jurisdiction**

45. In the event that an offense provided for in Article 31 of the Protocol is committed within the territory of Japan or on board a ship or airplane registered in Japan, the jurisdiction of Japan is established pursuant to Article 1, paragraphs 1 and 2, of the Penal Code.

46. Article 4 (2) (a) and (b) of the Protocol stipulate that, in a case where the alleged offender is a national of that State or a person who has his habitual residence in its territory, measures necessary to establish domestic jurisdiction may be adopted, and this can be read as leaving the establishment of jurisdiction to the discretion of the States Parties. First, as regards (a), the Government of Japan imposes penalties for offenses committed outside Japan by a Japanese national, pursuant to Article 3, item 10 (Crimes committed outside Japan by Japanese Nationals) (Articles 220 and 221) and item 11 (Articles 226 to 228) of the Penal Code; Article 8, paragraph 2 and Article 10 (Article 5, Article 6, paragraphs 1 to 5 of Article 7, paragraphs 1 and 3 of Article 8) of the Law Banning Child Prostitution and Pornography; Article 74-7 of the Immigration Control and Refugee Recognition Act; and Article 60, paragraph 6, of the Child Welfare Law. In addition, in a case where the victim provided for in Article 4 (2) (b) of the Protocol is a Japanese national, the jurisdiction of Japan is established pursuant to Article 3-2 of the Penal Code.

47. Article 4 (3) of the Protocol stipulates that each State Party shall take measures to establish its jurisdiction in cases where the alleged offender is present in its territory and it does not extradite him or her to another State Party on the grounds that the offense has been committed by one of its nationals. In Japan, such jurisdiction is established under Article 3, item 10 (Crimes committed outside Japan by Japanese Nationals) (Articles 220 and 221) and item 11 (Articles 226 to 228) of the Penal Code; Article 8, paragraph 2 and Article 10 (Article 5, Article 6, paragraphs 1 to 5 of Article 7, paragraphs 1 and 3 of Article 8) of the Law Banning Child Prostitution and Pornography; Article 74-7 of the Immigration Control and Refugee Recognition Act; and Article 60, paragraph 6, of the Child Welfare Law.

48. In such cases, filing an extradition request prior to establishing jurisdiction is unnecessary.

### **B. Seizure and confiscation of goods and proceeds and closing of premises (used to commit the**

**offense)**

## **1.Seizure**

49.As regards the seizure provided for in Article 7 (a) of the Protocol, in Japan, evidence or goods for which confiscation is deemed necessary for investigation or trial may be seized, in accordance with the Code of Criminal Procedure (Articles 99 and 218).

## **2.Confiscation of proceeds**

50.As regards the confiscation provided for Article 7 (a) of the Protocol, in Japan (a) an object which is a component of a criminal act; (b) an object used or intended for use in the commission of a criminal act;(c) an object produced or acquired by means of a criminal act or an object acquired as reward for a criminal act; or (d) an object received in exchange for the object set forth in (c) which does not belong to any person other than the offender may, under Article 19 of the Penal Code, be confiscated, and when the whole or part of the object specified in (c) or (d) cannot be confiscated, a sum of money equivalent thereto may be collected, pursuant to Article 19-2 of the said law. In addition, the scope of application in relation to the confiscation provided for in the Penal Code has been expanded, in certain circumstances, pursuant to Articles 13 to 16 of the Law for Punishment of Organized Crimes, Control of Crime Proceeds and Other Matters that entered into force in February 2000; accordingly, properties other than corporeal property or assets derived from or mixed with crime proceeds may be confiscated or be subject to the penalty of collection of a sum of equivalent value as crime proceeds. The police request, pursuant to the provisions of the said law, a preservation for confiscation purposes of the proceeds obtained through the illegal sale of child pornography from the court, and the prosecutor requests the confiscation of such proceeds.

## **3.Closing, on a temporary or permanent basis, of the premises used to commit offenses as provided for in article 3, paragraph 1 of the Protocol**

51.Measures in Japan aimed at closing, on a temporary basis, the premises used in commission of the offenses as provided for in Article 7 (c) of the Protocol are stipulated in Article 112 of the Code of Criminal Procedure, while measures aimed at closing the premises on a permanent basis are stipulated in Article 13 of the Anti-Organized Crime Law in relation to confiscation. (However, confiscation under the provision of the Anti-Organized Crime Law may be imposed only in cases where the relevant real estate constitutes crime proceeds, and cannot be imposed solely on the grounds that such real estate constitutes premises used in the commission of an offense.)

# **IV.Protection of the rights of child victims**

## **A.Measures adopted to ensure that criminal investigations are initiated even in cases where the actual age of the victim cannot be established, and the means used for this determination**

52.**Determination of age.** Article 189, paragraph 2, of the Code of Criminal Procedure stipulates that a judicial police officer who judges that an offense has been committed shall proceed to investigation of the offender and evidence, and that the actual age of the victim does not necessarily need to be established in order to initiate a criminal investigation. Therefore, investigations are properly initiated in cases that should be investigated as a criminal offense, even if the actual age of the victim cannot be established. The actual age of the child victim is determined based upon documents collected during the investigation.

53.In cases where the actual age of the victim cannot be established during the investigation, the police determine the age of the child victim through methods such as calling upon medical institutions for their expert opinion.

## **B.Special consideration for the child during criminal proceedings**

### **1.Consideration for the child victim during investigation**

54.The Law Banning Child Prostitution and Pornography (Article 12) defines the activities concerning children who have suffered damage from offenses such as child prostitution which harm the welfare of the child. With regard to the law-enforcement agencies, provisions stipulating special consideration for the victim during investigation are provided for in the Code of Criminal Investigation, which constitutes the National Public Safety Commission's rules. With respect to juveniles who have suffered damage from offenses such as child prostitution which harm the welfare of the juvenile, particular consideration is requested and measures necessary to prevent the occurrence of similar offenses are stipulated in the rules of engagement of the police for children. In accordance with these, law-enforcement agencies, in addition to taking into consideration the child's individuality when questioning the child victim, carefully consider the characteristics of the offense and pay utmost attention to the selection of the police investigator in charge, as well as to the selection of other aspects such as methods, frequency, time and place of interview. In particular, as regards the selection of the police investigator in charge, efforts are made to give careful consideration to the state of mind of the child victim by, for example, assigning a female police officer to the duty or having female police personnel attend the interviews, depending on the case and circumstances surrounding the child victim. Furthermore, when necessary, counselling services are offered either beforehand or in tandem with the interviews by specialists in juvenile guidance who possess specialized knowledge in the area of child psychology and juvenile characteristics and have the necessary skills to deal with juveniles.

### **2.Consideration for the child during trial procedures**

55.See paragraph 168 of the third report on the Convention on the Rights of the Child.

56.As regards criminal proceedings for the protection of the child victim, Article 12 of the Law Banning Child Prostitution and

Pornography stipulates that persons who are professionally involved in the investigation and trial shall, when conducting their duties, give consideration to the rights and individuality of the child, while the Code of Criminal Procedure provides specific procedures aimed at protecting the rights of a child who has to appear before the bench as a witness, such as having someone accompany the child (Article 157-2 of the Code of Criminal Procedure) or examining the child via video link (Article 157-4).

57. Moreover, in criminal proceedings of cases where a child is the victim, careful consideration is given to the child by not disclosing the child's name, address, date of birth, or the name of school the child is attending. In addition, interviews that would harm the feelings of the child may be restricted using control of the court proceedings (Articles 294 and 295 of the Code of Criminal Procedure). Furthermore, in cases where a child victim is asked to testify, if there are circumstances in which the child does not feel comfortable testifying in court, examination of the witness may sometimes be conducted privately outside the court. In such cases, arrangements are made that make it easier for the child to attend the sessions, such as using facilities that are located as close as possible to the child's residence, and giving consideration to the time of day, such as conducting sessions after school so that the child does not have to miss school (Articles 158, paragraph 1; Article 273, paragraph 1; Article 294 of the Code of Criminal Procedure).

58. When victims testify, family members of the victim or a psychological counsellor may accompany the victim, a partition may be used so that the victim cannot be seen by the defendant or courtroom spectators, or examination via a video link, which is conducted through TV monitors, may be carried out, pursuant to Articles 157-2, 157-3, and 157-4 of the Code of Criminal Procedure, as measures to ease the psychological burden on the victim.

### **3. Information offered to the child victim**

59. As regards information on criminal judicial proceedings, if the child requests notification under the Victim Notification System, the prosecutor shall inform the child of the facts presented in the indictment, the progress of the proceedings and information regarding the processing of the case (processing results of the case, trial date, trial results, etc.). Through the law-enforcement agencies, the victim receives, pursuant to the Code of Criminal Investigation (Article 10-3), information on the investigation such as a summary of the criminal proceedings and the progress of the investigation within a scope that does not interfere with the investigation.

60. In particular, where this is their wish, law-enforcement agencies inform victims (and their family) of physical crimes such as murder, injuries and sexual offenses of progress in the investigation and the arrest of the alleged offender, within a scope that does not interfere with the investigation, as well as of punishment.

### **4. Allowing the child to express her/his views, needs and concerns**

61. In Japan, criminal judicial proceedings allow a child victim to express her/his feelings during witness examination procedures, and pursuant to Article 292-2 of the Code of Criminal Procedure, in cases where a child victim or a legal representative make a request to express the feelings of the victim or an opinion concerning the case itself, the court orders the opinion to be read out or a written opinion to be submitted on the trial date.

### **5. Support services during legal proceedings**

62. To protect crime victims, including children, the public prosecutors' offices offer information such as processing results and the results of the criminal trial to such crime victims. In addition, victim support services offer support in the form of provision of counselling services to crime victims concerning various issues, guidance, or accompaniment of the victim to the court, and assistance with various procedures are available in the district public prosecutors' offices across Japan.

### **6. Protection of the privacy of the child**

63. Pursuant to the provisions of Article 13 of the Law Banning Child Prostitution and Pornography, it is illegal to publish articles that contain information such as the name and age of the child victim involved in pornography, which would allow the general public to identify the child involved in such cases.

64. When making announcements to the press regarding a case in which a child is the victim, law-enforcement agencies give careful consideration to the privacy of the child victim, and in particular, pursuant to the provisions of the Law Banning Child Prostitution and Pornography, when delivering a press release regarding a case pertaining to the provisions of the said Law, do not disclose information such as the child's name and the name of the school of the child victim, or other information that may lead people to identify the child.

### **7. Protection of victims from intimidation and retaliation**

65. In Japan, pursuant to Article 105-2 of the Penal Code, a person who, in relation to his or her own case or the criminal case of another, forcibly demands without justifiable grounds a meeting with any person or intimidates any person deemed to have knowledge necessary for the investigation or trial of such case, or a relative of such person, shall be deemed to be liable for witness intimidation. In cases where such acts are performed on a child victim, the violator shall, under the same article, be subject to imprisonment for not more than 1 year or a fine not exceeding 200,000 yen. In addition, in cases where a child victim testifies in criminal judicial proceedings, if there is a risk of acts that would cause physical harm to the child or family members or damage to their assets, or the risk of acts that would inspire fear or confusion in these persons, the prosecutor or defense counsel may request, pursuant to Article 299-2 of the Code of Criminal Procedure, the opposing party to ensure that information that would identify the address and other details of the child and family members is not revealed to the persons concerned, including the defendant, so that the safety of the child and family members is not threatened.

66. Moreover, with regard to the law-enforcement agencies, when there is a fear of damage being inflicted afterwards on the victims,

police officers will take care, under the Code of Criminal Investigation, not to reveal to the suspect and other persons concerned the name of such victim and other information that would reveal specific details, and when necessary will adopt measures aimed at the protection of such victim.

## **8.Compensation for damages**

67.In Japan, a child who suffers damage possesses the right to seek compensation from the perpetrator (Article 709 of the Civil Code), and can file suit against the perpetrator to seek compensation.

68.In addition, a child who suffers a loss may apply for compulsory execution against the perpetrator's assets based upon the final and binding judgment of compensation to be paid by the perpetrator.

## **9.Child victim rehabilitation**

69.In addition to the provisions provided for in Articles 15 and 16 of the Law Banning Child Prostitution and Pornography in relation to the protection of children who have suffered psychologically and physically from various offenses, child guidance centers respond to the physical and psychological conditions of each child using means such as mental health care through counselling, among others, when consultations are sought by the child victim and others.

70.At the law-enforcement agencies, specialists in juvenile guidance who possess specialized knowledge in the area of child psychology and juvenile characteristics and have the necessary skills to deal with juveniles offer, mainly in the juvenile support centers established in the prefectural law-enforcement agencies, detailed counselling based on the individuality of each juvenile, with the cooperation of outside specialists or private volunteers. Ongoing assistance is also offered to juveniles who have suffered damage, including offenses such as child prostitution, which harms the welfare of the juvenile, together with their legal guardian to encourage their full social reintegration and to allow them to quickly recover from the psychological damage suffered.

71.In addition, the law-enforcement agencies send, according to the age and circumstances of each child, notification to child guidance centers to inform them of children in need of protection and support for the recovery of child victims involved in child prostitution, so that they may offer appropriate assistance to ensure their recovery and to prevent the damage from being repeated.

72.Moreover, with regard to the protection of juveniles from hazardous work, law-enforcement agencies take continuous action using applicable laws and regulations to protect juveniles placed in harmful surroundings, such as dangerous work environments or sex-related businesses. In order to alleviate the physical and psychological suffering of the juvenile victims and to seek their quick recovery, counselling services are offered and measures to prevent repeated damage are adopted jointly with child guidance centers.

73.Also see paragraph 20 of the third report of Japan on the Convention on the Rights of the Child.

# **V.Prevention of the sale of children, child prostitution and child pornography**

## **A.Measures to prevent offenses**

### **1.Domestic plans**

74.As a follow-up to the First World Congress Against Commercial Sexual Exploitation of Children, held in Stockholm in 1996, the Government of Japan established a National Action Plan Against Commercial Sexual Exploitation of Children in February 2001, based upon which the relevant ministries and agencies work toward the prevention of offenses related to commercial sexual exploitation of children. Education and enlightenment activities to prevent acts related to child pornography are provided for in Article 14 of the Law Banning Child Prostitution and Pornography, and the relevant ministries and agencies work together toward the prevention of such offenses through educational activities in relation to the said law and strict investigation.

75.The Government of Japan developed the National Youth Development Policy and Action Plan for Achieving a Crime-Resistant Society in December 2003, which contains measures related to the prevention of and protection from damage inflicted on juveniles as well as measures related to efforts toward wholesome education that would lead to juvenile delinquency prevention. Based upon these measures, law-enforcement agencies have strengthened investigation against offenses such as child prostitution which harm the welfare of the juvenile.

### **2.Trafficking in persons**

76.As regards trafficking in persons including children, the Government of Japan developed the Action Plan Against Human Trafficking in December 2004, aiming at adopting integrated and comprehensive measures against trafficking in persons in order to ensure the prevention and eradication of trafficking in persons and the protection of victims. Through various legislations and measures, the relevant ministries and agencies work toward the prevention, crackdown, prosecution, and protection of victims of trafficking in persons. In addition, in relation to measures against trafficking in persons, the Government of Japan has entrusted temporary custody of victims to private NGOs and sent notifications to the travel industry not to have any part in sexual exploitation of children, while regional immigration bureaus work in cooperation with relevant organizations on various levels, such as calling on relevant agencies, organizations, and ministries to hold liaison conferences.

### **3.Sex tourism**

77.As regards sex tourism in developing countries, Article 13, paragraph 3, of the Travel Agency Law prohibits travel agencies from being involved in acts that violate the laws and regulations of the tourist destination and from receiving services that violate the laws

and regulations of the tourist destination. Moreover, the Government of Japan sent a notification to travel agencies informing them that the names of travel agencies that have clearly been involved in the immoral acts of Japanese tourists would be publicly disclosed.

78. In March 2005, the Japan Association of Travel Agents, the Overseas Tour Operators Association of Japan, and 60 major travel agencies signed the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism, promoted by UNICEF (currently, 67 major travel agencies have signed this Code of Conduct).

#### **4. Prevention of child prostitution and child pornography that use the Internet**

79. In June 2003, the Law About Regulation of the Act which Attracts Children Using Internet Opposite-Sex Introduction Sites, etc. (hereinafter referred to as the "Online Dating Site Regulation Law") was enacted and, in December of the same year, all of the provisions entered into force. The said law prohibits the act which lures children to be involved in sexual intercourse using Internet opposite-sex introduction sites, and prescribes measures to prevent children from using such sites, with the aim of protecting children from child prostitution and other crimes caused by the sites and to ensure the sound development of children.

80. Article 5 of the said law stipulates that "the Government of Japan and local authorities ... shall work toward promoting the development and dissemination of technologies that contribute to the prevention of the use of Internet opposite-sex introduction sites by children". The side agreement in relation to the said bill (House of Councilors), also reads "the government shall work hand-in-hand with the private sector in the development and dissemination of technologies such as Internet filtering software that contribute to the prevention of the use by children". Furthermore, the 2003 e-Japan Priority Policy Program (concluded on August 8, 2003) refers to the "consideration of issues toward the realization of a mobile filtering technology by 2005" as part of "measures against illegal and harmful materials on the Internet". Subsequently, the Government of Japan initiated in 2004 a project of research and development on mobile filtering technology aimed at protecting children from harmful information and ensuring their wholesome development.

Moreover, the 2004 e-Japan Priority Policy Program concluded on June 15, 2004 also makes reference to the effect that "a mobile filtering technology such as browsers with built-in filtering for mobile phones and PHS [Personal Handyphone System] phones will be developed and realized by 2005". Furthermore, the document entitled "measures against illegal and harmful materials on the Internet" (summary of the conference on IT security held on June 30, 2005) states the intention to promote research and development of the mobile filtering technology.

81. As the distribution of illegal and harmful information on websites (child pornography, drug dealing, etc.) is fast becoming a major social issue due to the rapid development and diffusion of the Internet, the Ministry of Internal Affairs and Communications organized the Study Group on Countermeasures against Illegal/Harmful Information on the Internet in August 2005. The final report of the Study Group was made public on August 25, 2006, and the Ministry of Internal Affairs and Communications supports voluntary countermeasures taken by hosting providers, such as deletion of illegal and harmful information and warning messages to senders and suspension of use, by cooperating in the development of guidelines and model clauses of a covenant put together by groups in the industry.

82. The Ministry of Internal Affairs and Communications has cooperated in the development of guidelines put together by industry groups, and while supporting voluntary responses such as the deletion of illegal and harmful information like child pornography by hosting providers, sending warning messages to senders and suspension of use, it tries to grasp the implementation status of the guidelines and to ensure its proper application.

83. In addition, due to a large number of illegal and harmful materials such as child pornography circulating on the Internet, the use of the Internet has brought about a number of offenses and damages. In order to respond effectively to such illegal and harmful contents, the National Police Agency reviews, since July 2005, the Internet Hotline that accept messages from Internet users concerning illegal and harmful materials distributed over the Internet, and after sorting out the illegal contents from the harmful ones according to a given set of standards, the illegal contents are reported to the police and Internet service providers (ISP) are requested to delete them, while as regards the harmful contents, ISPs are requested to take measures such as deletion based upon the conditions of contract. Moreover, discussions are being held in the expert councils with a view to the promotion of "Internet hotlines", which will constitute an instrument that plays a role in global cooperation on the private level regarding illegal and harmful materials found on the Internet. According to the outcome of the discussions, the National Police Agency entrusted the operations of the Hotline to the Internet Association Japan, and the Internet Hotline Center Japan started its operation in June 2006.

#### **B. Means used to raise awareness within the population at large**

84. The Ministry of Foreign Affairs, in addition to posting the text of the Protocol on its website, included and promoted in January 2005 relevant articles in its public relations magazine (distributed to some 3,400 organizations). In addition, in March 2005, the Ministry of Foreign Affairs printed and distributed 20,000 booklets that contain the text of the Convention on the Rights of the Child and its Protocols (originals and tentative Japanese translations) to parties concerned. Furthermore, relevant ministries and agencies are promoting educational activities to the general public for the prevention of sexual exploitation of children.

85. Article 14, paragraph 1, of the Law Banning Child Prostitution and Pornography provides provisions on public education aimed at the prevention of offenses in relation to the rights of the child, and the National Police Agency has produced promotional leaflets for the general public in which the content of the said law is described in clearly understandable terms.

86. Every year since 2002, Japan's National Policy Agency invites representatives of law-enforcement agencies, judicial institutions, and NGOs from South East Asian countries that are working on the issue of commercial sexual exploitation of children to hold a Seminar on Commercial Sexual Exploitation of Children in Southeast Asia and an Investigator's Council (five times as of November 2006). In these fora, opinions are exchanged on efforts in relation to commercial sexual exploitation of children in Southeast Asia and the protection of child victims. The general public is also invited to participate in the seminars and efforts are made toward the dissemination of relevant information.

87.As regards measures against trafficking in persons, the Cabinet Office works on promotional and educational activities and has produced and distributed, in collaboration and cooperation with relevant ministries and agencies, some 30,000 posters that read “Trafficking in persons is a grave human rights violation and a transnational organized crime”. In addition, promotional and educational activities are carried out such as putting up these posters at the regional immigration bureaus nationwide and distributing leaflets that encourage victims of trafficking in persons to seek help from the police.

88.In relation to sex tourism, following implementation of the Law Banning Child Prostitution and Pornography in November 1999, the Government of Japan released a notification to the travel industry requesting them to disseminate the said law and to offer to the general public information related the said law, and is raising awareness in the industry. In addition, the Travel Industry Association also offers education to travel industry personnel through various training programs, and carrying out promotional activities such as distributing pamphlets and publishing relevant information in their public relations magazines.

89.Booklets produced by the Ministry of Foreign Affairs regarding overseas safety measures for Japanese tourists emphasizes that child prostitution, even committed outside Japan, shall be subject to punishment as an extraterritorial crime, with the aim of promoting the prevention of child prostitution.

90.The National Police Agency distributed, through the prefectural police, leaflets to junior high schools nationwide regarding the dangers of using online dating sites which have a tendency to become a breeding ground for child prostitution and the content of the Online Dating Site Regulation Law enacted in September 2003. It also distributed to prefectural police headquarters promotional and educational videos to urge people not to use online dating sites. The National Policy Agency also offered lectures to junior high school and high school students on how to avoid becoming crime victims, organized educational activities to prevent people from suffering from offenses, and delivered lectures targeting parents/legal guardians, teachers, and other school personnel on the prevention of damage caused by high-tech crimes.

91.In addition, the National Police Agency posts statistical data related to these crimes and overviews of the crimes on their websites, and implements promotional and educational activities aimed at damage prevention.

92.The Human Rights Organs of the Ministry of Justice actively organize promotion campaigns such as conducting promotion activities on the streets, holding lectures or discussion meetings, using television or radio broadcasts, and distributing pamphlets to promote the principle of respect for human rights in order to make a wider audience aware of the importance of the rights of all people, including those of children. Moreover, in order to eliminate discrimination against all people, including children, in addition to the regular promotion activities, various other promotion activities are carried out during Human Rights Week (every year from December 4 to 10), with emphasis on certain issues including “Protection of Children’s Rights”. Furthermore, promotion activities across Japan are also carried out through lecture meetings and symposia on Human Rights Volunteers’ Day (June 1) and during the Human Rights Promotion Festival(held every year in 2 prefectures). The Ministry of Justice will continue to work on these promotion activities, publicize understanding on the human rights of children, and contribute to the prevention of offenses relating to children’s rights.

### **C.Measures adopted to effectively prohibit the production and dissemination of material advertising the offenses**

93.Based upon policy measures for the protection of juveniles from illegal and harmful materials as newly contained in the National Youth Development Policy and the Plan for Achieving a Crime-Resistant Society, law-enforcement agencies further strengthen controls against acts of sticking leaflets soliciting prostitution, etc. in public place using applicable laws and regulations such as the Law on Control and Improvement of Amusement and Entertainment Businesses, the Anti-prostitution Law, and prefectural ordinances against disturbing the peace, and efforts are being made in collaboration with local communities and relevant organizations to clean up the environment of amusement and entertainment businesses.

94.In light of cases caused by illegal and harmful materials on the Internet, law-enforcement agencies work together with schools and use opportunities to protect juveniles from illegal and harmful materials on the Internet, based upon measures recommended by the Conferences on IT Security(liaison meetings comprising relevant ministries and agencies on illegal and harmful materials on the Internet). They target juveniles and their parents/legal guardians and promote the following issues:

(a)Promotion of filtering software and its wider use at home; and

(b)Capacity-building in selecting contents on the Internet and enhancement of moral education.

95.In order to protect juveniles from illegal and harmful contents available in Internet cafés, the Japan Complex Café Association has been advised to implement self-regulation, such as checking the ID of juveniles and the use of computers with a filtering system

96.Due to the serious problem of websites offering harmful contents such as online dating sites, which have a tendency to become a breeding ground for child prostitution, law-enforcement agencies provide cooperation to private organizations that request those responsible for these websites to take the necessary measures to prevent access by juveniles and to their efforts to draw the attention of the juveniles who access these sites (started in June 2004). Furthermore, law-enforcement agencies have implemented “cyber patrols” against illegal and harmful content such as child pornography.

97.In cases where owners of businesses that sell and rent adult videos commit the crime of disseminating obscene materials or child pornography, the business may be suspended under the Law on Control and Improvement of Amusement and Entertainment Businesses, and law-enforcement agencies shall take measures in accordance with the said law.

## **VI.International assistance and cooperation**



## **A. International cooperation to address poverty**

98. Poverty and economic disparities in developing countries are part of the root causes of the problem of trafficking in persons, including children. The facts that there are not enough employment opportunities in countries of origin and that opportunities for education are not sufficiently available are also factors that encourage sexual exploitation and trafficking of children. The Government of Japan has been actively implementing through Official Development Assistance (ODA) in efforts to reduce poverty and support development in developing countries.

99. Poverty Reduction is positioned at the head of priority issues in Japan's ODA Charter. Placing emphasis on cooperation in the major sectors of the Millennium Development Goals (MDGs), including education, healthcare, water and sanitation as well as other sectors such as agriculture, the Government of Japan provides assistance in human and social development, while also taking gender aspects into consideration.

100. For details, see section I.K of the third periodic report of Japan on the Convention on the Rights of the Child.

## **B. Protection and support of child victims**

101. The Government of Japan has actively implemented measures against commercial sexual exploitation of children in developing countries through hosting international conferences and providing assistance via international organizations.

102. For example, in June 2003, it offered financial assistance of about US\$490,000 through the Human Security Fund to a UNICEF project for the education of girls and community development for the prevention of trafficking of girls in Laos. In 2005, following a major earthquake and the tsunami in the Indian ocean, the Government of Japan contributed a total sum of about US\$ 86 million to international organizations such as UNICEF, IOM, WHO, and UN-HABITAT as part of the "Child Support Plan", which included measures against trafficking in persons, as well as contributing about US\$160,000 to IOM for the "project to support the return and reintegration of victims of trafficking in Japan". Moreover, in October 2005, the Government of Japan contributed about US\$650,000 to UNICEF for the project "Anti-Human Trafficking in Southeast Asia" (Philippines, Thailand), including the support of child victims of trafficking. Following the earthquake in Pakistan, it offered financial assistance for the Counter-Trafficking project organized by IOM.

103. Meanwhile, in Japan, the Immigration Control and Refugee Recognition Act was partially amended in relation to the victims of trafficking in persons, including children, in which a definition of the act of trafficking in persons was provided in the provision of Article 2, item 7, of the said law (including information regarding acts against "persons under 18 years of age"). Through this amendment, foreign nationals recognized as victims are exempt from some of the grounds for refusal of landing and grounds for deportation, and even in cases where they are subject to the grounds for refusal of landing or grounds for deportation, the said law clearly specifies that they may be allowed special permission for landing or special permission for residence.

## **C. International cooperation in relation to criminal proceedings**

### **1. Judicial cooperation**

104. As regards criminal investigations, trial proceedings or extradition proceedings for the crimes proscribed in Article 3 (1) of the Protocol, domestic laws and regulations related to the assistance to State Parties include the Law for International Assistance in Investigation, and Other Related Matters, the Law Relating to the Reciprocal Judicial Aid to be Given at the Request of Foreign Courts, and the Law of Extradition.

105. In accordance with the Law for International Assistance in Investigation, and Other Related Matters, in cases where a foreign country requests the provision of evidence necessary for the investigation of a criminal case in the foreign country in question, and if the conditions set out in the said law, such as the offense being non-political, dual criminality, and a guarantee of reciprocity, are met, it is possible to collect the necessary evidence and provide it to the foreign country, through such means as interviewing the persons concerned, requesting an expert opinion, conducting an on-the-spot investigation, requesting submission of documents and other relevant items from the holder, referral to public or private organizations, seizure, search, inspection, and examination of witness. Based on the said Law, in cases where the Government of Japan is requested by the International Criminal Police Organization (Interpol) to cooperate in the investigation of a criminal case of the foreign country, if the crime fulfills the conditions set out in the said Law, such as its being a non-political offense and dual criminality, it is possible to question the persons concerned, to conduct on-the-spot investigations, to request the submission of documents or other relevant items from the holder, to conduct examinations such as referral to a public or private organization, and to provide the foreign country with materials and information obtained as a result of such investigation.

106. In addition, in accordance with the Law Relating to the Reciprocal Judicial Aid to be Given at the Request of Foreign Courts, the courts of Japan may, at the request of the court of the foreign country, examine the evidence.

107. Furthermore, in accordance with the Law of Extradition, under certain conditions, it is possible to extradite a suspect.

### **2. Information concerning requests by other States parties for seizure or confiscation of goods and proceeds of crime**

108. In relation to requests from other State Parties provided for in Article 7 (b) of the Protocol, the Government of Japan shall comply with the requests in accordance with the provisions under Article 59 and the following articles of the Law for Punishment of Organized Crimes, Control of Crime Proceeds and Other Matters.

109. There were no requests to the Government of Japan from other State Parties under Article 7 (b) of the present Protocol between September 2, 2004, when the Protocol entered into force in Japan, and September 30, 2005.

110. For details on bilateral and multilateral arrangements, see section D below.

## **D. Bilateral and multilateral international agreements and cooperation**

### **1. Cooperation with foreign authorities, international organizations and NGOs**

111. In light of ensuring proper protection of victims of trafficking in persons, the Government of Japan requests private shelters run by NGOs to offer protective custody, and in cases where the victim requests to return to his/her home country, the Government of Japan offers assistance to the victim with the cooperation of the International Organization for Migration (IOM). In addition, the Immigration Control and Refugee Recognition Act was partially amended, which established new provisions on providing information to foreign immigration authorities as part of measures for the prevention of trafficking in persons.

112. See paragraph 86 above.

### **2. Contribution to the Bali Process**

113. The Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime co-chaired by the Governments of Indonesia and Australia was held in Bali in February 2002, in which 34 ministers (including then Senior Vice-Minister for Foreign Affairs Sugiura from Japan) from 38 countries and relevant organizations in the Asia-Pacific region and Middle East participated. As a follow-up process of the said conference,\* two Ad Hoc Expert Groups were established regarding Regional and International Cooperation and Policy, Legal Frameworks, and Law Enforcement. As the coordinator of the information-sharing sector, Government of Japan held conferences on the issue of smuggling of people, and organized a Bali Process Workshop on Developing a Coordinated Inter-Agency National Action Plan to Eradicate Trafficking in Persons and Transnational Crime in Tokyo in June 2005. Moreover, Japan participated in the Combating Child Sex Tourism Strategy Seminar of the Bali Process held in Bangkok, Thailand in November 2005, during which it made presentations on the efforts of Japanese police against child prostitution and child pornography, and has been continuously sharing information with investigating authorities of participating countries.

114. Moreover, the Government of Japan has offered an annual contribution of US\$10,000 to the International Organization for Migration (IOM) since 2003 to maintain and operate the Bali Process website, which constitutes the information-sharing tool of the results of the Bali Process.

### **3. Cooperation with the G-8**

115. In 2003, the G-8 Child Protection Strategy, which aims at protecting children from sexual exploitation on the Internet, was approved at the Conference of the G-8 Ministers of Justice and Interior. The strategy stipulates that the G-8 countries, including Japan, should collect and share information, cooperate with private industries and NGOs and engage in reaching out to countries other than G-8 members. To this end, National Police Agency has given consideration to the establishment of an international database on sexual exploitation of children. In September 2005, the task of establishing the database was handed over to Interpol, which is to manage and operate the database, and Japan will continue to be involved in its establishment. Moreover, the Government of Japan attended the 23rd meeting of the Interpol Specialist Group on Crimes against Children in Lyon, France, in September 2005, where it shared information with participating countries on child prostitution and child pornography through case studies and exchanged information with foreign investigation authorities to build cooperative relationships.

116. In addition, the Government of Japan attended the Protecting Children Online: EU/Virtual Global Task Force Conference: Civil Partnership with the Aim of Making the Internet a Safer Place co-hosted by the British Government and the Virtual Global Task Force in November 2005. The Government of Japan exchanged information with investigating authorities of participating countries on the protection of children from online child pornography.

### **4. Conclusion of treaties**

117. In June 2005, the Diet approved the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially in Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

118. In terms of bilateral international agreements, the Government of Japan concluded the Treaty on Extradition with the United States of America and the Republic of Korea in 1980 and 2002 respectively, and the Treaty on Mutual Legal Assistance in Criminal Matters with the United States of America and the Republic of Korea in 2006 and 2007 respectively, while with regard to multilateral international agreements on the enforcement of criminal sentences, Japan acceded to the Convention on the Transfer of Sentenced Persons in 2003.

### **5. Financial assistance**

119. See section I.K of the third periodic report of Japan on the Convention on the Rights of the Child.

120. See sections A and B above.

## **VII. Other domestic laws and international instruments which are more conducive to the realization of the rights of the child**

121. In Japan, specific examples of provisions in domestic law that further contribute to the rights of the child include Article 34, paragraphs 1, 7, and 9, of the Child Welfare Law, the scope of which is not limited to acts with aims of sexual exploitation, organ transfer and forced labor. In addition, specific examples of conventions to which Japan is a State Party include ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, under which the use of children in illegal activities and activities that harm the health of children is prohibited as the worst form of child labour. Furthermore, the Diet approved the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially in Women and Children, supplementing the United Nations Convention against Transnational Organized Crime in June 2005.