



# **Convention on the Rights of the Child**

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## **Committee on the Rights of the Child**

### **Consideration of reports submitted by States parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict**

**Initial reports of States parties due in 2010**

**China\***

[17 November 2010]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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## Foreword

1. At its thirty-first meeting on 29 December 2007, the Standing Committee of the tenth session of the National People's Congress decided to approve the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (hereinafter abbreviated as the Optional Protocol). On 20 February 2008, Ambassador Wang Guangya, China's Permanent Representative to the United Nations, deposited China's instrument of ratification of the Optional Protocol with the Secretary-General of the United Nations. The Optional Protocol took effect in the People's Republic of China as from 20 March 2008.
2. In accordance with the provisions of article 8, paragraph 1 of the Optional Protocol, the People's Republic of China is submitting its initial report on implementation of the Optional Protocol to the Committee on the Rights of the Child.
3. The present report was written in compliance with the guidelines, approved by the United Nations Committee on the Rights of the Child in September 2009, for the composition of initial reports on implementation of the Optional Protocol.

## I. General implementation measures

### Overview

4. The Chinese Government attaches great importance to the protection of the lawful rights and interests of children. It consistently upholds the principle of putting children first, continuously improving and perfecting legislation protecting the rights of children, strengthening law enforcement, implementing strategies to prioritize children's development, and guarantee children's rights to live, to develop, to be protected and to participate. With regard to ensuring that children do not become involved in armed conflict, China has created a legal system for military-service work that is based on the Constitution of the People's Republic of China and such laws and regulations as the Law of the People's Republic of China on National Defence, the Military Service Law of the People's Republic of China, and the Regulations on Conscription Work.
5. Article 55 of the Constitution states that it is the sacred obligation of every citizen of the People's Republic of China to defend the motherland and resist aggression, and that citizens of the People's Republic of China have an honourable duty to perform military service and join the militia in accordance with the law. Article 6 of the Law on National Defence also states that it is the sacred obligation of every Chinese citizen to defend the motherland and resist aggression, and that Chinese citizens shall perform their national defence obligations in accordance with the law. Article 3 of the Military Service Law provides that all citizens of the People's Republic of China, regardless of ethnic status, race, occupation, family background, religious belief or level of education, are obligated to perform military service in accordance with the provisions of that Law.
6. Article 2 of the Military Service Law stipulates that the People's Republic of China shall practise a conscription-based military-service system combining conscripts with volunteers and a militia with a reserve service. Article 5 stipulates that the military service shall comprise an active service and a reserve service. Those serving in the Chinese People's Liberation Army are referred to as active servicemen while those mustered into militia organizations or registered in the reserve service are referred to as reservists.

7. Rank-and-file soldiers are divided into active-duty and reserve personnel; active-duty soldiers comprise conscripts and non-commissioned officers, with conscripts serving a two-year tour of duty. A system of ranks is applied to officers. Soldiers' reserve personnel are divided into two categories: the first category comprises soldiers demobilized from active duty who have registered for service in the soldiers' reserve, local and military professional and technical personnel under the age of 35 who have registered for reserve service, and other reservists below the age of 28 who have been enrolled in reserve units and those who have been preliminarily assigned to active-duty units. In addition to the personnel serving in the first category of the soldiers' reserves, the second category comprises personnel serving in organizations of the People's Militia and other male citizens under the age of 35 who have registered for service in the soldiers' reserve. Officers include both active-duty and reserve officers; active-duty officers are generally graduates of military colleges and schools, defence cadets graduated from other regular institutions of higher education and other current-year graduates, soldiers directly promoted to officer rank because they have completed study programmes at regular institutions of higher education and whose service during active duty was exemplary, and persons with special technical skills recruited from outside the military. The reserve officer corps is mainly comprised of officers who have been demobilized from active duty and are serving in the reserves, soldiers who have been demobilized from active duty and been confirmed as reserve officers, graduates of regular institutions of higher education, and personnel from non-military government departments.

8. Article 2 of the Regulations on Conscription Work states that the recruitment of soldiers is an important component in building a strong military and protecting the socialist motherland, and should be carried out conscientiously by people's governments and military organs at all levels. In carrying out conscription work, the authorities concerned organize military-service registration in accordance with the law, select potential candidates for recruitment, conduct rigorous physical examinations, and induct qualified youth of appropriate age into active military service in accordance with the established procedures and methods of conscription. Qualified youth of appropriate age who are unable to enter into active duty are assigned to the reserves.

9. In China, owing to the extremely large number of citizens of military-service age as provided for under the law, only a small percentage of qualified youth of the appropriate age are recruited for active service in the armed forces; the overwhelming majority of such youth perform their military service in the reserves instead.

### **Preparation of this report**

10. The following Government departments took part in the preparation of the present report: the Ministry of Foreign Affairs, the Ministry of National Defence, the Ministry of Education, the Ministry of Civil Affairs, the State Council Working Committee on Women and Children, the General Staff and Political Departments of the Chinese People's Liberation Army, the Legal Bureau of the Central Military Commission, and the Military Court and Military Procuratorate of the People's Liberation Army. Contributions were also made by Chinese social organizations and individual experts in related areas. The draft of this report underwent broad discussion and amendment at frequent joint meetings among the aforementioned Government departments, social organizations and individual experts.

### **Status of the Optional Protocol in domestic legislation**

11. Under the Chinese legal system, international treaties that have been ratified by the Standing Committee of the National People's Congress are legally binding in China, and

China will undertake the corresponding obligations as provided under the treaty. At present, China has established a regime of domestic legislation that accords with the Optional Protocol, ensuring that the Optional Protocol is implemented via the application of that domestic legislation.

### **Scope of application of the Optional Protocol**

12. The Optional Protocol involves matters of national defence. Under the provisions of Article 14 of the Basic Law of the Hong Kong Special Administrative Region, and of Article 14 of the Basic Law of the Macao Special Administrative Region, the Central People's Government of China is responsible for the defence of those two Special Administrative Regions; for this reason, the Optional Protocol is applicable throughout the entirety of Chinese territory, including the Hong Kong and Macao Special Administrative Regions.

### **Minimum age for voluntary recruitment**

13. Article 11 of the Military Service Law provides that the number of citizens to be recruited for active service each year, as well as the criteria and schedule for their recruitment, shall be determined by order of the State Council and the Central Military Commission. Article 12 of that Law and article 3 of the Regulations on Conscription Work provide that male citizens reaching the age of 18 years by 31 December each year shall be recruited for active service. To meet the needs of the armed forces, female citizens may also be recruited for active service under the provisions applicable to the recruitment of male citizens. To meet the needs of the armed forces and on the principle of voluntary participation, male and female citizens who have reached the age of 17 years but are not yet 18 by 31 December of a given year may be recruited for active service.

14. Article 23 of the Military Service Law provides that persons serving in the soldiers' reserve shall be between the ages of 18 and 35. Article 37 provides that male citizens in the 18–35 age group who are fit for military service, excluding those already recruited for active service, shall be mustered into militia units to perform reserve service. The age limit for militia cadres may be applied flexibly. Article 49 provides that the State Council and the Central Military Commission may decide to call into active service male citizens of the age of 36–45 in special wartime circumstances. Thus the age for military service for Chinese citizens remains 18 and above even in special wartime circumstances.

15. Article 49 of the National Defence Mobilization Law provides that male citizens between the ages of 18 to 60, and female citizens between the ages of 18 to 55, are obligated to serve the cause of national defence.

16. In their October 2009 order on military conscription work for the winter season, the State Council and the Central Military Commission set out the following provisions: male youth who would be fully 18 to 20 years of age by 31 December 2009 (the upper limit could be extended to 21 years of age for youth whose educations were at the high-school graduate level), and female youth who would be fully 18 or 19 years of age by the same date, would be eligible for recruitment. Some 17-year-old students graduating from ordinary high schools in 2009, as well as students enrolled in full-time ordinary institutions of higher learning, could also be recruited if they wished.

17. When it ratified the Optional Protocol, China announced that the lowest age for its citizens to voluntarily join the armed forces was 17 years. Maintaining the lower age limit for voluntary enlistment in active military duty at 17 accords with social realities in China

as well as the individual desires of youth willing to join the military. China has no plans at present to raise the lower age limit for voluntary enlistment to 18 years of age.

### **Management structure for military-service work**

18. Article 29 of the Constitution stipulates that the armed forces of the People's Republic of China belong to the people. Article 93 stipulates that the Central Military Commission of the People's Republic of China directs the armed forces of the country.

19. Article 10 of the Military Service Law provides that responsibility for military-service work throughout the country is assumed by the Ministry of National Defence under the leadership of the State Council and the Central Military Commission. The military district commands are responsible for military-service work within their respective areas as assigned by the Ministry of National Defence. The provincial military commands (Beijing garrison command and other garrisons commands) and sub-commands (local garrison commands) as well as the people's armed forces departments of counties, autonomous counties, cities and municipally-administered districts shall also serve as the military-service organs of the people's governments at corresponding levels, and shall be responsible for military-service work in their respective areas under the leadership of military organs at higher levels as well as the people's governments at corresponding levels. Other government organs, public organizations, enterprises and institutions and the people's governments of townships, nationality townships, and towns shall carry out military-service work according to the provisions of that Law. Military-service work operations (at the work-unit level) shall be handled by the People's Armed Forces Departments in work units that have them, or by other designated organs for work units that do not.

20. In carrying out military-service work, the Ministry of National Defence, the regional military commands, and people's governments at all levels at the county level and above have set up conscription offices, which are substantively responsible for organizing and implementing conscription. The People's Armed Forces Departments at the township, town and residential-district levels are substantively responsible for grass-roots conscription work. Local conscription offices set up by people's governments at the county level and above are staffed by personnel from the propaganda, education, public security, health, discipline inspection and supervision, civil affairs, transportation, labour resources and social-security departments of the corresponding level of people's governments, who are separately responsible for publicizing the laws and regulations on conscription, as well as screening and enlisting youth to ensure they meet age and educational levels, conducting physical examinations of enlisting youth, and approving special treatment for youth on active duty and living arrangements for them once they have left the service. By holding periodic work meetings, joint meetings and operational meetings on conscription work, conscription offices are creating an improved conscription coordination mechanism, and through that mechanism they are drawing up related measures and procedures to ensure that conscription work is carried out in accordance with the law.

21. The organs of the Chinese Government primarily responsible for implementing the Optional Protocol are the Ministries of Defence, Education, Public Security, Civil Administration, Finance, Public Health, Human Resources, and Social Security, as well as the General Planning and Political Bureaus of the Chinese People's Liberation Army.

## Publicity and training

22. In comprehensively advancing human rights domestically, the Chinese Government conscientiously fulfils its obligations under the international human rights instruments to which it is a party, and actively publicizes those instruments to its citizens. The decision by the Standing Committee of the National People's Congress to ratify the Optional Protocol was published in the *Gazette of the Standing Committee of the National People's Congress of the People's Republic of China*, 2008 vol.1. After the Optional Protocol went into force in China on 20 March 2008, the Ministry of Foreign Affairs notified the Ministry of Defence, appending a Chinese translation of the text of the Optional Protocol. In 2009, the Ministry of Foreign Affairs printed and distributed the text of the Convention on the Rights of the Child and its two Optional Protocols in the form of a pamphlet, with a view to publicizing and spreading awareness of the Convention and the Optional Protocols among children, their families, teachers and persons working with children in other capacities.

23. The Chinese Government and the Chinese People's Liberation Army view education about the law as an important part of the comprehensive strengthening of the armed forces, and emphasize the dissemination of knowledge of the laws and the improvement of the proactiveness, focus and effectiveness of the law-education programme. In November 2007, China established a National Committee on International Humanitarian Law as the organ through which relevant departments of the Government and armed forces as well as the Chinese Red Cross implement, coordinate and provide information about international humanitarian law. Member units of the Committee include the Ministry of Foreign Affairs, the Ministry of Education, the Ministry of Justice, the State Administration of Cultural Heritage, the General Staff and Political Departments of the People's Liberation Army, the Legislative Office of the Central Military Commission, and the General Committee of the Red Cross Society of China. The Committee Secretariat is housed in the headquarters of the Red Cross Society of China. Functions of the Committee include studying major issues connected with international humanitarian law, promoting and coordinating the activities of the Government departments concerned to publicize and implement international humanitarian law, and coordinating the participation of relevant Government departments in international exchanges and cooperation in the field of international humanitarian law.

24. With the support of the National Committee on International Humanitarian Law, relevant departments of the armed forces are conscientiously carrying out the publicization of international humanitarian law within the military, including organizing lectures and seminars by military instructors on international humanitarian law, selecting outstanding officers to study at the International Humanitarian Rights Law Academy in San Remo, Italy, periodically inviting officials of the International Committee of the Red Cross to teach international humanitarian law in military academies, and actively participating in international academic exchanges on international humanitarian law.

25. In China, more than 200,000 copies of such books as *Lectures on Armed Conflict and Essentials of the Laws of War* have been translated and published for distribution to military departments at all levels. Audiovisual materials, such as a programme entitled "Humanitarianism", have been created and distributed for distribution to military units at the brigade level and above. A digital video disc entitled "Training on the Laws of Armed Conflict of the Chinese People's Liberation Army", reflecting the training provided by that institution, has been filmed and distributed to the military. Subject matter relating to the laws of armed conflict has been inserted in military training manuals and related books and other materials, included in related instructional curricula, and published in the form of index cards, with a view to helping military officers and enlisted personnel, in a simple and direct format, to obtain a basic understanding and grasp of humanitarian protection in armed conflict. Concurrently, information relating to international humanitarian law has also been inserted in general military training and examination materials.



26. The Chinese Government places a high degree of importance to training its citizens in national defence. Article 40 of the National Defence Law of the People's Republic of China stipulates that the State shall carry out education on national defence; the propagation and strengthening of national defence education is the common responsibility of society as a whole. Article 8 of the National Defence Education Law stipulates that Government departments of education, civil affairs and cultural dissemination are each responsible for national defence education work within the scope of their respective spheres of competence; in accordance with the provisions of that Law and related laws and regulations, the departments primarily responsible for conscription, national-defence research and production, popular economic mobilization, the people's air defence, defence transport, and the protection of military installations are responsible for national defence education. Chapter II of that Law stipulates that departments responsible for the administration of education should include national defence education in their work plans and include material related to national defence in school curricula.

27. People's government, military-service organs and military propaganda departments at all levels, as well as labour unions, Communist Youth units, Women's Federation branches, and other social groups, combine everyday education with mass education, general education with specialized education, and theoretical education with behavioural education to provide fundamental education on national defence and on performing military service in accordance with the law, ensuring that citizens who are enlisting, as well as members of their families, understand the provisions of the military-service laws and regulations, policy benefits, system methods, and principles of national defence, and forming a favourable environment for all members of society conscientiously to fulfil their military obligations under the law.

### **Military personnel under the age of 18**

28. The Military Service Law and the Regulations on Conscription Work provide that based on the requirements of the armed forces and the volunteer principle, male and female citizens below the age of 18 who will reach the age of 17 by 31 December of the current year may be recruited for military service. Soldiers who have completed their active-duty tours can become officers if they so desire, are needed by the armed forces, and have obtained the approval of their unit above the regimental level. Also as needed by the armed forces, officers may recruit citizens with specialized skills directly from non-military sectors. The age for the soldiers' reserve is 18 to 35 years.

29. In accordance with the regulations cited above, the uniform age for conscripts chosen to become officers is 18 years and over; by regulation, officers recruited directly from among citizens with specialized skills in non-military sectors will either be graduates of regular institutions of higher learning, technical-school students holding certificates of advanced vocational qualification, or persons with specialized skills who are already working, and will thus uniformly be above 20 years of age. For this reason, only conscripts in their first year of military service among the troops of the Chinese People's Liberation Army will be between 17 and 18 years of age.

30. At the close of conscription each year, conscription offices at all levels produce statistical summaries of recruited youth disaggregated by gender, age, educational level, occupation and skills, and report on the conscription statistics to their superiors. According to these data, a total of 59,127 persons between the ages of 17 and 18 voluntarily entered the armed forces during the winter recruiting season of 2008; that number had fallen to 58,114 for the equivalent period of 2009. Nationwide, an average of 20 to 25 persons between the ages of 17 and 18 are recruited into the military per year from each county, municipality or district, or one or two from each township, town or residential district.

### **Participation of children in armed conflict operations**

31. Because China has had no armed conflicts with other countries since signing the Optional Protocol, no children have been involved in armed conflict in China.

32. China consistently supports international peacekeeping operations that are in conformity with the spirit of the Charter of the United Nations, and has contributed military personnel to United Nations peacekeeping operations since 1990. None of the military personnel sent on those operations was less than 18 years of age.

33. Not a single refugee or asylum-seeking child within China's borders has been recruited into the military.

### **Difficulties in implementing the Optional Protocol**

34. Safeguarding the motherland and defending it against aggression are the sacred duties of every Chinese citizen, and every citizen has the glorious duty to perform military service in accordance with the law. For many years, youth of enlistment age have seen taking part in active military service as a desideratum of life by which to serve their country, devote themselves to its defence, and fulfil their obligations to it. Owing to their high enthusiasm, as well as the large overall population, there is no shortage of soldiers, and those youths between 17 and 18 years of age who enter the military do so on an entirely voluntary basis. For this reason, no obstacles to the implementation of the Optional Protocol exist in China.

35. In the course of carrying out conscription work, there have certainly been a very few isolated instances in which youths below the age of 17 have asked to join the military, but because China's military registration system is strictly enforced, persons who have not registered for military service cannot obtain confirmation of their eligibility for recruitment; at the same time, conscription is closely monitored and checked, and youth not meeting the age requirement cannot be recruited into the military. Moreover, the systematic nature of conscription procedures, such as making public the qualifications required for recruits, the openness and transparency of the conscription process, and the publication of rosters of youth whose entry into the military is about to be approved, effectively prevent persons under 17 years of age from being approved for that purpose. Additionally, Chinese laws and regulations provide for severe penalties for the recruitment of unqualified persons as soldiers; if unqualified young people do get into the military, they will be returned to their original status, and the persons responsible will be dealt with severely in accordance with the law.

## **II. Prevention (art. 1, art. 2, art. 4 para. 2, and art. 6 para. 2)**

### **Related laws and regulations**

36. To ensure that conscription work is carried out in accordance with the law, and that unqualified youth, including children below the age of 17 years, are prevented from being recruited into the military, China stresses the regularization, systematization and standardization of conscription work. Provisions punishing the recruitment of unqualified soldiers have been clarified in related laws and regulations, and strict procedural standards have been drafted, ensuring that conscription work is carried out in accordance with the law.

37. Article 65 of the Military Service Law provides that State functionaries and military personnel who, in the course of military-service work, commit irregularities for personal gain by accepting or processing unqualified recruits, shall be subject to investigation for criminal liability under the law if the case constitutes a crime, or shall be subject to administrative sanction if the particulars of the case do not constitute a crime.

38. Similarly, article 52 of the Regulations on Conscription Work provides that when performing conscription work, State functionaries and military personnel shall strictly execute conscription orders and guarantee the quality of recruits. Those who take bribes, commit irregularities for personal gain, abuse their powers, or are derelict in their duties, shall be punished in accordance with the provisions of the Military Service Law and other relevant regulations. It is further stipulated in Certain Provisions on the Clean Conscription of Soldiers that the leadership, recruitment agencies, relevant Government departments and staff responsible for recruit intake at all levels may not loosen recruitment conditions, resort to deception or falsification, or allow unqualified soldiers to enter the military; written complaint deposit boxes must be set up and telephone numbers for oral complaints must be made public, and rosters of prospective new recruits must be posted so that the public can examine them. Depending on the severity of the infraction, those who violate these provisions are subject to criticism and retraining, or to party or administrative disciplinary measures, and shall be subject to investigation for criminal liability under the law if the case constitutes a crime.

39. In accordance with the provisions of the Military Service Law and the Regulations on Conscription Work, and in the light of actual conditions, the people's governments of all provinces, autonomous regions and municipalities directly administered by the Central Government have drafted local military-service regulations and administrative rules, clarified responsibility in conscription work, and codified punishments for those who recruit unqualified soldiers into the military in violation of the laws and regulations. The Shanghai Municipal Regulations on Conscription Work provide that if personnel carrying out conscription work fail to fulfil their responsibilities by neglecting their duty, resorting to deception or falsification, committing irregularities for personal gain, or accepting bribes, they shall be subject to administrative disciplinary measures by their work unit if these failures do not in themselves constitute criminal offences. In Certain Regulations on Conscription Work in Shandong Province, military-service organs are called upon to adhere to the principle of transparency in government affairs when carrying out conscription work, and voluntarily to accept public scrutiny. Conscription personnel who are derelict in their duties, commit irregularities for personal gain, or solicit or accept bribes shall be subject to criticism and re-training, or administrative disciplinary measures by their work unit; if the particulars of the offence constitute a crime, such personnel shall be subject to investigation for criminal liability under the law by the judicial authorities. The Jiangsu Province Regulations on Conscription Work provide that in carrying out conscription work, local people's governments at all levels as well as recruitment organs must strictly execute conscription orders and other related regulations, and ensure that new recruits are qualified. Conscription personnel who are derelict in their duties, commit irregularities for personal gain, or solicit or accept bribes shall be subject to administrative disciplinary measures by their work unit if these infractions are minor; if the particulars of the offence amount to a crime, such personnel shall be subject to investigation for criminal liability under the law by the judicial authorities. The Gansu Province Rules for Implementation of Conscription Work stipulate that conscription personnel who accept bribes, abuse their authority, are derelict in their duties, or commit irregularities for personal gain, shall without exception be suspended from their posts and be subject to administrative disciplinary measures by their work unit, depending on the severity of the infractions; where such infractions have resulted in losses to others, the personnel involved shall be liable for civil compensation; where such infractions amount to a crime, such personnel shall be subject to investigation

for criminal liability under the law by the judicial authorities. Other provinces, regions and municipalities, including Beijing, Tianjin, Henan, Inner Mongolia, Ningxia, Shaanxi, Henan, Hebei, Zhejiang, Guangdong, Yunnan and Guizhou have also drafted legal measures to prevent unqualified youth from entering the military, effectively preventing unqualified persons, including children under the age of 17 years, from being recruited for active military duty.

### **Recruitment procedures for conscripts**

40. In accordance with the laws and regulations, military-service organs at all levels in China conscientiously carry out peacetime preparations for and implementation of troop recruitment, and ensure that conscription work is done in accordance with the laws and norms, and in an orderly manner. According to the provisions of the Regulations on Conscription Work, the basic procedure for conscription work in China is as follows.

41. First: registration. Registration is an important part of ascertaining the ability of citizens to serve in the military. According to the provisions of the Military Service Law and the Regulations on Conscription Work, male citizens who will be 18 years of age on or before 31 December in a given year are required to register by 30 September of that year, through the arrangement of the military-service authorities of their county, municipality or district. The registration process provides basic information about age-eligible citizens, including their physical condition and abilities, family background, and educational level, and allows determination of whether they are eligible for, exempt from, or incapable of performing military service. Persons to be selected for military service are chosen in corresponding proportions from among those who meet the criteria, and their names are added to the list of potential conscripts as basic documentation for the conscription physical examination and induction into the military.

42. Second: physical examination and political review. In accordance with the provisions of the Military Service Law, the Regulations on Conscription Work, and the Physical Examination Standards for the Recruitment of Citizens, and to ensure the recruitment of qualified soldiers, each year during the draft period, the conscription offices of counties, municipalities and districts arrange for potential conscripts to be given physical examinations as well as review their ages, physical abilities, family backgrounds and education levels, recording this information on the Citizens' Recruitment Physical Examination Form and the Citizens' Recruitment Political Review Form. Results of these examinations are personally prepared and signed by the staff member of the conscription office.

43. Third: validation of new recruits. In accordance with relevant provisions of the Regulations on Conscription Work and with the recruitment obligations passed down to them from organs at higher levels, military-service organs at the county, municipal and district levels assign priority in selection to youths who meet the age, educational, physical and political qualifications for induction into the military. Among those whose qualifications are similar, higher-educated youth are given priority for induction; when educational levels are similar, those graduating in the current year are given priority. Names of new recruits approved for induction are posted for public examination in their towns, townships, residential districts and work units; if someone thus reported is confirmed as not meeting the age, physical, educational or other qualification standards, that person's induction approval is rescinded and the official responsible for the recruitment is punished in accordance with the law.

44. Fourth: transportation of new recruits to their military units. In accordance with relevant provisions of the Regulations on Conscription Work, when reporting for duty, persons approved for induction into the military may choose either to be sent by their

county, municipality or district, go on their own or be escorted by someone from their military unit. New recruits are sent to their units in accordance with the recruit transport plan.

45. Fifth: quarantine, review, and discharge. In accordance with the Regulations on Conscription Work, once the new recruits arrive at their military units, they undergo a process of quarantine and re-examination to confirm their physical condition, age, educational level and so forth. All those found to fall short of the induction standards are returned to the conscription office of the people's government of their original province, autonomous region or municipality directly administered by the Central Government.

46. In accordance with the conscription orders issued each year by the State Council and the Central Military Commission, calculation of time in service for new recruits begins on 1 December of that year. Induction procedures for citizens recruited and approved for active duty are conducted at the conscription office of their county, municipality or district; their names are included on the notice of citizens enlisting in the military; and the household registration office of their place of permanent residence is notified.

47. Article 44 of the Regulations on Conscription Work stipulates that conscription offices of the provinces, autonomous regions or municipalities directly administered by the Central Government shall receive the unqualified recruits discharged by the military units, and notify the conscription offices of the counties, cities or districts where they were enlisted to re-accept them and cancel their induction formalities. Their local public security organs shall allow them to re-settle; if the recruits were staff members or workers of organs, organizations, enterprises or institutions, their original work units shall allow them to resume their prior work or professional duties; if the recruits were students of institutions of higher education, the original institutions shall allow them to resume their studies in accordance with the relevant provisions. In the course of the conscription process, no new recruits have had to be discharged by reason of age.

### **Measures to encourage lawful enlistment**

48. Article 51 of the Military Service Law provides that active-duty servicemen, disabled revolutionary soldiers, and ex-servicemen, as well as family members of revolutionary martyrs, of soldiers who were killed in action or died of diseases, and of active servicemen, shall be esteemed by the general public and given preferential treatment by the State and the masses. Article 54 provides that during the period when conscripts are in active service, their families shall be granted preferential treatment by the local people's governments. The standard for preferential treatment shall not be lower than the local average living standard. The Regulation on Pensions and Preferential Treatments for Servicemen and the Regulation on Placement of Demobilized Servicemen set forth detailed provisions for the pensions, preferential treatment and post-service placement of soldiers.

49. In accordance with local conditions, each province, autonomous region, or municipality directly administered by the Central Government has drafted local policies on special care and placement, such as the Fujian Province Regulations on Rewards and Penalties in Conscription Work, the Jiangsu Province Measures on Implementation of the Regulation on Pensions and Preferential Treatments for Servicemen, and the Yunnan Province Regulation on Pensions and Preferential Treatments for Servicemen, encouraging youths of service age to fulfil their military-service duties.

50. The above-mentioned laws and regulations embody the legal concept of the balance of rights and obligations, a concept that has played an important role in safeguarding the lawful rights and interests of citizens enlisting in the military, encouraging age-eligible

youth to actively apply for enlistment, and relieve them of concerns regarding family circumstances during their period of service.

### **Penalties regarding military personnel under 18**

51. Article 29 of the Regulations of the Chinese People's Liberation Army on Military Service of Active Duty Soldiers provides that soldiers who violate discipline or intentionally or unintentionally cause damage to the State, the armed forces or the people, or who cause detrimental effects among the masses, shall be liable for punishment. The types, conditions, authority to levy, and implementation procedures for such punishment are determined in accordance with the rules set out by the Central Military Commission. Sections III and IV of the Regulations of the Chinese People's Liberation Army on Discipline provide the conditions and implementation procedures for the punishment of soldiers. There are no provisions specifying punishment for soldiers under the age of 18 in current Chinese laws and regulations.

52. Chapter X of the Criminal Law of the People's Republic of China contains specific provisions regarding crimes of dereliction of duty by soldiers and the penalties for them. There were three cases of crimes by under-age persons tried in military courts during the period from 2008 to August 2010, resulting in the imposition of penalties on three soldiers under the age of 18. During the trial process, the military courts carefully verified the ages of the accused and took the special circumstances of their under-age status into full consideration; positively implementing the principle of having the trial serve an educational function and strictly applying the special regulations on the trial of juveniles, they imposed lenient or lightened penalties in accordance with the provisions of the Criminal Law.

### **Military colleges and schools**

53. The 63 military colleges and schools, 22 vocational colleges and 41 post-commission professional schools belonging to the Chinese People's Liberation Army are charged with providing ongoing training and professional education for officers (with ongoing training aimed primarily at junior officers and currently-enrolled students holding military status).

54. Article 43 of the Regulations of the Chinese People's Liberation Army on Education in Military Colleges and Schools provides that students in military colleges and schools are to be drawn from among military cadres, soldiers, and graduates of local regular institutions of higher learning and secondary schools. Article 44 provides that prior to commencing their studies, the students must undergo a political review, physical examination and entrance examination or assessment in accordance with the national and military regulations concerned. Those who fulfil the requirements are admitted to the college or school in accordance with the relevant regulations; following admission, the college or school conducts a political and physical re-examination. Rank-and-file soldiers must also undergo further military and educational examinations. Those who pass the examinations obtain student status, while those who do not are eliminated. Local youth who obtain student status in this process also obtain military status.

55. The Regulations of the Chinese People's Liberation Army on Enrolment of Students in Military Colleges and Schools provides detailed regulations on application to and enrolment in military colleges and schools. Enrolment plans for military colleges and schools are drafted by the Cadre Department of the General Political Department in conjunction with other relevant State and military departments. Among those enrolment plans, those specifically aimed at enrolling young students in military colleges and schools

are approved and handed down by the Ministry of Education and the General Political Department. Plans for enrolment of student youth in each province are jointly published by the office for student enrolment of the military district in that province and the provincial office for student enrolment, while the admission of student youth to military colleges and schools is jointly organized and implemented by the enrolment offices of the military colleges or schools and the offices for student enrolment of each province.

56. The Regulations of the Chinese People's Liberation Army on Education in Military Colleges and Schools also contains detailed provisions regarding the curricula and disciplinary measures in military colleges and schools; each military college or school sets up its own educational curriculum and military training programmes on the basis of its specific nature and characteristics.

57. No organization or individual may inflict corporal punishment on a student. In accordance with the provisions of articles 162, 163 and 164 of the Regulations of the Chinese People's Liberation Army on Discipline, military personnel have the right to bring charges against those who breach regulations or discipline; if they feel that they have received inappropriate punishment or that their lawful rights have been violated, they also have the right to lodge a complaint. Charges and complaints may be brought regardless of rank.

58. Students who insist on withdrawing from the study programme and from the military despite not having a reasonable cause, and who have been approved for such withdrawal after all other efforts by the school to dissuade them have failed, shall have their cases handled in accordance with the provisions of the Measures for Withdrawal of Students from Military Colleges and Schools. Students who were graduates of ordinary secondary schools shall be returned to their parents' place of permanent residence following withdrawal from the study programme and from the military, with the people's government of the county of residence being responsible for receiving them.

### **Armed groups distinct from the armed forces of the State**

59. Article 22 of the Law on National Defence stipulates that the armed forces of China are comprised of the active-duty and reserve troops of the Chinese People's Liberation Army, the Chinese People's Armed Police, and the People's Militia; article 25 stipulates that no organization or individual may unlawfully establish an armed organization, and prohibits unlawful armed activities as well as the impersonation of active-duty military personnel or armed forces organizations. For this reason, there are no "armed groups distinct from the armed forces of the State", as mentioned in the Optional Protocol, in existence in China.

### **Preventing the recruitment of vulnerable children**

60. Article 3 of the Military Service Law provides that exemptions from military service shall be granted to persons unfit for it owing to serious physical defects or serious disabilities. The foregoing legal provision ensures that vulnerable children are not recruited into the military.

61. In the process of performing their work, military-service organs at all levels organize registration for military service in accordance with the law, and conscientiously investigate the family situations, ages, school records and health histories of age-eligible youth so as to gain a full understanding of conditions among citizens eligible for military service by reason of age. Additionally, each step of the process, including physical examination, political review and the selection of recruits, is fully open to scrutiny by the public, and the

names of those performing the work are made public as well. After the new recruits have entered the military, they undergo a strictly-implemented and systematic process of re-examination under which those failing to meet the recruitment criteria are discharged. This series of measures effectively prevents the recruitment of vulnerable children into the military.

## **Publicity and education**

62. China attaches importance to publicizing the protection of the rights of children to its citizens, especially to children, and has made the protection of children's rights an element in its programme of education on the law. Since 2001, education on peace has also been incorporated as part of the ethics and history education curricula. Content related to peace education has been mandated in the published standards for the ideology and morality, history, and morality and society curricula in the full-day compulsory education system as well as in the ideology, politics and history curricula in senior general secondary schools. The Chinese Red Cross is cooperating with education departments to popularize the "Exploring Humanitarian Law" project in middle and primary schools; the "Exploring Humanitarian Law" Reader has already been formally introduced to classrooms in Tianjin Municipality.

63. China also emphasizes disseminating knowledge about international humanitarian law to military personnel responsible for international peacekeeping and convoy duties. The Government departments concerned actively arrange for officers and enlisted personnel to study the Charter of the United Nations, international legal instruments on humanitarianism and the protection of human rights to which China is a party, and basic knowledge about other international laws.

64. Publicity and education about conscription includes general publicity and education and consolidated publicity and mobilization during conscription seasons. In accordance with relevant laws and regulations as well as conscription orders issued by the State Council and the Central Military Commission, local people's governments and military-service organs at all levels compile and print conscription publicity and education outlines providing education and publicity about military service in accordance with the law to citizens, especially youth of military-service age.

65. General conscription publicity and education mainly follows the relevant provisions of the National Defence Education Law in incorporating conscription publicity and education into the national defence education plan and the outline of moral education for middle schools and above, promoting education on patriotism, national defence, military-service regulations and policies, and the current situation in national defence and military construction, as well as organizing citizens to undergo military training and cultivating awareness of national defence and military service in accordance with the law among all citizens.

66. In the main, the content of consolidated publicity mobilization during conscription seasons includes education on military-service laws and regulations, on performing military service in accordance with the law, and on reasons for joining the military, as well as announcements on conscription policy for the current year and mobilizing publicity about special care and placement for ex-servicemen. During conscription seasons, military-service organs at all levels set up conscription work publicity and education teams, with substantive responsibility for conscription publicity work within their districts or work units. Publicity can be carried out in a number of ways, including by means of radio and television broadcasts, the internet and other media, so as to implement conscription publicity and education in a consolidated way and encourage and motivate youth of the appropriate age to perform their military service in accordance with the law; by means of



conscription work mobilization meetings, lectures, and contests of knowledge on military service laws and regulations, so as to popularize awareness of performing military service in accordance with the law throughout society; and by means of responsible persons from local governments and military-service organs giving television talks, answering reporters' questions, and setting up information hotlines on conscription policy, so as to ensure that citizens who enlist as well as their guardians gain a thorough understanding of the pertinent laws, regulations and policies, as well as of the standard conditions, procedural methods and compensation options, along with the duties and responsibilities, associated with enlisting in the military.

67. Social organizations, the news media, and local neighbourhoods also have a unique role to play in the areas of preventing the compulsory recruitment of children and raising awareness of the need for vigilance among the public. During conscription season, social groups, news media and grass-roots communities of all kinds give full play to the positive effects of broad public connections, accurate understanding of popular sentiment, and numerous channels of oversight, thereby making positive use of public-opinion publicity, as well as public monitoring and reporting of irregularities, and effectively preventing the enlistment of unqualified youth in the military.

### **Conscription monitoring**

68. In order to ensure that qualified soldiers are conscripted into the military, people's governments at all levels are taking a variety of measures to strictly oversee and resolutely prevent and put an end to the recruitment of unqualified persons into the military.

69. First, implementing a strict responsibility system. The results of the physical examinations, as well as the certification of such factors as the ages and educational histories, of enlisting youth are signed by and stamped with the personal seals of the examiners; if dereliction of duty or loosening of standards are discovered, a strict investigation of responsibility is conducted and the parties concerned are severely punished.

70. Second, giving full play to public monitoring. Military-service organs at all levels make full use of the internet, newspapers and magazines, and radio and television to familiarize the public with conscription policies, standards, working procedures, and conscription discipline, as well as publicize telephone hotlines and mailboxes for reporting irregularities. During the conscription process, they also post public lists of physical examiners, persons who have met the physical and political criteria for enlistment, and those approved for induction into the military.

71. Third, strengthening the inspection of work. Each year during conscription season, military-service organs and discipline-inspection and oversight organs at all levels organize work teams and carry out inspection tours of subordinate departments using a variety of techniques, including on-site, random and undercover inspections; they report to the public on confirmed issues found in the course of inspection, compelling immediate correction of the problems and carrying out punishment of those found responsible.

72. Fourth, implementing a system of responsibility with regard to discharged recruits. When an unqualified new recruit is rejected by a military unit after the induction review process, the person(s) responsible are investigated and severely punished in accordance with the regulations.

73. For many years, the monitoring of conscription season has been taken very seriously all over China. During the 2009 conscription season, the Ministry of Defence and the Central Military Commission Discipline Inspection Committee sent out 10 inspection teams that toured 180 counties, municipalities and districts in 30 provinces, autonomous regions and municipalities directly administered by the central Government. Joint discipline

inspection and oversight teams were set up by each province, municipality and county to carry out full inspections of conscription work. Following the conclusion of conscription work, the Ministry of Defence and the Central Military Commission Discipline Inspection Committee sent out three work teams that carried out inspections in 10 provinces, autonomous regions and municipalities directly administered by the central Government, checking the case files of some new military recruits and carrying out questionnaire surveys to further verify the implementation of conscription-policy regulations. To facilitate public monitoring of conscription work, military service offices at all levels set up several thousand telephone hotlines and postal boxes for receiving complaints, and conscientiously sought monitoring information from the public.

74. Each year during conscription season, National People's Congress deputies, Chinese People's Political Consultative Conference members, retired veteran cadres and grass-roots members of the public throughout the country are invited to serve as special inspectors monitoring conscription work, uncovering and resolving problems in a timely manner. So as to conscientiously facilitate public monitoring during the 2009 conscription season, Shandong province invited over 1,000 National People's Congress deputies, Chinese People's Political Consultative Conference members, retired veteran cadres and grass-roots members of the public to serve as special inspectors, and made more than 450 conscription hotlines and 900 complaint post boxes available throughout the province. The conscription office of Qinhuangdao Municipality in Hebei province invited 28 members of the municipality's People's Congress and Political Consultative Conference to monitor conscription work, organizing a special three-day training programme for them; they conducted in-depth random monitoring at eight conscription points around the city, promptly finding and reporting on existing problems and making suggestions for strengthening and improving conscription work.

### **III. Prohibition and related affairs (art. 1, art. 2, and art. 4 paras. 1 and 2)**

#### **Related laws and regulations**

75. Article 6 of the Law of the People's Republic of China on the Protection of Minors stipulates that the protection of minors is the shared responsibility of State organs, the armed forces, political parties, public organizations, enterprises and institutions, urban and rural self-governing grass-roots mass organizations, the guardians of minors, and other adult citizens. When the lawful rights of minors are infringed upon, any organization or individual has the right to speak out against that infringement, put a stop to it, or report it or make an accusation about it to the authorities concerned. Article 60 of that Law provides that with respect to infringement upon the lawful rights and interests of minors committed in violation of its provisions, where administrative punishment is provided for by other laws or regulations, those provisions shall prevail; if such infringement causes personal injury, loss of property or other damages, the infringer shall bear civil responsibility according to law; and if a crime is constituted, criminal responsibility shall be investigated according to law.

76. The Criminal Law contains a number of provisions regarding violations of the Optional Protocol and Chinese laws and regulations on conscription, such as article 9, which stipulates that the Criminal Law shall be applicable to crimes which are stipulated in international treaties concluded or acceded to by the People's Republic of China and over which the People's Republic of China exercises criminal jurisdiction within the scope of obligations, prescribed in these treaties, it agrees to perform. Article 374 stipulates that whoever engages in irregularities for selfish ends in conscription work, accepting or

sending unqualified recruits, shall be sentenced to fixed-term imprisonment of not more than 3 years or criminal detention if the circumstances are serious; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 3 years but not more than 7 years. Article 427 stipulates that any officer who abuses his power and instigates his subordinates to act in transgression of their duties, thereby causing serious consequences, shall be sentenced to fixed-term imprisonment or criminal detention of not more than 5 years; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 5 years but not more than 10 years.

77. No privately-operated corporations of the military-security type exist in China.

### **Prosecution and trial of related offences**

78. In practice, China takes forceful civil, administrative and criminal measures to ensure that the laws and regulations on conscription are strictly implemented and carried out. To date, there have been no legal precedents related to compulsory recruitment and the use of recruits under the age of 18.

### **Application of relevant international treaties**

79. China is a party to the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War, as well as to the 1977 first additional Protocol relating to the Protection of Victims of International Armed Conflicts and the 1977 second additional Protocol relating to the Protection of Victims of Non-International Armed Conflicts. It is also a party to the International Labour Organization 1999 Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. China is not yet a party to the 1998 Rome Statute of the International Criminal Court.

80. Articles 7, 8 and 10 of the Criminal Law deal with administrative extraterritorial jurisdiction. Article 7 provides that the Law shall be applicable to any citizen of the People's Republic of China who commits a crime prescribed in that Law outside the territory of the People's Republic of China; however, if the maximum punishment to be imposed is fixed-term imprisonment of not more than 3 years as stipulated in that Law, he may be exempted from the investigation for his criminal responsibility. That Law shall also be applicable to any State functionary or serviceman who commits a crime prescribed in that Law outside the territory of the People's Republic of China. Article 8 provides that the Law may be applicable to any foreigner who commits a crime outside the territory of the People's Republic of China against the State of the People's Republic of China or against any of its citizens, if for that crime that Law prescribes a minimum punishment of fixed-term imprisonment of not less than 3 years; however, this does not apply to a crime that is not punishable according to the laws of the place where it is committed. Article 10 provides that any person who commits a crime outside the territory of the People's Republic of China, for which according to that Law he should bear criminal responsibility, may still be investigated for his criminal responsibility according to that Law, even if he has already been tried in a foreign country. However, if he has already received criminal punishment in the foreign country, he may be exempted from punishment or given a mitigated punishment.

81. To date, there have been no extraterritorial jurisdiction cases in China of recruited children being involved in war crimes.

## **Military courts and military procuratorates**

82. Military courts are the judicial organs constituted by the State within the military; they are special people's courts in the military system and exercise judicial powers on behalf of the State in accordance with law. Under the leadership of the Central Military Commission and the General Political Department, and under the supervision and monitoring of the Supreme People's Court, they try crimes committed by persons within the military, civil cases occurring within the military, and cases involving State compensation, in accordance with the law. Military courts are divided into three levels: at the first level is the Military Court of the People's Liberation Army; at the second level are the military courts for large units, located in major army, navy and air force military regions; and at the third level are the grass-roots military courts located in naval fleets, military air force districts, and some provincial military commands. The Military Court of the People's Liberation Army is the highest State judicial organ in the military, and is comprised of criminal, civil, and trial-supervision divisions.

83. Military procuratorates are the organs of legal supervision constituted by the State within the military; they are special people's procuratorates in the military system and exercise supervisory powers on behalf of the State. Under the leadership of the Central Military Commission, the General Political Department and the Supreme People's Procuratorate, they investigate cases of dereliction of duty by persons within the military, in accordance with the law. They review and approve arrests and prosecutions in cases of crimes committed by persons within the military; they investigate and monitor military-security departments and military trial organs, and supervise their trial procedures and imposition of penalties. Military procuratorates are divided into three levels: at the first level is the Military Procuratorate of the People's Liberation Army; at the second level are the military procuratorates for large units, located in major army, navy and air force military regions; and at the third level are the grass-roots military procuratorates located in naval fleets, military air force districts, and some provincial military commands. The Military Procuratorate of the People's Liberation Army is the highest State judicial supervision organ in the military, and is comprised of criminal, duty-crimes, and civil investigation divisions.

## **Extradition**

84. The Extradition Law of the People's Republic of China sets out conditions and procedures for the submission to China of extradition requests and for the examination of such requests, and specifies the organs responsible for deciding on them and the procedures for implementing them. It plays an important role in ensuring that extradition is carried out properly, that international cooperation on the punishment of criminals is strengthened, and that the lawful rights and interests of individuals and organizations are protected.

85. As of 2009, China was a party to more than 100 bilateral judicial assistance agreements and extradition treaties, as well as more than 20 multilateral agreements containing judicial-assistance and extradition provisions, thus laying down a legal foundation for the development of international judicial cooperation.

86. To date, there have been no cases in China of crime-related extradition as described in the Optional Protocol.

## **IV. Protection, rehabilitation and reintegration (art. 6 para. 3)**

### **Judicial protection and relief**

87. Chapter V of the Law on the Protection of Minors contains specific provisions on the judicial protection of juveniles, including taking the special characteristics of their physical and mental development into consideration, respecting their self-esteem, and safeguarding their lawful rights and interests in the course of the judicial process. Legal assistance organizations or people's courts are required to provide legal assistance or judicial aid to minors requiring it during the judicial process, in accordance with the law. In the course of adjudicating civil or criminal cases involving minors, the people's courts emphasize taking the substantive requirements associated with protecting the rights of juveniles as a point of departure, providing them with legal assistance, safeguarding their right to privacy, and realizing maximum benefit for children.

88. Military-service organs at all levels in China organize their conscription work in an orderly manner in accordance with the law, and do not engage in forcible recruitment into the military of persons under the age of 18, or of persons who do not wish to enter the military or who are not yet 17 years of age. For this reason, there are no child victims of forcible recruitment in China.

89. To safeguard the judicial rights of recruits under the age of 18, military courts pay special attention to the task of verifying the age of the suspect, and make great efforts to reduce any factors that could obscure the true age of the person involved. When investigating cases involving minors who have entered the judicial domain, military courts take full account of the special characteristics of the physical and mental development of juveniles, respect the self-esteem of underage lawbreakers and safeguard their lawful rights and interests. They listen patiently and carefully to the statements or justification given by juveniles, and provide guidance and instruction aimed at dealing with the worries, apprehensions and emotional conflicts of these young people. In addition to allowing juveniles to state their views directly, they also require the juveniles' legal representatives to appear in court in order to assist the juveniles to exercise their litigation rights, fully express their views, and safeguard their lawful rights and interests. When a juvenile is accused of a crime, if he or she has not appointed a legal defender, the military court will designate a lawyer to serve as the defender. During the trial stage, the military court will arrange for judges and jurors who are familiar with the special physical and mental characteristics of juveniles to make up the court in accordance with the law. All criminal cases involving juveniles are held under the closed-trial system. Care is taken to protect the privacy of the juvenile during the trial process, which is held in accordance with the principle of having the trial serve an educational function; care is also taken to provide the juvenile with reformatory education. In accordance with the provisions of the Criminal Law, juveniles are given lenient or lightened punishments for their crimes, and the death penalty is not applied.

90. Article 49 of the Law on Protection of Minors provides that where the lawful rights and interests of minors are infringed upon, the victims and their guardians or other organizations and individuals shall have the right to make complaints to the relevant departments, which shall, in accordance with the law, handle the complaints in a timely manner.

91. Article 162 of the Regulations of the Chinese People's Liberation Army on Discipline stipulates that complaint and appeal are democratic rights of servicemen. Chapter V of those Regulations contains detailed provisions regarding those rights,

including the right of servicemen to bring complaints against those who violate the law or military discipline, and the right to appeal punishments they feel to be inappropriate or which infringe upon their lawful rights and interests. After they have received the complaints and appeals of the servicemen concerned, their senior officers of all ranks, or their departments, must investigate the facts of the situation in a timely manner. If the complaint or appeal is found to be authentic, it should be handled swiftly and appropriately, and the senior officers or departments should protect the servicemen bringing the complaints or appeals, not detain or hinder them, and so on.

92. The Chinese People's Liberation Army General Staff, Political, Logistics, and Armament Departments, as well as the regional commands, all have complaint departments for receiving, investigating and handling complaint letters and visits of all kinds.

93. For further substantive information on the legal protections and safeguards provided for the right of children to petition, please see China's report on its implementation of the Convention on the Rights of the Child.

## **Training**

94. In order to prevent the recruitment of unqualified personnel, before launching conscription work, military-service organs at all levels must organize operational training for staff from military-service, educational, public-security, public-health, disciplinary-inspection, monitoring, and civil-administration departments who will be taking part in conscription work, to help them get a grasp on policies and regulations, working procedures and methods, and requirements for reward and punishment measures, thereby raising work capacity and ensuring the strict implementation of conscription work, as well as the openness, fairness and orderliness of the conscription process.

## **Placement of demobilized servicemen**

95. Article 21 of the Regulations of the Chinese People's Liberation Army Regarding Military Service of Active Duty Soldiers provides that conscripts who have completed their active service and who have not been selected as officers shall be discharged from active service; article 42 provides that those who have not completed their active service and who meet the provisions of article 20 of the Military Service Law (i.e. whose discharge from active service is necessitated by a reduction in armed forces personnel, or who have been diagnosed and certified by an armed forces hospital as having a health condition rendering them unfit for continued service, or who for other special reasons need to be discharged from active service) and of other related provisions, may be discharged from active service upon approval by a division (brigade) or higher organ. Chapter VI of these Regulations contains detailed provisions on the conditions and compensation for the discharge of soldiers from active service; among these, article 49 stipulates that soldiers approved for discharge must report to the discharged military personnel placement organ of their original enlistment location within 30 days of the date their discharge was approved. Article 47 provides that discharged soldiers shall be appropriately placed in accordance with the relevant State regulations.

96. The Regulation on Placement of Demobilized Servicemen contains detailed provisions on this topic. Most important among these are that the placement of demobilized servicemen should be carried out based on the principle of conscientiously ensuring that they are returned to the places they came from, and guided by the concept of suitable placement, with each demobilized serviceman ending up where he needs to be. Conscripted servicemen return to their original place of conscription within 30 days of being

demobilized, and bring their demobilization certificates and letters of introduction from their military units to the military-service organs of their county, municipality or district to register for reserve duty. They then report to the demobilized servicemen's placement organ, and go on to complete residential-settlement formalities based on a letter of introduction from that organ. Demobilized soldiers whose original permanent residence registration was in an agricultural area receive appropriate placement via the local demobilized servicemen's placement organ. In principle, demobilized conscripts who had been regular staff of State organs, people's organizations, or business enterprises return to their original work units and resume their former duties following demobilization. Demobilized conscripts sitting examinations for admission to institutions of higher learning and secondary vocational schools are accepted by preference over other examination candidates with the same qualifications.

97. In practice, post-demobilization employment for conscripts residing in cities and towns is arranged by county or district people's governments; it can also be arranged for in the serviceman's district by the people's governments at the next higher administrative level, or by those of the province, autonomous region or municipality directly administered by the central Government. Demobilized servicemen from cities and towns find employment on their own, but are provided a one-time economic assistance grant by the local people's government and given preference under its policies. When conscripts from rural villages are demobilized upon completion of their military service, the people's governments of their townships, ethnic townships or towns arrange for appropriate productive employment and living situations for them, and they are given preference in hiring over others with similar qualifications.

98. Up to the present time, there have only been a very few servicemen under the age of 18 who have demobilized early for family reasons in China.

### **Foreign children**

99. As a signatory of the Fourth Geneva Convention and its two additional protocols, China has assumed an international obligation to ensure that victims of international armed conflicts, including children, are given humanitarian treatment. There are no foreign-national children involved in armed conflicts in China.

## **V. International assistance and cooperation (art. 7 para. 1)**

100. China attaches a high degree of importance to cracking down on the illegal trade in small arms and light weapons, and its related domestic legislation is comprehensive and effective. The Law of the People's Republic of China on the Control of Firearms expressly prohibits the unlawful possession or use of firearms by private individuals, implements strict controls on the transport, import and export of firearms, and lays down related punitive measures. As amended in 1997, the Criminal Law sets out severe punitive measures for the unlawful possession, private stockpiling, renting-out or carrying of firearms as well as for the loss of officially-issued firearms. China amended its Regulations on the Administration of Firearms Exports in 2002 and issued a Firearms Export Control List, providing stricter and clearer measures to control the export of all conventional weapons, including small arms and light weapons. In August 2008, China promulgated and put into effect the Rules on the Marking of Small Arms and Light Weapons, specifying requirements for the content, format, location and production of markings on small arms, spare parts and accessories as well as their packing containers.

101. China constructively participated in the 2001 United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects and its follow-up Biennial Meetings and Review Conference, and took active part in negotiations on the Protocol against the Illicit Manufacturing and Trafficking in Firearms, attached to the United Nations Convention against Transnational Organized Crime, as well as in the United Nations negotiations on the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, making a positive contribution to the completion of that Instrument and its Programme of Action. Additionally, China has responsibly and constructively participated, in the work of meetings of Groups of Governmental Experts on Small Arms and Light Weapons within the United Nations framework, the United Nations Register of Conventional Arms, and an arms trade treaty.

102. China conscientiously implements the Programme of Action and the International Instrument on small arms and light weapons, and has taken a series of practical measures in the areas of legislation, law enforcement, capacities and mechanisms; it also actively supports and takes part in related international and regional cooperation.

103. In 2003, the Chinese Government donated US\$ 10,000 to the Voluntary Trust Fund for the United Nations Disarmament Information Programme, for use in supporting efforts by the United Nations to deal with the small arms and light weapons issue. In 2005, China donated US\$ 21,800 to the Organization of American States, through the China-OAS Cooperation Fund, to subsidize conferences on banning illicit trafficking in firearms in the Americas. In the Beijing Plan of Action adopted at the Beijing Summit of the China-Africa Cooperation Forum in November 2006, the Chinese Government committed to continuing its support for and participation in efforts to crack down on the illicit trade in small arms and light weapons in Africa, and to provide financial and material support as well as related training within the scope of its ability to do so.

104. China has sent numerous delegations to attend relevant regional conferences on small arms and light weapons, respectively exchanging information with representatives of other Governments and international organizations on measures taken and experiences gained in that field. The Chinese police cooperate with INTERPOL in investigating illicit small arms and light weapons. Chinese Public Security and Customs agencies also maintain frequent operational contact with corresponding agencies in other countries.

105. China attaches importance to the issue of children and armed conflict, condemning and opposing the recruitment and use of child soldiers, as well as other violations, in the course of armed conflict, of the rights and interests of children. China supports the efforts of the United Nations and the Security Council to promote the protection of children in armed conflict. As a State Member of the United Nations and the Security Council, China has taken active part in Security Council deliberations on the problem of children and armed conflict; although Security Council resolution 1612 (2005) [on children in armed conflict] does not bear upon China's internal situation, China nevertheless supports the work of the Secretary-General and his Special Representative for Children and Armed Conflict, and assists the Security Council in the strict and accurate implementation of the resolution.

## **VI. Other legal provisions (art. 5)**

106. As a State Party to the Convention on the Rights of the Child and its Protocols, China consults the principles and provisions of those instruments, continuously strengthening and improving legislation protecting the rights of children and drafting or



amending laws and regulations having to do with children's rights, thereby putting a more comprehensive legislative regime to protect children's rights into effect. For China's other legislation related to the protection of children, please consult the periodic reports China has already submitted on its implementation of the Convention on the Rights of the Child.

## Annex

### List of related laws and regulations

- Constitution of the People's Republic of China (adopted at the fifth meeting of the fifth session of the National People's Congress on 4 December 1982, and amended on 12 April 1988, 29 March 1993, 15 March 1999 and 14 March 2004)
- Law of the People's Republic of China on National Defence (adopted at the fifth meeting of the eighth session of the National People's Congress on 14 March 1997)
- Military Service Law of the People's Republic of China (adopted at the second meeting of the sixth session of the National People's Congress on 31 May 1984, and amended on 29 December 1988 and 27 August 2009)
- Law of the People's Republic of China on the Protection of Minors (adopted at the twenty-first meeting of the seventh session of the Standing Committee of the National People's Congress on 4 September 1991, and amended on 29 December 2006)
- National Defense Mobilization Law of the People's Republic of China (adopted at the thirteenth meeting of the eleventh session of the Standing Committee of the National People's Congress on 26 February 2010)
- National Defense Education Law of the People's Republic of China (adopted at the twenty-first meeting of the ninth session of the Standing Committee of the National People's Congress on 28 April 2001)
- Criminal Law of the People's Republic of China (adopted at the second meeting of the fifth session of the National People's Congress on 1 July 1979, and amended on 14 March 1997)
- Extradition Law of the People's Republic of China (adopted at the nineteenth meeting of the ninth session of the Standing Committee of the National People's Congress on 28 December 2000)
- Law of the People's Republic of China on the Control of Firearms (adopted at the twentieth meeting of the eighth session of the Standing Committee of the National People's Congress on 5 July 1996)
- Regulations on Conscription Work (promulgated by the State Council and the Central Military Commission on 24 October 1985, and amended on 5 September 2001)
- Regulations of the Chinese People's Liberation Army on Military Service of Active Duty Soldiers (promulgated by the State Council and the Central Military Commission on 23 September 1988, and amended on 27 April 1993 and 30 June 1999)
- Regulation on Placement of Demobilized Servicemen (promulgated by the State Council on 12 December 1987)
- Regulation on Pensions and Preferential Treatments for Servicemen (promulgated by the State Council and the Central Military Commission on 1 August 2004)
- Regulations of the People's Republic of China Governing Export Control of Military Goods (promulgated by Decree 234 of the State Council and the Central Military Commission on 22 October 1997, and amended on 15 October 2002)

- Regulations of the Chinese People's Liberation Army on Education in Military Colleges and Schools (promulgated by the Central Military Commission on 18 February 2000)
  - Regulations of the Chinese People's Liberation Army on Enrolment of Students in Military Colleges and Schools (approved by the Central Military Commission; promulgated by the General Staff, Political, Logistics, and Armament Departments on 28 October 2007)
  - Regulations of the Chinese People's Liberation Army on Discipline (adopted by the Standing Committee of the Central Military Commission on 4 May 2010, and promulgated by the Central Military Commission on 3 June 2010)
  - Some Provisions on the Clean Conscription of Soldiers (approved by the State Council and the Central Military Commission; promulgated by the People's Liberation Army General Staff and Political Departments and the Ministry of Supervision on 20 October 1998)
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