



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 (1) 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 2004

Sri Lanka*

[16 June 2008]

* 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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Abbreviations

The following abbreviations have been used for this report:

CCHA	Consultative Committee on Humanitarian Assistance
CFA	Cease-Fire Agreement
CGR	Commissioner-General of Rehabilitation
DPCCS	Department of Probation and Child Care Services
EU	European Union
EVI	Extremely Vulnerable Individuals
GHCs	Gramodaya Health Centres
HRCSL	Human Rights Commission of Sri Lanka
ICRC	International Committee of the Red Cross
IGP	Inspector General of Police
ILO	International Labour Organization
IMCHR	Inter-Ministerial Committee on Human Rights
IPEC	International Programme of the Elimination of Child Labour
LTTE	Liberation Tigers of Tamil Eelam
MCDWE	Ministry of Child Development and Women's Empowerment
NCPA	National Child Protection Authority
SCiSL	Save the Children in Sri Lanka
SLMM	Sri Lanka Monitoring Mission
TFMR	Task Force for Monitoring and Reporting
TMVP	Tamil Makkal Viduthalai Pulikal
TRO	Tamil Rehabilitation Organization
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees

I. Introduction

1. The Government of Sri Lanka considers the recruitment of children for armed conflict as one of the most serious aspects of the armed conflict in Sri Lanka. The Government recognizes that child recruitment is an extreme form of child abuse and exploitation, and that the loss of childhood as a result of recruitment is irreplaceable. It is in direct contravention of the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, both to which Government is a party. Sri Lanka ratified the Convention and the Optional Protocol on 11 August 1991 and 12 February 2002 respectively. Sri Lanka was one of the first countries to sign and ratify the Optional Protocol.

2. Sri Lanka also ratified the Convention No. 182 (1999), of the International Labour Organization on 1 March 2001. This defines child soldiering as one of the worst forms of child labour and prohibits the forced or compulsory recruitment of children under the age of 18 for use in armed conflict.

3. The Government has consistently maintained a zero tolerance approach towards child recruitment, abduction and use of children in armed conflict, in accordance with its obligations under the Convention and in particular, the Optional Protocol. The Government unequivocally condemns the recruitment of children for armed conflict and regards it as the most serious human rights violation directly attributable to the armed conflict. It recognizes that the majority of children thus recruited not only suffer untold abuse and hardship, but run the risk of being maimed, disabled and killed.

4. Sri Lanka adopted a Children's Charter in 1992 as a nationally approved policy document, based on the Convention. This included the setting up of a National Child Rights Monitoring Committee which is responsible for the preparation of periodic reports to the Committee on the Rights of the Child. The combined third and fourth periodic reports under the Convention are now being compiled and will be submitted shortly.

5. Sri Lanka abides by the articles of the Convention. Accordingly, all recruitment to the Sri Lankan Armed Forces is voluntary and between the ages of 18 and 22 at the time of enlistment.

6. The Penal Code (Amendment) Act No. 16 of 2006 relating to the prohibition on the recruitment of children as combatants was enacted in Parliament on 1 January 2006. Therefore, engaging or recruiting children for use in armed conflict is now recognised as an offence. Any person convicted of this offence shall be liable to imprisonment of either description for a term not exceeding 30 years and to a fine.

7. The Government supported and welcomed the unanimous adoption of the United Nations Security Council Resolution 1612 on children in armed conflict in July 2005. This resolution gives effect to a series of measures, including the establishment of a monitoring and reporting mechanism on children exposed to the armed conflict. Accordingly, the Government established the Task Force for Monitoring and Reporting (TFMR) in July 2006 in collaboration with relevant United Nations agencies. Sri Lanka maintains close collaboration with the Security Council Working Group on Children and Armed Conflict and presented an Aide-Memoire with relevant information in February 2008. Security Council resolution 1612 remains closely relevant to the Sri Lankan armed conflict situation which has existed for over two decades as it is one in which children have and continue to experience child recruitment, internal displacement and other child rights violations. The monitoring and reporting mechanism set-up under the Security Council Resolution 1612 provides an opportunity to obtain comprehensive information on incidents involving children due to the conflict.

8. However, verification of the accuracy and reliability of information, objectivity of the incidents reported and proper analysis are issues yet to be fully resolved. Figures on child recruitment are mainly those collected through a United Nations Children's Fund (UNICEF) database established in 2003. The data represents information on child recruitment reported by parents to UNICEF offices located in conflict affected areas of the North and the East. However this may not fully represent the total picture due to factors such as fear, intimidation and harassment of concerned families by the Liberation Tigers of Tamil Elam (LTTE), a non-State party entity in Sri Lanka, which continues to recruit children as combatants. Anecdotal information indicates a high prevalence rate of child recruitment among women headed households particularly widows, but no exact figures are available. Since the child recruitment database by UNICEF was established in 2003, it does not reflect the widespread recruitment which occurred during the period from 1983 to 2002. The only information during this period is that available with the Armed Forces, that nearly 60 per cent of the estimated 14,000 LTTE cadres were child recruits. Most of the current LTTE leadership today were probably child combatants who have survived to adulthood.

9. Sri Lanka is committed to uphold the rights of all Sri Lankan children including the protection rights of children exposed to the armed conflict. Sri Lanka's armed forces have consistently maintained 18 years as the legally-established minimum age of recruitment, also in accordance with relevant international treaty obligations. However, the LTTE have recruited children since the commencement of the conflict in 1983. Advocacy against child recruitments has been consistently maintained by the Government with support from the international community particularly UNICEF. But so far, this has not had the desired impact and child recruitment practices by the LTTE still continue. Such advocacy includes visits by high-ranking United Nations officials during the 1990s such as a former Special Representative on Children and Armed Conflict, Mr. Olara Otunnu, a former Executive Director of UNICEF, Ms. Carol Bellamy and Deputy Executive Director of UNICEF, Mr. Andre Roberfroid. Subsequently, there have been regular visits to conflict affected areas by high-ranking United Nations officials who have advocated against child recruitment. The last was by the United Nations Special Advisor Mr. Alan Rock in November 2006. Despite commitments made to Mr. Rock by the LTTE that child recruitment would cease from January 2007, and that an Action Plan to do so would be developed, this has yet to be implemented.

10. An Action Plan for Children Affected by War was signed by the Government, UNICEF and the LTTE in 2003 in the aftermath of the 2002 Cease-Fire Agreement (CFA). This included a clear commitment by the LTTE to stop child recruitment while collaborating with the Tamil Rehabilitation Organisation (TRO) and UNICEF to provide rehabilitation services for such children. Three transit centres for child soldiers were planned to be established in Killinochchi, Trincomalee and Batticaloa costing US\$ 1 million for children due to be released by the LTTE. However, though resources were made available to the TRO by UNICEF, the three centres did not function and children were not released as promised to UNICEF by the LTTE.

11. On 17 May 2006, the European Parliament adopted a resolution on Sri Lanka recognising the LTTE as being a party which practices the recruitment of children as combatants. Paragraph 7 of the resolution condemned "the appalling abuse of children through the recruitment of child soldiers, which is a war crime" and called on "all rebel groups and notably the LTTE to stop this practice, to release those it holds and to make a declaration of principle not to recruit any children in the future". The resolution also urged the Government of Sri Lanka to "put in place legal measures to prevent and criminalize the practice".

12. Since the signing of the CFA, as of 31 March 2008, UNICEF has recorded in its database 6,259 cases of child recruitment by the LTTE. Out of this total, 3,784 were boys,

2,475 girls, and 2,047 were regarded as released children. There were 1,429 children recruited under 18 but who had reached 18 years as of March 2008. Those under 18 years were 168. UNICEF has also recorded underage recruits by the Karuna faction, which is a break-away group of the LTTE in the East. The total known to UNICEF is 463. Outstanding cases under 18 years are 131 with 66 recruited under 18 years but are now above that age.

13. The LTTE has been identified as a party that recruit or use children in situations of armed conflict in the report to the Secretary-General on children and armed conflict¹ and in further reports in 2006 (S/2006/1006 and in 2007 (S/2007/758). In 2007, the Karuna faction of the LTTE was also included as a party responsible for child recruitment.

14. The UNSG in a report issued in 2005 highlighted LTTE's continued use and recruitment of children following the signing of the CFA in 2002. This reached a peak in 2004 when there were over 1,000 cases of recruitment and re-recruitment reported by parents to UNICEF. Increasing number of girls was a new feature. Most of the recruitment occurred in the Eastern Province.

15. The UN Secretary General's report of 2006 states that the LTTE continued the recruitment and the re-recruitment of children who had previously run away. The report indicated that as of end 2006, out of a total of 5,794 cases, 1,598 remained with the LTTE. The report also indicated an overlap of 37 per cent between children recorded by UNICEF and children who were released, ran away or returned home. This suggests that the UNICEF figures reported approximately one third of the total cases of recruitment. Higher levels of recruitment were reported from Kilinochchi (which is an "uncleared" area where the LTTE dominates) with more girls being recruited from Mullativu. A disturbing feature reported was the release of children through the so called 'North-East Secretariat on Human Rights' and to an 'Educational Skills Development Centre', both of which are run by the LTTE. Children were placed in this facility without parental consent. No independent verification was possible. As a perpetrator, the LTTE's control of the centre is highly questionable. During this period, the LTTE had conducted systematic programmes on civil defence training. UNICEF reported that children were also involved in such programmes and much of them were conducted during school hours, while school principals and teachers were helpless.

16. In April 2004, "Colonel" Karuna, the LTTE Commander in the East broke away from the LTTE and fighting between the two factions was intensified in the East. UNICEF reported child recruitment by the Karuna faction of the LTTE in the East. Allegations were made of state complicity. This is now under investigation through a Committee constituted under the Secretary to the Ministry of Justice. An issue regarding making a distinction between adults and children will be remedied soon through a new Gazette notification pertaining to the release of children and child friendly procedures.

17. The Government continues to work in close collaboration with UNICEF, as well as International Non-governmental organizations (INGOs), non-governmental organizations (NGOs) and other community based organizations to prevent children from being recruited as combatants by the LTTE and other breakaway groups of the LTTE such as the Karuna faction and the Tamil Makkal Viduthalai Puligal (TMVP).

18. UNICEF has continued to advocate against child recruitment both with the LTTE and more recently, the Karuna faction, the break-away group of the LTTE and the TMVP to persuade these groups to honour their commitments to cease recruitment and release of all child soldiers.

¹ S/2005/72, paras. 48 and 49.

19. The Government is encouraged that the TMVP facilitated the release in April 2008 of 39 children held by the paramilitary group known as the Karuna faction. These children now have access to rehabilitation, vocational training and reintegration which the Government working in close cooperation with international partners — notably UNICEF — stands ready to provide. The Government is pleased to note that UNICEF has recorded a drop of children held by the Karuna faction from 164 in January 2008 to 76 at the end of April. Unfortunately, the figures for the LTTE are not as encouraging. The Government has called on all groups that have used children in armed conflict to cease the practice immediately and to release all minors in their custody.

20. The United Nations Secretary-General's report of December 2007 reports a decline in child recruitment by the LTTE as reported by UNICEF. However, whether this is a decline in under reporting due to the heightening of hostilities and the inability of parents to report needs to be given serious consideration. The report also highlights greater travel restrictions imposed by the LTTE. This affects adults and children aged 13 and above. During this period there was also a reduction in the number of children handed over by the LTTE to their educational skills development centre in Killinochchi.

21. In annex II of the Secretary-General's report reference has been made to the Karuna faction, which is a breakaway group of the LTTE and its refusal to release children. However, subsequent to TMVP entering the political process in the East, 11 children were released (out of an original number of 40 who have expressed a desire for release) to the Rehabilitation Centre in Ambepussa. The Government is confident that the TMVP will eventually release all children who are with them. There are current negotiations with the TMVP to get all the children released.

22. The Government agencies involved in the protection of the rights of the child are:

- (a) National Child Protection Authority (NCPA);
- (b) Ministry of Child Development and Women's Empowerment (MCDWE);
- (c) Department of Probation and Child Care Services (DPCCS);
- (d) Human Rights Commission of Sri Lanka (HRCSL).

23. There are many civil society organizations which collaborate with the above Government agencies on child protection issues. The Government has undertaken several initiatives to safeguard children's protection rights including creating public awareness through the media which plays a key role in advocacy.

24. In April 2007, the Ministry of Child Development and Women's Empowerment established a Task Force in relation to children affected by the armed conflict. It focused on issues raised in United Nations Security Council resolution 1612 and the Security Council Committee set up under it. Subject areas of focus in the Task Force include conformity of Sri Lankan legislation with the Convention to provide protection for children affected by the armed conflict, prevention of child recruitment through advocacy in schools and the media, the promotion of compulsory education, preventing the exposure of the identity of child combatants, promotion of universal birth registration, protection and rehabilitation of child soldiers, improving law enforcement and the strengthening of institutional capacity, specifically, the HRCSL and the NCPA, and the setting up of a National Database.

25. A Steering Committee on the release, providing protective care, rehabilitation and reintegration of children used by armed groups was set up under the Commissioner-General of Rehabilitation (CGR), and the Ministry of Justice. Key Government agencies involved include the MCDWE, NCPA, Ministries of Vocational Training and Education. Academics as well as UNICEF are members of this committee. A policy has been developed and approved. This includes guiding principles, vision, mission, goal and policy objectives,

which are now being implemented. UNICEF has provided support and more resources are being sought for effective implementation of these policies.

26. Following the clearing of the Eastern Province from the LTTE by the Security forces in 2007, the numbers of surrendees are seem to be increasing.

II. Information relating to articles 1 to 8 of the Optional Protocol

Article 1

27. Enlistment of soldiers to the Armed Forces of Sri Lanka is governed by the Soldiers Enlistment Regulations of 1955. Enlistments are conducted either as ‘recruits’ or ‘directly enlisted soldiers’. The regulation states that:

“No person shall be enlisted as a recruit in the Regular Force unless he is between the ages of 18 and 22 on the date of his enlistment” and “no person shall be enlisted as a directly enlisted soldier in the Regular Force unless he is between the ages of 18 and 40 years on the date of his enlistment.”

Enlistment of a recruit means “any soldier other than a directly enlisted soldier” and enlistment of directly enlisted soldier means “any person who is selected for an appointment requiring technical or other special knowledge training”.

28. The above mentioned requirements have been strictly complied with by the Armed Forces and there have been no exceptions.

29. In addition, the extension of service or re-recruitment of a soldier is applicable only to a soldier already in service, as stated in the Soldiers Service Regulations No 1 of 1994; hence the issue of age does not arise.

Article 2

30. Sri Lanka does not have any legislation providing for compulsory recruitment or conscription.

31. All recruitment to the armed forces is voluntary, as categorically stated in the Soldiers Enlistment Regulations of 1955:

Paragraph 3 states that: “Applications from persons desirous of being enlisted as recruits shall be called for by advertisements in the Gazette.”

Paragraph 10 states that: “Applications from persons desirous of being enlisted as directly enlisted soldiers shall be called for by advertisement in the Gazette. Such advertisement shall set out the special qualification necessary for the posts which are being filled.”

The minimum age of enlistment is 18 years.

32. The following declaration was made by Sri Lanka at the time of its ratification of the Optional Protocol:

“The Democratic Socialist Republic of Sri Lanka declares in accordance with article 3 (2) of the Protocol that under the laws of Sri Lanka: (a) there is no compulsory, forced or coerced recruitment into the national armed forces; (b) recruitment is

solely on a voluntary basis; (c) the minimum age for voluntary recruitment into national armed forces is 18 years.”

Article 3

33. All the requirements mentioned under this Article are strictly complied with by the armed forces in respect of enlistment of soldiers.

Article 4 (paras. 1 and 2)

Paragraph 1

34. The LTTE is distinct from the armed forces of the State. The LTTE have consistently recruited children since 1983 in violation of international law and since 2006, local law, specifically the Penal Code.

35. The Sri Lankan armed forces have estimated that between 1983 to 2002, out of a total of 14,000 LTTE combatants, as many as 60 per cent of the combatants were below the age of 18 years. Both boys and girls have been recruited. Estimates also reveal that at least 40 per cent of the LTTE fighting force were killed in action during the 1983–2002 period. These mostly consisted of children between the ages of 9 and 18. Most of the adult leadership of the LTTE today were probably child combatants. This could be one of the factors which hinder a total elimination of child recruitment as the LTTE leadership is not committed to cease such recruitment. In addition, fear and intimidation are factors which lead to recruitment, as well as kidnapping and abduction.

36. The former Special Representative of the Secretary-General on Children and Armed Conflict Mr. Olara Otunnu was invited by the Government to visit Sri Lanka in May 1998,² to add strength to the advocacy campaign against child recruitment. During his meeting with the LTTE he raised several issues concerning the protection, rights and welfare of children affected by the ongoing conflict. The LTTE made the following commitments in relation to children in armed conflict to Mr. Otunnu during his meeting with the LTTE.

(a) The LTTE undertook not to engage children below the age of 18 years in combat and not to conscript children below the age of 17 years. The LTTE leadership accepted that a framework to monitor these commitments would be put in place;

(b) The LTTE also agreed to not impede the movement of displaced people to the cleared areas.³ This involved a commitment by the LTTE not to prevent the return of the displaced Muslim population, which include many women and children, from returning to their homes, and accepted that a framework to monitor this process should be introduced;

(c) The LTTE also made a commitment not to interfere with the distribution of humanitarian supplies targeted for the affected civilians, and accepted that a framework to monitor this process should be enforced;

(d) During his visit Mr Otunnu stressed the importance of all parties including the non-State sector, observing the Convention of the Rights of the Child. He urged the LTTE to make public their respect of the principles and provisions of the Convention.

² Office of the Special Representative of the Secretary-General for Children and Armed Conflict issued a Press Release on the commitments made by the LTTE (see annex I).

³ Areas that have been cleared from LTTE control.

However, the LTTE did indicate their willingness, to enable their cadres to receive information and instructions on the provisions of the Convention;

(e) The LTTE also agreed to review its strategies and tactics of targeting civilian population contrary to humanitarian laws.

37. These commitments were not implemented by the LTTE. Despite such repeated pledges by the LTTE leadership to end child recruitment, they continue to do so even today. Such children include not only those living in un-cleared⁴ areas but also those in areas that have been consider “cleared” from the LTTE.

38. According to UNICEF data as of 31 March 2008, there have been a total of 6,259 cases of child recruitment by the LTTE since the signing of the CFA in 2002. Out of this 3,784 were boys and 2,475 were girls. Although these numbers are high, these are still lower than the actual numbers. It is not possible to accurately determine the full extent of under-age recruitment for several reasons. Some parents are not fully aware of the existing UNICEF reporting mechanisms. Due to fear of reprisals by the LTTE, many do not report such cases. Most families suffer from intimidation and threats if they contravene LTTE orders.

39. According to the cumulative statistics of the Sri Lanka Monitoring Mission (SLMM) when it was operational, out of 3,830 ceasefire (ruled) violations by the LTTE during the period 22 February 2002 to 30 April 2007, 1,743 violations were related to child recruitment. This amounts to 45.51 per cent of LTTE’s total ceasefire (ruled) violations during that period.⁵

40. The strategies adopted by the LTTE and the Karuna Group to recruit children to their cadres are manifold. However, the most common form of conscription is through fear and intimidation of families as well as abductions, and kidnapping. Of equal importance is their ruse to “motivate” children through deliberate efforts to glorify war, violence and martyrdom. Children, being extremely impressionable are easily conditioned to regard violence as a source of power. They can thus, get attracted to join armed groups masquerading as champions of a particular cause.

41. Children are not only forcibly recruited, but are coerced into becoming combatants and committing grave acts of violence. Such children are too young to resist, and are easily manipulated by adults who draw them into such violent acts. Children are not equipped to form an informed opinion in regard to the legitimacy of such causes and therefore become easy prey for such illegitimate power groups. They are consequently denied a multiplicity of rights, including the right to health, education, recreation, leisure and play and most importantly of all to be able to live and grow in their own family and community. With the prolonged conflict, and LTTE’s difficulties to recruit adequate numbers of adults, the poverty situation which is aggravated in a conflict environment, indoctrination of young people even in schools in such areas, the practice of child recruitment continues. The LTTE promises food and payment to the children they recruit.

42. Some key findings and observations are contained in the report issued by Human Rights Watch.⁶ These are as follows:

(a) The LTTE refuses to acknowledge their practice of recruiting child soldiers;

⁴ Areas where the LTTE dominates.

⁵ See <http://www.peaceinsrilanka.lk/peace2005/Insidepage/AtaGlance/CeasefireApril2007PV.htm>.

⁶ Human Rights Watch “Living in Fear: Child Soldiers and the Tamil Tigers in Sri Lanka”, report, November 2004, vol. 16, no. 13 (c).

(b) The LTTE routinely enter homes to remind parents that they need to contribute at least one child to the “movement”;

(c) Children are abducted from their homes at night or on their way to school or when attending temple festivals;

(d) Parents who resist are usually punished using violent methods. Once the children are recruited their connection to their families are severed;

(e) With the split of the Karuna faction of the LTTE in April 2004, an estimated 1,800 children were released by this faction. However, there was widespread re-recruitment of these children by the LTTE in mid-2004;

(f) Children are taught not only to use weapons, but conditioned to wear a cyanide capsule and commit suicide if “captured” by the Sri Lanka armed forces. In addition, some children are selected and trained to become suicide bombers. Many such bombers have been girls. This could be because girls are considered to be subjected to less “body searches” at security checkpoints;

(g) Children recruited by the LTTE are used to fight the Security Forces or are deployed in the Forward Defence Lines to man its defences. In addition, child combatants are also used for reconnaissance and act as couriers. The LTTE claim that the number of children employed for administrative duties is negligible;

(h) According to information available from interviews conducted by Human Rights Watch, the training for child combatants is very vigorous. Typical training is done in the jungles for a period up to four months. Trained combatants are prepared for fighting by attacking vulnerable villages. There was a recent such attack in May 2006, in spite of the CFA, in Welikanda, in the district of Polonnaruwa in the North Central Province. Such trainees are later deployed to attack army camps;

(i) The basic training lasts for approximately four to seven months and takes place in groups of 250 to 300 young combatants and child combatants. The training involved is very rigorous and includes physical exercise, weapons training and military strategy. Errors or attempted escapes are met with harsh punishments, usually received in public;

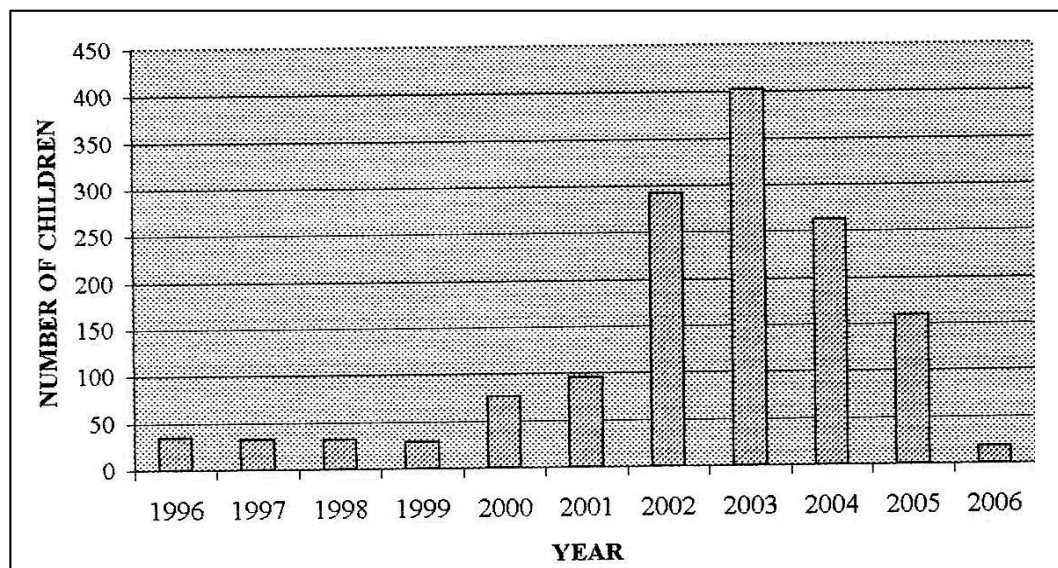
(j) Advanced training involves, trainees being assigned to units to receive specialised training. This may involve combat operations, use of specific weapon systems (including landmines, bombs, and heavy weapons), security, intelligence or non military skills;

(k) Discipline is strict and the punishment received for mistakes is harsh. The LTTE practices collective punishment, often punishing the entire group for the mistake of one soldier. Those who attempt to runaway are punished by being beaten in front of the whole group as a warning to the rest against escaping.

43. According to data available from the UNICEF report of 31 March 2008, out of the children who have been returned or released, it is estimated that 33 per cent have previously reported to UNICEF. According to the UNICEF database, the current number of child combatants released is estimated to be 2,047, of which 174 were released to transit centres, 1,271 consisted of runaways, 1,825 were directly returned to their homes and deceased 76. Total outstanding cases known to UNICEF, including those re-recruited is 1,429.

44. According to information obtained from the Security Forces, children are usually recruited by the LTTE in the age range of 7–17.

Graph 1

Graph depicting child recruitment trends by the LTTE for the past decade

Source: UNICEF Database.

Key findings from UNICEF graph

45. Analysis of the data compiled by UNICEF shown in the graph above indicates significant child recruitment in 2002, the same year the CFA was signed between the Government and the LTTE. It could also be due to the fact that this was the first data gathered on a systematic basis where families had an opportunity to report, and access given to the LTTE in areas controlled by the Security Forces, pursuant to the CFA signed in February 2002. Although there were indications of a decline in recruiting children as combatants in 2004 and 2005, it was not clear how significant these findings were. There have been reports that LTTE have recruited children displaced by the Tsunami disaster and those living in welfare camps. The Human Rights Watch report issued on 14 January 2005 states that “The Tamil Tigers are preying on the most vulnerable by taking advantage of children who have been orphaned or displaced by the Tsunami.”

46. According to UNICEF, recruitment rates dropped during the first half of 2005 following the Tsunami. Nonetheless, there was a significant increase in recruitment in mid 2005. However, UNICEF reports that during July alone, 139 children were recruited. During the first nine months of 2005, there was a total of 483 cases of child recruitment. The actual total is considered to be much higher as many cases are not reported. During the same time the LTTE released 146 children back to their families.

47. Although the Government attempted to raise the issue of child recruitment during its talks with the LTTE on the Cease Fire Agreement held in Geneva from 22–23 February 2006, the LTTE declined to discuss the topic. The Statement issued at the conclusion of talks states that “The Government and the LTTE discussed all issues concerning the welfare of children in the North East, including the recruitment of children.”

48. Based on codes of confidentiality, details of individual child combatants are not disclosed. However, personal information, place of abduction, age when recruited and date of recruitment could be provided by Government to the Committee on the Rights of the Child upon request.

Paragraph 2

49. The Government in 2003 decided to collaborate with UNICEF to draw up a plan to prevent child recruitment. Thus an Action Plan for Children Affected by War (the Action Plan) was signed between the Government, the LTTE and UNICEF in April 2003. The Action Plan focuses on child recruitment both in terms of preventative strategies as well as activities designed to promote demobilisation, immediate release, reintegration, rehabilitation and enable access to psychosocial therapy. In the Action Plan, the LTTE made commitments to cease the practice of child recruitment and release all those already recruited. However, this commitment was not implemented.

50. There was however systemic weaknesses in the planning of this initiative by UNICEF. Government institutions, particularly the NCPA, which has the mandate to uphold the protection rights enshrined in the Convention was left out of the planning process and the project because the LTTE did not like the way they had advocated against child recruitment. Strong objections by the LTTE interfered with the selection of partners to the project by UNICEF. Due to NCPA's consistent zero tolerance and non-negotiable policy against child recruitment, the LTTE objected to NCPA's participation in the Action Plan. The NCPA was and still, as the key national agency for child protection, is committed to protect children from recruitment as these children are not only at risk of injury, disability and death but also vulnerable to serious, long term psychological problems and deprivation of education, and worst of all, their right to life is at risk. They are also being denied of the full enjoyment of the childhood among their parents, siblings, extended family and friends. Instead of the NCPA, the Ministry of Social Welfare was selected to provide training inputs through the Department of Probation and Child Care Services as the partner Government institution for child rehabilitation. This Department was "acceptable" to the LTTE.

51. Both the NCPA and the HRCSL, which is also involved in promoting child rights in conflict areas are members of the Task Force on Monitoring and Reporting (TFMR). The HRCSL, which is also a member of the TFMR, advocates a zero tolerance policy in relation to the recruitment of children as combatants, and has expressed their deep concern about the continued recruitment of child soldiers by the LTTE. Media releases issued by HRCSL have articulated these policies in a comprehensive manner. The HRCSL has extended its mandate to cover the rights of children affected by the conflict and also performs a monitoring role. HRCSL take steps to produce before Magistrate child combatants who surrender themselves in order to obtain necessary custodial orders and to provide protective care.

52. Although the Government provided LTTE more than 100 birth certificates of children recruited since April 2005, most of these children have not been released.⁷

53. The Penal Code (Amendment) Act No. 16 of 2006 relating to the prohibition on the recruitment of children as combatants, was enacted in Parliament on 1 January 2006. Therefore, engaging or recruiting children for use in armed conflict is now recognised as an offence. Any person convicted of this offence, shall be liable to imprisonment of either description for a term not exceeding 30 years and to a fine.

54. ILO Convention No. 182 of the , which Sri Lanka ratified on 1 March 2001, defines child soldiering as one of the worst forms of child labour and prohibits the forces the recruitment of children under the ages of 18 years for use in armed conflict. The Government is committed to implement the Convention in collaboration with ILO.

⁷ Action Plan for Children Affected by War Progress Report: 1 July 2004–30 June 2005, UNICEF, p. 33.

55. The Women and Children's Division of the Department of Labour is the focal point for implementing ILO – IPEC⁸ Activities in Sri Lanka. The IPEC activities are monitored by a Steering Committee of Stakeholders chaired by the Secretary to the Ministry of Labour Relations and Manpower.

56. Among other things, with regard to Children in armed conflict, the IPEC programme implements a number of activities in the districts of Amparai, Mullaitivu, Jaffna, Kilinochchi, Mannar, Trincomalee, and Vavuniya which are in the North and the East of Sri Lanka. The specific IPEC responses are delivered within two inter-UN agency projects: The Action Plan for Children affected by War and the project on Repatriation, Reintegration, Rehabilitation and Reconstruction (4Rs) in North East of Sri Lanka. The target group of beneficiaries are vulnerable children, including child soldiers from female-headed households and internally displaced families and adult family members. In both projects, IPEC has taken the lead in the area of vocational skills training. The development objective of IPEC's North-East programme is to contribute to the withdrawal of child labour, specifically child soldiers from the worst forms of child labour through reintegration training programmes, and the prevention of entry of children into child labour through employment linked training programmes, particularly self-employment, for the target group and contributed to increasing the quality and capacity of training providers. Training has been undertaken in variety of ways: formal centre-based training, informal rural skills training at the community level, mobile training, placement in apprenticeships and on-the-job-training. Simultaneously, children were also exposed to life skills training, provided with vocational and career guidance, and business start up knowledge to enable them to explore their potential for self-employment and entrepreneurial business opportunities. The IPEC has also assisted more than 20 training providing organizations to upgrade their technical capacities and training equipment to deliver quality programs. Trainers and staff of implementing agencies have also been provided with information on issues of child labour and the necessity for basic occupational and safety standards in their delivery of training.

Article 6 (paras. 1, 2 and 3)

Paragraph 1

57. Sri Lanka's abiding commitment to the welfare of children irrespective of gender, ethnicity, caste and religion is borne out by its welfare programmes focussed on children, which includes the provision of free healthcare and education island-wide. These welfare programmes, including its poverty alleviation programmes, have benefited children without discrimination and led to sustained declines in under five mortality and maternal mortality, high levels of life expectancy at birth and high levels of literacy. However, these main social benefits are seriously eroded when children are used in armed conflict and suffer death, maiming, abuse and exploitation.

58. The Government is firmly committed to ensure that all children have the right to live with their families in dignity, be free of fear, intimidation and harassment, free to learn, study and be healthy. It is also committed to the prevention of recruitment as well as the protection, care, rehabilitation and reintegration of all children under the age of eighteen years who have been recruited as combatants by the LTTE and its break-away Karuna faction. The Government maintains the recruitment of children as combatants and involvement of children in armed conflict a zero tolerance and non-negotiable issue. However, in the context of the ongoing fight against LTTE, the Government seeks the

⁸ International Programme of the Elimination of Child Labour.

support of relevant international organizations to strengthen the capacity of institutions such as the NCPA, the HRCSL and the Office of the Commissioner General of Rehabilitation to protect children from being used as combatants and to provide protection, rehabilitate and re-integrate the children who had been used in armed conflict.

Measures taken by the Government of Sri Lanka

Legal

59. In keeping with its commitment to ensure the rights of children irrespective of gender, ethnicity, caste and religion, the Government has taken several measures. There are ongoing legal efforts to ensure the full realization of the rights of children and to ensure that children live in dignity and comfort and enjoy the love, care and concern of their families.

60. Sri Lanka is a State party to the Convention on the Rights of the Child, the policies of which are reflected in Sri Lanka's Children's Charter. It has also signed the Optional Protocol on the involvement of children in armed conflict. Sri Lanka also ratified ILO Convention No. 182 on 1 March 2001.

61. Relevant changes have been made to the law, in particular to the Penal Code in order to address crimes against children. Thus section 358A(1)(d) of the Penal Code pronounces that any person who engages or recruits a child for use in armed conflict shall be guilty of an offence and shall on conviction be liable to imprisonment of either description for a term not exceeding thirty years and to a fine. Paragraph (b) of that subsection states that any person who subjects or causes any person to be subjected to forced or compulsory labour shall be guilty of an offence and shall on conviction be liable to imprisonment of either description for a term not exceeding twenty years and where the offence is committed in relation to a child for a term not exceeding thirty years and to a fine.

62. Sri Lanka is a signatory to the Paris Commitments to protect children from unlawful recruitment or for use by armed forces or armed groups. The State is committed to ensure not only the unconditional release of all children recruited but to protect, rehabilitate and to reintegrate such children into society.

Assistance and Protection to Victims of Crime and Witnesses Bill

63. The Assistance and Protection to Victims of Crime and Witnesses Bill which will be presented in Parliament shortly sets out the rights and entitlements of victims of crime and witness protection. The Bill seeks to:

- (a) Establish a mechanism to promote, protect, enforce and exercise the rights and entitlements of victims of crime and witnesses;
- (b) Make provision for the rendering of assistance and protection to victims of crime and witnesses;
- (c) Provide for the payment of compensation to victims of crime and to enable victims of crime to obtain compensation from persons convicted of having committed offences against them;
- (d) Provide for obtaining redress by victims of crime, including restitution, reparation and rehabilitation of such victims;
- (e) Set out duties and responsibilities of judicial officers and public officers towards the promotion and protection of the rights and entitlements of victims of crime and witnesses;

(f) Stipulate offences that may be committed against victims of crime and witnesses and the penal sanctions that may be imposed on persons who commit such offences;

(g) Provide for the implementation of internationally accepted norms and best practices relating to the protection of victims of crime and witnesses.

64. The Bill seeks to establish a National Authority for the Protection of Victims of Crime and Witnesses and an Advisory Commission. The Authority is charged with the duty of promoting, inter alia, the recognition of, and respect for, the rights and entitlements of victims of crime and witnesses and protecting such rights and entitlements.

65. The Authority also has a duty to make recommendations to the Police and any other Government department and to public officers either generally or on a case by case basis, on appropriate and specific measures that should be taken to give effect to the rights and entitlements of victims of crime and in particular, regarding the provision of effective protection, necessary treatment, rehabilitation and counselling and other appropriate assistance to victims of crime and witnesses.

66. The Authority also has a mandate to sensitize public officers, promote the observance and application of codes of conduct and internationally recognized norms and best practices relating to the protection of the rights of victims of crime and entitlements of witnesses by courts of law, commissions, other tribunals, public officers and employees of statutory bodies including the police, involved in the enforcement of the law.

67. It also has the authority, inter alia, to:

(a) Recommend the development, adoption and implementation of measures of restitution to victims of crime as a sentencing option in the criminal justice system;

(b) Make recommendations generally for the efficacious prevention, detention, investigation and prosecution of offences;

(c) Promote community participation in crime prevention and the participation of non-governmental organizations in providing assistance to victims of crime and witnesses;

(d) Issue guidelines pertaining to the establishment and maintenance of the Victims of Crime and Witnesses Assistance and Protection Division and for the assignment, transfer and the assignment of functions to police officers attached to the division.

68. The formulation of policy and the supervision of the administration, management and control of the affairs of the Authority will be vested in a Board of Management.

69. A high powered Advisory Commission on Victims of Crime and Witnesses is established to advise the Board and the Director General of the Authority on the policy and overall direction to be adopted by the Authority, the general performance and discharge of duties and functions of the Authority and the manner in which the duties and functions of the Authority should be given effect to.

70. The Bill seeks to establish the Victims of Crime and Witnesses Assistance and Protection Division of the Sri Lanka Police Department. The Division has a duty to provide effective and necessary protection to victims of crime and witnesses and investigate by itself or with the assistance of any other police officers into complaints, allegations, information pertaining to threats, reprisals, intimidation, retaliation or any harm or harassment being committed on victims of crime or witnesses and their property and any offence committed under section 7 of the Act i.e. any offence against a victim of crime or witness.

71. The Bill also seeks to establish the Victims of Crime and Witnesses Protection Fund for the purpose of paying compensation to victims of crime, dependants of victims of crime

who had died as a result of such crime, and for the purpose of paying the expenses incurred by a victim of crime in receiving medical treatment and necessary assistance, and also for the purpose of paying monies necessary to provide protection and for the performance and discharge of the functions of the Authority under the Act. The Bill provides for contemporaneous audio visual links for the purpose of receiving testimonies subject to the conditions stipulated in the Act. Stringent punishments are provided for offences under the Act.

72. A precursor to the National Authority on the Protection of Victims of Crime and Witnesses is the Centre for Victims of Crime which was established in 2002. The main functions of the Centre are to take measures for the Prevention and Protection of Victims of Crime and Witnesses. This includes crime prevention, prevention of re-victimization, the organizing of workshops, training programmes and media programmes targeting the police and other stakeholders of the criminal justice system as well as Government officials such as District Secretaries, Divisional Secretaries and *Grama Niladharies*.

73. It is expected that once this Bill is promulgated as an Act of Parliament, those under threat or at risk of forced recruitment would have the confidence to complain and seek assistance.

Administrative

National Child Protection Authority (NCPA)

74. The priority and emphasis of the Government on the protection of children from abuse and exploitation is manifested through the creation of a separate statutory authority namely the NCPA. The NCPA was established through an Act of Parliament in 1998. It functions as a multi-sectoral Government body with an infrastructure capable of effectively responding to child abuse and exploitation, so that the Government could fulfil its obligations under the Convention in relation to child protection issues. The NCPA promotes legal reform, child friendly judicial processes, strengthening law enforcement and justice for children and promoting access to therapy, counselling and rehabilitation of child victims of abuse.

75. The NCPA also undertakes activities in relation to the conduct of special investigations, relating to child abuse, including the commercial sexual exploitation of children by foreign paedophiles.

76. According to the section 39 of the National Child Protection Authority Act No. 50 of 1998:

“Child” means a person under eighteen years of age;

“Child abuse” means any act or omission relating to a child which would amount to a contravention of any of the provisions...and includes the involvement of, a child in armed conflict which is likely to endanger the child’s life or likely to harm such a child physically or emotionally.

77. The NCPA has a mandate to provide support in relation to the provision of protective care for child combatants. Thus paragraph (i) of section 14 of the NCPA Act mandates the NCPA “to recommend measures to address the humanitarian concern relating to children affected by armed conflict and the protection of such children, including measures for their mental and physical well-being and their reintegration into society”.

78. Among the other functions of the Authority are the following:

(a) To advise the Government on measures for the prevention of child abuse;

(b) To advise the Government on measures for the protection of victims of such abuse;

(c) To recommend legal, administrative or other reforms required for the effective implementation of the national policy for the prevention of child abuse; and

(d) To take appropriate steps where necessary for securing the safety and protection of children involved in criminal investigations and criminal proceedings.

79. The Government has established the Women and Children's Police Bureau and 36 Women and Children's Police Desks for law enforcement in relation to the abuse and exploitation of women and children across the country.

80. A separate Ministry of Child Development and Women's Empowerment was established in 2005 by the present Government. This Ministry supports and assists the Government in its efforts to prevent child abuse and in the protection, rehabilitation and reintegration of children who have been subjected to abuse and recruitment.

81. The Government has collaborated with the United Nations to set up the TFMR, the monitoring and reporting mechanism set-up under the Security Council resolution 1612.

82. In conformity with resolution 1612 paragraph 2(a), the Objective of the TFMR is: (a) the systematic gathering of timely, objective, accurate and reliable information on the recruitment and use of child soldiers in violation of applicable international law and on other violations and abuses committed against children affected by armed conflict in Sri Lanka and (b) reporting to the Working Group of the Security Council on children and armed conflict as set up under resolution 1612.

83. In accordance with resolution 1612 and Section VI, paragraph 2 of the Terms of Reference of the Working Group of the Security Council on children and armed conflict, the TFMR will focus on violations against children affected by armed conflict beginning with its application against the party to the conflict listed in annex II of the Secretary-General's report (S/2005/72) as applicable to Sri Lanka.

84. The TFMR will also focus on the recruitment and use of child soldiers. Other violations and abuses committed against children affected by armed conflict including abduction of children, killing and maiming of children, rape and other grave sexual violence against children, attacks against schools and hospitals and denial of humanitarian access for children will also be addressed.

85. The TFMR is guided by Security Council resolutions 1261 (1999), 1314 (2000), 1379 (2001), 1460 (2003), 1539 (2004), and 1612 (2005) and relevant international standards applicable to the promotion and protection of the rights of the child.

86. The TFMR applies the following principles in its work:⁹

(a) The best interest of the child: in activities related to monitoring and reporting, the best interests of the child shall be a primary consideration;

(b) Impartiality of information collectors: information collectors should be confined only to those who are independent from the parties to the conflict;

(c) Confidentiality: individuals and organizations that provide information on child rights violations in the context of the armed conflict should be protected; individual agencies shall retain the prerogative on confidentiality of case details;

⁹ Guidance note from SRSG on Children and Armed Conflict, 7 October 2005.

(d) Security: precautionary measures should be taken by the TFMR within its purview for the protection of persons engaged in information collection and for those who provide information;

(e) Accuracy and reliability of information: a system of analysis and verification shall be established by the TFMR.

87. The TFMR undertakes the following tasks:¹⁰

(a) Coordinating the gathering of information on the ground;

(b) Vetting and confirming the accuracy of information received;

(c) Integrating and providing quality control of the information received;

(d) Providing feedback to local communities and civil society organizations;

(e) Providing guidance and training in methodology, as well as in ethical and security matters, to information gatherers;

(f) Making determinations on practical and political constraints, with recommendations to the Resident Coordinator;

(g) Preparing the monitoring and compliance country reports, annual country reports, bi-monthly reports on relevant developments and alert reports as necessary;

(h) Establish and maintain a monitoring and reporting information database;

(i) Undertaking periodic assessments of best practices and lessons learned.

88. The TFMR is chaired by the United Nations Resident Coordinator and it comprises, among others, the NCPA, Human Rights Commission of Sri Lanka, United Nations Development Programme (UNDP), UNICEF, United Nations High Commissioner for Refugees (UNHCR), and ILO.

89. Child recruitment information is collected in a database established in 2003. There is also a record of children who have “surrendered” and those who are under interim care and protection. Care and protection of child “surrendeers” are undertaken by the Office of the Commissioner General of Rehabilitation. The NCPA provides support as do other relevant agencies including UNICEF.

90. The Government is taking practical measures to address the issue of humanitarian access to children and civilian population affected by armed conflict. The high-level Consultative Committee on Humanitarian Assistance (CCHA) chaired by the Minister of Disaster Management and Human Rights and attended by the key Government officials such as the Secretary to the Ministry of Defence and Secretary to the Ministry of Foreign Affairs, heads of several UN Agencies, and Heads of Mission of several key donor countries and European Union, facilitates early clearances of requests for access and humanitarian assistance, as well as resolution of any issues or concerns that arise as a result of developments on the ground. Special attention is given to child related issues.

91. Pursuant to a decision taken by the Inter-Ministerial Committee on Human Rights (IMCHR) in November 2007, the Minister of Disaster Management and Human Rights established a multidisciplinary Committee to inquire into allegations of abduction and recruitment of children for use in armed conflict. The Committee is mandated to:

(a) Take any measure it may deem necessary to initiate inquiries on, and monitor the investigations into, allegations made against some elements of the security forces in

¹⁰ Paragraphs 83–90 of Secretary-General’s report, S/2005/72.

connection with the recruitment and abduction of children by the LTTE's break-away Karuna faction;

(b) Recommend measures for the protection of complainants and witnesses from reprisals at all stages of an investigation and thereafter;

(c) Monitor and recommend steps to assure that released children have access to facilities and procedures aimed at their protection, rehabilitation and reintegration in accordance with Sri Lankan written law and, in doing so, pay special attention to the needs of female children.

92. With regard to 48 affidavits submitted to the Inspector General of Police (IGP) by people from the Eastern Province, regarding child abduction and recruitment, two senior Superintendents of Police were assigned to investigate these cases and make recommendations. A detailed report with regard to these 48 affidavits was submitted. The Committee has also requested detailed information from the Inspector General of Police (IGP) and the Senior Deputy Inspector-General of Police/North East, in this regard.

93. The Committee decided that supervision and rehabilitation of children was a crucial issue, which would be undertaken by the Commissioner General of Rehabilitation (CGR) appointed by the Government in September 2006. Security forces, including the police, provide the necessary support. Relevant line Ministries and agencies such as the NCPA, UNICEF and the International Committee of the Red Cross (ICRC) have also been requested to provide support. The Committee agreed to request the IGP to assign special police officers to investigate children in "custody" who have been recruited or abducted for use in armed conflict. Reports of on-going investigations into alleged disappearances have been called for and measures to prevent child recruitment will be reinforced with the assistance of the local community, the divisional and district administration, the police and the armed forces.

94. A sub-committee with a multi-disciplinary membership has been established under the supervision of the Chairman/NCPA to assess former child combatants in depth, and also to provide psychosocial support. This sub committee is coordinating with UNICEF in the establishment of a "child friendly" support system.

95. It is proposed to set up Village-level Committees for the purpose of surveillance and prevention of recruitment of children for armed conflict, which would also support family reintegration of former child combatants.

Other measures

96. Guidelines on Protective care, Rehabilitation and Reintegration of Child Combatants have been developed in collaboration with the office of the Commissioner General of Rehabilitation.

97. The Guidelines include the following:

(a) To advocate against child recruitment at all levels of society as a core responsibility of the Government;

(b) To mobilize and empower families and communities to protect children at risk of recruitment utilizing community networks working in collaboration with relevant Government authorities;

(c) To facilitate interventions at community level which address early childhood deprivations and provide alternative paths to socio-economic advancement as poverty and marginalization of families are some root causes for recruitment;

(d) To establish an interim protective care centre/s of a multi-sectoral nature which provides opportunities for child combatants who “surrender” or who are “demobilized” which will enable them to be re-united with their families, facilitate reintegration with their families and communities, provide access to health and nutrition and any other services relevant to their special needs including any war injuries and disabilities they may have suffered;

(e) Creating a balanced and unified “release” mechanism which incorporates both an interim centre based protective care system as well as an effective process and mechanism for family reunification and community integration;

(f) To provide education and vocational training at the interim protective centre based on the individual capacities of the children. This will be planned in a manner in which it will be meaningful to the children, with the objective of a livelihood relevant to their own communities;

(g) To respond effectively to the psychosocial needs of the children. These can commence with the introduction of diverse activities and interventions such as health and nutrition, education, family reunification. Such interventions have potential to mitigate psychosocial needs and problems particularly if it is possible to build interventions as components connected with the emotions and feelings of children which they are generally expected to endure. However, in-depth training for caregivers working at the care centre is essential as they have to play an important role;

(h) Preventing reinforcement of negative identities and developing new ones to prevent stigmatization and the creation of resentment during the provision of interim protective care;

(i) Plan and develop community based interventions which take into account family realities of such children such as poverty, health and nutrition needs, education, skill development, protection, and security concerns;

(j) To improve financing and resource allocation.

Paragraph 2

98. As part of the Action Plan for Children Affected by War, formulated in 2003, UNICEF collaborated with the Government in planning a mass media awareness campaign on child rights, emphasizing advocacy against child recruitment. This involved posters, road-side signs, radio broadcasts and leaflets. The mass media awareness campaign also included messages and commitments to ensure the care and reintegration of returning underage recruits, promote child rights in the context of peace and reconciliation. This was planned to educate parents on their responsibilities to report child rights violations, particularly underage recruitment.

99. According to reports by UNICEF, the mass media campaign was indefinitely postponed to January 2004 as the LTTE did not approve of the key messages. It was subsequently never implemented.

100. Community based child rights training and awareness programmes were conducted by UNICEF with local organizations across the North and East except for Ampara District. Some 5,052 people participated and the programme was considered successful¹¹ by UNICEF.

¹¹ Action Plan for Children Affected by War Progress Report: 1 July 2004–30 June 2005, UNICEF.

101. The Ministry of Child Development also promotes the prevention of abuse mainly working through the District Child Development Committees as well as media, schools and community based organizations.

102. A Community based child rights awareness campaign has been conducted. This targeted community leaders, youth workers and teachers. One such example was drama competitions. Children were required to perform a drama inspired by the themes of the competition.¹²

103. In addition, the Directors of Education from the North and the East, were briefed on the Action Plan, It was hoped that they would raise awareness about its contents in schools.¹³

Paragraph 3

104. The demobilisation of already recruited child soldiers by the LTTE and the prevention of new recruits as envisaged in the Action Plan Affected by War faced serious constraints in 2003 due to LTTE's lack of commitment manly due to the fact that the Action Plan was formulated by UNICEF and the LTTE. Thus it was not effectively implemented.

105. According to the Action Plan for Children Affected by War Progress Report: 1 July 2004–30 June 2005¹⁴ by UNICEF, the following activities have taken place:

(a) A transit centre, managed by UNICEF in collaboration with the TRO, was opened up in Kilinochchi (October 2003). However, it functioned only for a few months. During these few months, UNICEF maintained a 24-hour presence at the transit centre with both national and international staff. However the centre did not continue to function as no children were released to the centre;

(b) UNICEF allocated resources for land, construction of the centres, supplies and equipment, furniture and recruitment of international and local staff. Two other transit centres were planned in Batticaloa and Trincomalee. These centres were never opened. Substantial resources were provided by UNICEF for both the Killinochchi and the other two centres. The main reason for the non-functioning of the centres was the non-release of child combatants by the LTTE. The very few children released did not justify the cost of running such transit centres;

(c) During the time period between 1 of July 2004 and 30 June 2005, only 17 boys and 22 girls were released to the transit centre. During the same period, 269 were considered released from all districts in the North except Trincomalee District;

(d) Between 1 July 2004 and 30 June 2005, the Kilinochchi transit centre accommodated released children after 13 weeks. These released children from this transit centre have been reunited with their families;

(e) In December 2004, UNICEF met with senior level LTTE leaders to discuss the usage of the transit centres. Due to limited number of children being released it was agreed that the Killinochchi transit centre should be reprogrammed for an alternate use;

(f) UNICEF withdrew all their support to the transit centre, including their staff by the end of December 2004;

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

(g) UNICEF continued to maintain the hope that the transit centres would be used to accommodate released children, should the LTTE release a sufficient number. However since there were too many unresolved issues related to such centres, such plans were abandoned. These include the type of staff employed to run the centre, how reunification occurs, rehabilitation of child combatants and the quality and access to psychosocial therapy they could hope to obtain.

106. Due to the total lack of commitment showed by LTTE as stated above, the Government established the Office of the Commissioner-General of Rehabilitation in September 2006, which was designated to handle all aspects of rehabilitation including children. A special gazette pertaining to “child friendly procedures” is being finalised at present.

Health care

107. All children in war affected areas including those who have managed to escape from the LTTE as well as those vulnerable to recruitment are provided free preventive and curative health care by the Government. This has continued during the entire period of the conflict without discrimination, even in uncleared areas. All salaries of health staff in the North and East including medical professionals, nurses, labourers, technicians as well as public health staff including Family Health Workers, Public Health Inspectors and Medical Officers of Health are disbursed by the Government through regular allocations from the Treasury. Drugs, dressings, intravenous fluids and all other items are also provided by the Government. There have been donors such as WHO and UNICEF who fill in gaps in such supplies if and when such shortfalls occur in coordination with the Ministry of Health. Medical staff in the North-East participates in Ministry of Health training activities to upgrade their skills in keeping with new knowledge. This is an important factor which has contributed to sustaining relatively low levels of maternal and under-five mortality in conflict affected areas. This also includes the conduct of Public Health initiatives such as universal child immunization and polio vaccination which covered conflict affected areas in a similar way to all other districts without discrimination.

108. Children vulnerable to recruitment and those who have escaped have access to a wide network of Government primary health care services and free curative health care services. This includes an emphasis on maternal and child care services. This has continued throughout the conflict from 1983 and is sustained by the Government. The package of services for children in the North-East is the same as those provided in the rest of the country.

109. Children vulnerable to recruitment in the war affected areas have had continued access to immunization services. National Immunisation Days were carried out in conflict areas even during the height of the conflict, in the 1990s. These activities were undertaken through the organisation of “Days of Tranquillity” and “Corridors of Peace” by the Government and Ministry of Health in collaboration with UNICEF and civil society organizations such as Rotary. The programme enabled parents to bring their children to immunisation centres. All services were provided by local Ministry of Health staff. INGOs and NGOs in addition to Rotary helped in such activities, including ICRC and UNHCR. The LTTE did not create barriers to such activities at that time.

110. The Health component of the Action Plan for Children Affected by War was developed as an effort to reach children vulnerable to recruitment in the North and East.

According to its Progress Report: 1 July 2004–30 June 2005 reported by UNICEF, the following activities took place:¹⁵

(a) The Ministry of Health in collaboration with UNICEF supported the reconstruction and repair at Gramodaya Health Centres (GHCs) in all eight districts in the North and East. GHCs provided basic preventative health services such as: prenatal care, growth monitoring of children, immunization services and also encouraged general health promotion. Staff at such centres was employed by the Government / Ministry of Health through the district health structure. All the drugs, dressings, and recurrent costs were borne by the Ministry of Health on a regular basis. The Government is responsible for the sustainability of such initiatives;

(b) The Ministry of Health with UNICEF assistance undertook the reconstruction and repair of 20 paediatric and maternity wards in the North and East. Recurrent expenses to run such institutions including the provision of drugs, dressings, cost of electricity and water was borne by the Government. The Staff was recruited by the Ministry of health and their salaries incorporated into the Government budget. The costs to sustain such institutions are incorporated in the Government health budget;

(c) Under the AP, the Government provides support and medical equipment to improve health care facilities throughout the North and East. This includes regular supplies of drugs. This is supplemented by UNICEF. The Government provides support for staff costs and recurrent expenses in the institutions which are being strengthened;

(d) The AP also focused on activities in relation to health and education for all children vulnerable to recruitment. Thus, Government schools and health centres in some areas were provided with water and sanitation facilities; including the construction and repair of water tanks, latrines, pipes, tube wells and the improvement of drainage.

111. Surveys were conducted to evaluate water and sanitation facilities in schools and primary health centres in the North and East.

112. UNICEF has reported that 239 schools throughout the North and East were provided with safe water and sanitation facilities under this project. Such schools were provided with staff whose salaries were paid by the Government, including the provision of uniforms and textbooks and recurrent costs to maintain the school premises.

113. However, the Government from the inception of the conflict has provided free primary, secondary and tertiary education to children in conflict affected areas. This includes free text books and school uniforms. The salaries for teachers, school supplies and recurrent costs to run the schools are paid by the Government. This includes 266,000 pupils and 11,000 teachers in the Northern Province and 377,000 pupils and 16,000 teachers in the Eastern Province.

Article 7 (para. 1)

Paragraph 1

Protective accommodation and rehabilitation centres

114. In its effort towards the realization of the objective mentioned above, the President, by regulation dated 12th September 2006, appointed the Commissioner-General of

¹⁵ Action Plan for Children Affected by War Progress Report: 1 July 2004–30 June 2005, UNICEF, p. 69–75.

Rehabilitation (CGR) who is entrusted with specific responsibilities in relation to all “surrendees” of the conflict, including children. A new regulation incorporating child friendly procedures for the care, rehabilitation and reintegration of child surrendees has been drafted.

115. The current procedure which applies to “surrendees” is as follows:

(a) When a person (including a child) surrenders, the authorized officer or person to whom he surrenders is required to hand over such surrendee to the CGR within ten days of the surrender. A surrendee is required to give a written statement to the authorized officer to the effect that he is surrendering voluntarily;

(b) In terms of this regulation the Secretary to the Ministry of Defence is authorized to approve centres called “Protective Accommodation and Rehabilitation Centres” for the purpose of receiving and keeping surrendees;

(c) The CGR is entrusted with the task of assigning a surrendee to a centre and has to provide such surrendee with appropriate vocational, technical or other training. The CGR is authorized to keep a surrendee for twelve months in the first instance at such centre and has to forward a report to the Secretary, Ministry of Defence within two months indicating the nature of the rehabilitation being carried out in respect of the surrendee. Surrendees are entitled to meet their parents, relations or guardians once in every two weeks;

(d) The CGR is required to forward, before the expiration of the period of twelve months, a report stating whether in his opinion, it is appropriate to release the surrendee or extend the period of rehabilitation of such surrendee. The Secretary to the Ministry of Defence may after perusing the report, either order the release of such surrendee or extend the period of rehabilitation for periods of three months at a time so however that the aggregate period of such extensions shall not exceed a further twelve months. Each such extension has to be made on the recommendation of the CGR and of an Advisory Committee appointed by the President;

(e) The “surrendee” may be investigated after three months of his being assigned to a centre, with the prior written approval of the Secretary to the Ministry of Defence for his involvement in the commission of an offence set out in paragraph 2 of the Regulation and where necessary, tried for such offence. Where a surrendee is found guilty of such offence the court may take into consideration the fact of his surrender in determining the sentence to be imposed on him. The court may where appropriate, order that such surrendee be subject to a further period of rehabilitation at a centre;

(f) Where a surrendee who is over sixteen years of age and is so subjected to a further period of rehabilitation acts in a manner detrimental to the rehabilitation programme the court may after summary inquiry sentence him to imprisonment in lieu of rehabilitation. However action is being taken to finalise a separate Gazette notification where Children are concerned. This will incorporate the objectives of the policy on Child Rehabilitation.

116. The Government has completed construction work in the centre at Ambepussa, which is scheduled to be opened soon. Resources are required to develop the Ambepussa centre as well as the Office of the CGR.

117. As a temporary measure child surrendees are presently housed at Pallekelle in Kandy, until the permanent centre at Ambepussa is opened. Already the officers manning the centre have rendered assistance to children who did not have a passport or identity card. They also assisted such children to contact their parents. Those who wished to return to their homes were assisted to do so and 10 children were reintegrated. There are 11 at present, many of whom also want to return to their families. A community based system to protect such children from re-recruitment is being put in to place.

118. Once the surrendeers are accommodated at the permanent centre at Ambepussa, as stated above, the Government has developed a programme which includes skills development, vocational training, training in aesthetics, language education and sports. Psychosocial support will also be provided. All surrendeers will be provided with such services as are necessary for their physical and mental wellbeing. The determination of which services children will have access to will be done with the guidance and consent of the parents and the children concerned. The overall objective is to equip children to be re-integrated with their parents and the community to which they belong. This interim protective care will include health services, nutrition, education, psychosocial support, vocational training and rehabilitation support. The NCPA will collaborate with the Commissioner General of Rehabilitation on many of these aspects including the Ministries of Vocational Training, Child Development and Women's Empowerment as well as UNICEF.

119. The assessment of health and nutrition status will be prioritized and will include a response to the psychological and emotional needs of the surrendeer. The special needs of girls will be taken into account of and appropriate measures will be developed to provide psychosocial counselling and care based on individual need.

120. Details of surrendeers will be treated with confidence in order to ensure their protection. The aim will be to equip these children to earn a livelihood on their own while re-integrating with society and thus avoiding the risk of re-recruitment.

121. A balanced and unified system of release which incorporates both interim care centers and services of a multi sectoral nature which provide a protective mechanism for immediate family re-unification and community re-integration is aimed at.

122. An interim care protective environment will be established and created for those children who need to remain. This will take the form of a child friendly education institution and be staffed by specially trained persons. Stigmatization is sought to be prevented by laying emphasis on education. During the period of protective interim care, care will be taken to prevent re-enforcement of negative identities. The establishment and operation of interim care centres (Protective Accommodation and Rehabilitation Centers) will be undertaken on a basis of transparency and accountability.

123. These interim care centres will provide opportunities for child combatants who surrender or who are demobilized to be reunited with their families, facilitate reintegration with their families and communities, provide access to health, nutrition and medical care and other services based on the particular needs of the children including any war injuries and disabilities which they may have suffered. This will be undertaken through centre and community based interventions and programmes based on the individual needs of the children.

124. The Government considers it important that an effective follow-up at community level once the child leaves the centre is provided. A home visiting system through trained care givers will be provided. The support of local organizations will be mobilized in the reintegration process. Community based interventions would be planned and developed. A district referral system will be formulated on existing reintegration services, which will strengthen psycho-social counselling and support from Government and non-governmental organizations and will be used to address community based integration and prevention of recruitment.

125. Since Sri Lankan children living in the North and East have been recruited as child combatants since 1983, a comprehensive plan to undertake wide scale rehabilitation and family reunification is important which will cover all those affected is essential.

126. The NCPA is committed to prevent children being used as combatants. This involves advocacy against recruitment as well as the promotion of viable options for rehabilitation.

127. Following the 2002 CFA, a few centres were set up by the National Youth Services Council and several NGOs also provided some support. Lessons learned from the UNICEF/TRO programme on rehabilitation include the following:

(a) Many activities related to the AP such as the conduct of comprehensive assessments, preparation of care plan were not implemented. A major flaw was the lack of participation of key Government institutions such as the NCPA in such assessments and reviews;

(b) Save the Children in Sri Lanka (SCiSL) assessed the returned child recruits referred by the UNICEF and followed up on 2,425 children and their families. 1,905 of the children were assessed in Batticaloa and Ampara districts. Some community and individual based social programmes were implemented in villages where former child soldiers resided. The SCiSL reported that youth groups, children's groups and societies for the parents were set up in close cooperation with the education authorities and religious organizations;

(c) By the end of June 2005, the files of 2/3s of all the referred children were closed and they were considered by UNICEF as being successfully reintegrated into society. They were above 18 years of age or married, relocated, re-recruited, no longer needed assistance or were deceased.

128. The Government has now taken over the task of providing rehabilitation and protective care for child combatants under the Commissioner General of Rehabilitation. A policy has been developed and the first permanent centre is being set up in Ambepussa.

Rehabilitation and psychosocial support

129. The UNICEF-supported transit centre established in Kilinochchi in 2003 only functioned for a short period and the release programme was not effective. The Centres in Batticaloa and Trincomalee with staff and equipment supported by UNICEF were never opened. UNICEF has reported that supplies earmarked for the centres were used for child welfare programmes in other areas. Thus more community based options for rehabilitation will need to be determined.

130. Some aspects of psychosocial care and rehabilitation activities in the North and East have been supported by Jaffna University, Department of Psychiatry, as well as non-governmental organizations. The Government in collaboration with organizations such as UNICEF and German Economic Cooperation (GTZ) has also provided support for psychosocial counselling in communities and schools. There are also programmes conducted by the Ministry of Health staff through the Batticaloa General Hospital as well as Vavuniya and Jaffna. The impact of such programmes needs to be determined. Since the conflict is ongoing, the numbers affected are high and difficult to reach in a comprehensive manner.

131. According to the Action Plan for Children Affected by War – Progress Report: 1 July 2004–30 June 2005,¹⁶ counselling networks have been set up in eight districts with a total of 87 Counsellors. Formerly recruited 91 children were referred by SCiSL for psychosocial support and 55 of the Counsellors mainly from the Jaffna, Kilinochchi and Batticaloa districts provided services to these former child combatants. The Counsellors

¹⁶ UNICEF, Action Plan for Children Affected by War Progress Report: 1 July 2004–30 June 2005, p. 76–79.

network with psychiatrists in the psychiatric units in Government hospitals in each district. UNICEF reports that local organizations also support such counselling networks.

132. Criteria for referrals involve the identification of behavioural patterns that may require psychological assistance. If a child or a family needed psychological help, the coordinating agency refer them to a counsellor based on proximity, gender and the nature of the case.

133. The Ministry of Health under its programme on mental health has appointed mental health officers island-wide including the North and East. Such officers provide clinic services related to psychosocial therapy provide outreach care and conduct education programmes. Efforts to involve them more effectively, for the benefit of former child combatants are important.

Income generation and education programmes

134. All children in Sri Lanka including children vulnerable to recruitment living in the North and East have access to free primary, secondary and tertiary education. Education could be regarded as a preventive tool against child recruitment. At present, there are 1,848 functioning Government schools in the North and East, out of which 1,545 schools are Tamil medium schools.¹⁷ However the LTTE has in the past and continues even at present to try to recruit children in schools through indoctrination and the use of propaganda material. This is particularly prevalent in “uncleared” areas in North where the LTTE is still active.

135. A total of 726, 591 children attend school in the North and the East which is 19.12 per cent of the Island’s school population. The Government and Ministry of Education allocate resources from the Treasury to cover all teacher salaries, including salaries of the Ministry staff of the North and East and provide free school uniform materials and textbooks. Since there are no private schools in Kilinochchi, Mannar and Vavuniya in the Northern district and Ampara and Trincomalee in the East, all the primary and secondary education is provided free by the Ministry of Education. The Ministry also provides free tertiary education free through universities in Jaffna and Batticaloa.

Financial assistance

136. Other areas supported in the AP and reported in the Progress Report of July 2004 included the following:¹⁸

(a) UNDP facilitated micro credit and income generation assistance programmes. The SCiSL social workers referred families they found suitable for this programme;

(b) Between 1 July 2004 and 31 December 2004, UNDP received 1243 referrals of which 175 had been assessed by the end of December 2004. Over 89 per cent of underage recruitment referrals were assessed;

(c) UNDP is involved in several initiatives to support formerly recruited children and other vulnerable child referrals to successfully participate in loan schemes throughout the North and the East. UNDP conducted motivation training seminars in Jaffna to support the beneficiaries in their understanding of the loan schemes;

¹⁷ School Census 2004, Ministry of Education (Statistic Branch). All data has been obtained from the Provincial Directors of Education, Directors of Education, Zonal Education Officers and Principals from the relevant schools/districts.

¹⁸ UNICEF, Action Plan for Children Affected by War Progress Report: 1 July 2004–30 June 2005, p. 48–57.

(d) During the Action Plan (AP) reporting period, 361 extremely vulnerable families who were displaced by the conflict were referred to UNHCR for assistance. Families were visited and assessed, as a result 218 underage recruits were assisted under the UNHCR's Extremely Vulnerable Individuals (EVI) scheme. Families received non food relief items, some received basic shelter materials, materials to build water wells and or maintenance and income generating equipment;

(e) UNHCR in Batticaloa district, during the second half of 2004, was tasked to handle 228 underage recruits;

(f) EVI programme was terminated due to UNHCR's lack of human resources to cope with unexpected increase in number of referrals and competing priorities arising from the Tsunami devastation.

137. The Government seeks financial support to implement its programme on the rehabilitation of child combatants. There is also need for resources to prevent recruitment through advocacy and for the reintegration of combatants who return to their families. There is also need for financial assistance for vulnerable families to prevent recruitment and to strengthen the communication system so that all children are able to attend school and therefore not be recruited.

Article 8 (para. 1)

Paragraph 1

138. The Government of Sri Lanka, prior to submitting this report, already addressed the issue of children in armed conflict in the second periodic report on the national implementation of the Convention of the Rights of the Child. This report was considered by the Committee on the Rights of the Child on 6 July 2003.¹⁹

¹⁹ CRC/C/15/Add.207 of 02.07.2003.

Annex

In commitments to Secretary-General's Special Representative, Liberation Tigers of Tamil Eelam pledges not to use children under 18 in combat

8-May-98

HR/4360

(Reissued as received.)

VAVUNIYA, Sri Lanka, 8 May -- The Special Representative of the Secretary-General for Children and Armed Conflict, Olara A. Otunnu, is on an official visit to Sri Lanka to witness and assess the multiple ways in which children are affected by the protracted armed conflict in that country. Mr. Otunnu's mandate is to promote the rights, protection and welfare of all children affected by armed conflict.

Mr. Otunnu is currently visiting the Vanni region, one of the most conflict-affected areas of Sri Lanka. Having met with the civilian and military authorities in the northern town of Vavuniya, Mr. Otunnu proceeded to areas held by the Liberation Tigers of Tamil Eelam (LTTE) where he saw for himself the conditions of internally displaced communities and heard first-hand accounts of their plight. Mr. Otunnu also held discussions with local government authorities, the Bishop of Mannar and representatives of local and international organizations about the humanitarian situation in the region, particularly as it affects women and children.

In the context of his humanitarian mission, Mr. Otunnu met with two senior representatives appointed by the leader of LTTE, V. Prabhakaran -- Mr. Thamilselvan, Head of the Political Section, and Mr. Balasingham, Political Advisor. Mr. Otunnu raised with the LTTE leadership several issues concerning the protection, rights and welfare of children affected by the ongoing conflict.

Following the discussions with Mr. Otunnu, the LTTE leadership made a number of commitments. They include the following:

Participation and recruitment of children: The LTTE leadership, as of today, undertook not to use children below the age of 18 years in combat. They further undertook not to recruit children below the age of 17 years. The LTTE leadership accepted that a framework to monitor these commitments should be put in place.

Freedom of movement for displaced populations: the LTTE leadership made the commitment that the movement of displaced populations who want to return to areas now under Government control would not be impeded. The LTTE leadership also gave the commitment that there would be no impediment to the return to their homes of Muslim populations. The LTTE leadership accepted that a framework to monitor these processes should be put in place.

Distribution of humanitarian supplies: the LTTE leadership made a commitment not to interfere with the Distribution of humanitarian supplies destined for affected civilian populations. The LTTE leadership accepted that a framework to monitor this commitment should be put in place.

Observing the Convention on the Rights of the Child: Mr. Otunnu stressed the importance of all parties including non-State sectors, to observe the Convention on the Rights of the Child. In particular, Mr. Otunnu urged the LTTE leadership to make a public commitment to respect the principles and provisions of the Convention. In this connection, the LTTE

leadership indicated its readiness to have its cadres receive information and instruction on the provisions of this Convention.

Targeting civilians: Mr. Otunnu expressed the gravest concern about the continuing targeting of civilian populations and sites throughout the country. The LTTE leadership acknowledged this to be an important and legitimate concern and undertook to review its strategies and tactics in this regard.

Mr. Otunnu urges the LTTE to take immediate measures to transform these commitments into action. These would represent significant steps in the efforts to promote the protection, rights and welfare of children affected by the armed conflict in Sri Lanka.

Source: <http://www.un.org/children/conflict/pr/1998-05-0856.html>
