

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

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Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

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Entry into force: 12 February 2002The States Parties to the present Protocol,Encouraged by the overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists to strive for the promotion and protection of the rights of the child,Reaffirming that the rights of children require special protection, and calling for continuous improvement of the situation of children without distinction, as well as for their development and education in conditions of peace and security,Disturbed by the harmful and widespread impact of armed conflict on children and the long-term consequences it has for durable peace, security and development,Condemning the targeting of children in situations of armed conflict and direct attacks on objects protected under international law, including places that generally have a significant presence of children, such as schools and hospitals,Noting the adoption of the Rome Statute of the International Criminal Court, in particular, the inclusion therein as a war crime, of conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities in both international and non-international armed conflict,Considering therefore that to strengthen further the implementation of rights recognized in the Convention on the Rights of the Child there is a need to increase the protection of children from involvement in armed conflict,Noting that article 1 of the Convention on the Rights of the Child specifies that, for the purposes of that Convention, a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier,Convinced that an optional protocol to the Convention that raises the age of possible recruitment of persons into armed forces and their participation in hostilities will contribute effectively to the implementation of the principle that the best interests of the child are to be a primary consideration in all actions concerning children,Noting that the twenty-sixth International Conference of the Red Cross and Red Crescent in December 1995 recommended, inter alia, that parties to conflict take every feasible step to ensure that children below the age of 18 years do not take part in hostilities,Welcoming the unanimous adoption, in June 1999, of International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which prohibits, inter alia, forced or compulsory

recruitment of children for use in armed conflict, Condemning with the gravest concern the recruitment, training and use within and across national borders of children in hostilities by armed groups distinct from the armed forces of a State, and recognizing the responsibility of those who recruit, train and use children in this regard, Recalling the obligation of each party to an armed conflict to abide by the provisions of international humanitarian law, Stressing that the present Protocol is without prejudice to the purposes and principles contained in the Charter of the United Nations, including Article 51, and relevant norms of humanitarian law, Bearing in mind that conditions of peace and security based on full respect of the purposes and principles contained in the Charter and observance of applicable human rights instruments are indispensable for the full protection of children, in particular during armed conflict and foreign occupation, Recognizing the special needs of those children who are particularly vulnerable to recruitment or use in hostilities contrary to the present Protocol owing to their economic or social status or gender, Mindful of the necessity of taking into consideration the economic, social and political root causes of the involvement of children in armed conflict, Convinced of the need to strengthen international cooperation in the implementation of the present Protocol, as well as the physical and psychosocial rehabilitation and social reintegration of children who are victims of armed conflict, Encouraging the participation of the community and, in particular, children and child victims in the dissemination of informational and educational programmes concerning the implementation of the Protocol, Have agreed as follows:

Article 1

States Parties shall take all feasible measures to ensure that members of their forces who have not attained the age of 18 years do not take a direct part in hostilities. Article 2 States Parties shall ensure that persons who have not attained the age of 18 are not compulsorily recruited into their armed forces.

Article 2

States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.

Article 3

1. States Parties shall raise the minimum age for the voluntary recruitment into their national armed forces from that set out in article 38, paragraph 3, of the Convention on the Rights of the Child, taking account of the principles contained in that Convention and recognizing that under the Convention persons under 18 are entitled to special protection. 2. Each State Party shall deposit a binding declaration upon ratification or accession to this Protocol that sets forth the minimum age at which it will permit voluntary recruitment. Volume 2173, A-275313. States Parties that permit voluntary recruitment into their national armed forces under the age of 18 shall maintain safeguards to ensure, as a minimum, that: (a) Such recruitment is genuinely voluntary; (b) Such recruitment is done with the informed consent of the person's legal guardians; (c) Such persons are fully informed of the duties involved in such military service; (d) Such persons provide reliable proof of age prior to acceptance into military service. 4. Each State Party may

strengthen its declaration at any time by notification addressed to the Secretary-General of the United Nations, who shall inform Parties. Such notification shall take effect on the date on which it is received by the Secretary-General.⁵ The requirement to raise the age in paragraph 1 of the present article does not apply to schools operated by or under the control of the armed forces of the States Parties in accordance with articles 28 and 29 of the Convention on the Rights of the Child.

Article 4

1. Armed groups that are distinct from the armed forces of a State should in any circumstances, recruit or use in hostilities persons under the age of 18 years.² States Parties shall take all feasible measures to prevent such recruitment including the adoption of legal measures necessary to prohibit and criminalize it.³ The application of the present article under this Protocol shall not affect the status of any party to an armed conflict.

Article 5

Nothing in the present Protocol shall be construed as precluding provisions of a State Party or in international instruments and international humanitarian law more conducive to the realization of the rights of the child.

Article 6

1. Each State Party shall take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions of this Protocol within its jurisdiction.² States Parties undertake to make the principles and provisions of the Protocol widely known and promoted by appropriate means, to adults and children. Volume 2173, A-27531 all appropriate assistance for their physical and psychological recovery and their integration.

Article 7

1. States Parties shall cooperate in the implementation of the present Protocol including in the prevention of any activity contrary to the Protocol and in the rehabilitation and social reintegration of persons who are victims of acts contrary to this Protocol through technical cooperation and financial assistance. Such assistance and cooperation will be undertaken in consultation with concerned States Parties and relevant international organizations.² States Parties in a position to do so shall provide such assistance through multilateral, bilateral or other programmes, or, inter alia, through a voluntary fund established in accordance with the rules of the General Assembly.

Article 8

1. Each State Party shall submit, within two years following the entry in force of the Protocol for that State Party, a report to the Committee on the Rights of the Child providing comprehensive information on the

measures it has taken to implement provisions of the Protocol, including the measures taken to implement the provisions on participation and recruitment.² Following the submission of the comprehensive report, each State Party shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, any further information with respect to the implementation of the Protocol. Other States Parties to the Protocol shall submit a report every two years.³ The Committee on the Rights of the Child may request from States Parties information relevant to the implementation of this Protocol.

Article 9

1. The present Protocol is open for signature by any State that is a party to the Convention or has signed it.² The present Protocol is subject to ratification and is open to accession by Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.³ The Secretary-General, in his capacity as depositary of the Convention and the Protocol, shall inform all States Parties to the Convention and all States that have signed the Convention of each instrument of declaration pursuant to article 13. Volume 2173, A-27531

Article 10

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.² For each State ratifying the present Protocol or acceding to it after its entry into force, the present Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

Article 11

1. Any State Party may denounce the present Protocol at any time by notification to the Secretary-General of the United Nations, who shall thereafter inform States Parties to the Convention and all States that have signed the Convention. Denunciation shall take effect one year after the date of receipt of the notification by the General. If, however, on the expiry of that year the denouncing State Party is engaged in armed conflict, the denunciation shall not take effect before the end of the conflict.² Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act that occurs prior to that which the denunciation becomes effective. Nor shall such a denunciation prejudice the continued consideration of any matter that is already under consideration of the Committee prior to the date on which the denunciation becomes effective.

Article 12

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the amendment to States Parties, with a request that they indicate whether they favour the amendment for the purpose of considering and voting upon the proposal at the next session of the Committee, or at an earlier session if that is possible, or at the event that, within four months from the date of such communication, at least one of the

States Parties favour such a conference, the Secretary-General shall convene under the auspices of the United Nations. Any amendment adopted by States Parties present and voting at the conference shall be submitted to the General Assembly for approval.² An amendment adopted in accordance with paragraph 1 of the present Protocol shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.³ When an amendment enters into force, it shall be binding on those States that have accepted it, other States Parties still being bound by the provisions of Protocol and any earlier amendments that they have accepted.

Article 13

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.² The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States that have signed or acceded to the Convention.