**Comments of the Government of the United Kingdom**

**of Great Britain and Northern Ireland**

**on the Draft Guidelines by the Committee on the Rights of the Child**

**on the implementation of the Optional Protocol to**

**the Convention of the Rights of the Child**

**on the Sale of Children, Child Prostitution and Child Pornography**

1. The Government of the United Kingdom takes this opportunity to thank the Committee on the Rights of the Child for its draft guidelines on the implementation of the Optional Protocol to the Convention of the Rights of the Child on the sale of children, child prostitution and child pornography. The UK welcomes this opportunity to provide comments on the draft and looks forward to a continuing discussion on this important topic as the draft progresses.
2. The UK would like to affirm its position that guidelines produced by a treaty body have the status of a non-binding aid to treaty interpretation.
3. The UK first of all makes some general observations and then specific drafting comments in relation to each paragraph, as appropriate.

**General observations**

1. The UK strongly supports the proposed changes to move away from using the terms “child pornography” and “child prostitution”. We agree with the suggestion to use the Luxembourg Guidelines as referenced in paragraph 7.
2. We welcome the detailed work that has clearly gone into these draft guidelines. We propose some drafting comments aimed at ensuring the guidelines are achievable.

**Specific observations**

*Section VII*

1. With respect to paragraph 93c, we would prefer the second sentence to read: “In addition, when a State party does not extradite the alleged offender on the grounds that he/she is a national of the requested State, that State shall take measures to prosecute her/him in line with the ‘extradite or prosecute principle’ of article 5.5 OPSC.” This amendment serves to remove any implication that States parties should be expected to assume jurisdiction where extradition has been refused on grounds where the assumption of jurisdiction would not be appropriate, such as the prosecution being politically motivated.

*Section VIII*

1. The first sentence of paragraph 98 seems to be too tightly worded and therefore undeliverable in the sense that it is not possible to guarantee that any justice system “does not adversely affect the health and recovery of the victim”. Therefore the UK proposes replacing “to ensure that the criminal prosecution of an alleged offender does not adversely affect the health and recovery of the victim” with “to ensure that the best interests of the child are the primary consideration in the criminal prosecution of the alleged offender”.
2. In paragraph 102a, concerning mechanisms for counselling, reporting and complaints, the UK proposes that the words “established by law” should be replaced by “regulated by law”. We are uncertain how establishment by law could be achieved, nor what benefit it would offer. Moreover, to require mechanisms to be established by law would prevent the delivery of victim support services by organisations independent of government. In the UK, such services are also delivered through third party charitable organisations.
3. While we welcome any proposal that ensures victims have access to timely support whether they choose to report the crime or not, the drafting of paragraph 102d appears inconsistent with the broader recommendation in the draft guidelines on timeliness and bringing cases to court at the earliest opportunity. The UK therefore proposes the deletion from the first sentence in that paragraph of “before deciding whether to participate in a criminal case against the alleged perpetrator”.

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