1. The Government of the Netherlands welcomes the initiative by the Committee on the Rights of the Child to prepare Guidelines on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. In response to the Committee’s call for comments on the draft Guidelines, the Government of the Netherlands wishes to submit the following observations.

2. The Government of the Netherlands endorses many of the Committee’s recommendations in the draft text of the Guidelines. For example, the Government agrees with the Committee’s considerations in paragraph 81. In that paragraph, the Committee considers that the sale and sexual exploitation of children constitute among the most serious violations of children’s rights to protection, and have a long-lasting negative impact on the victims. The Government concurs with the Committee’s view that under national criminal or penal law, account must be taken of the grave nature of these offences.

2. The Government does have a number of comments and suggestions with regard to specific paragraphs of the Committee’s guidelines. These comments and suggestions are discussed below.

Prohibition of the sale of children, child prostitution and child pornography

3. In paragraph 57 the Committee urges States parties to make it clear in their criminal provisions that the prohibition to offer, obtain, procure or provide a child for prostitution also includes situations in which this is done through the use of ICTs. The Government interprets the phrase ‘in their criminal provisions’ to mean that the use of ICTs in order to offer, obtain, procure or provide a child for prostitution should be incorporated into criminal law. The effect of this, however, would be that the use of ICTs would become an element that would need to be proven. The Government considers this undesirable and would therefore ask the Committee not to prescribe a form and to change ‘in their criminal provisions’ to, for example, ‘in their system of criminal or penal law’.

The child victim’s right to assistance and protection in legal proceedings

4. In paragraph 102 the Committee urges States parties to provide an assistance and protection framework conducive to the creation of an environment where children feel believed and safe to talk. In (a) the Committee recommends that States parties should establish psycho-social counselling, reporting and complaints mechanisms for children, to facilitate the reporting of abuse by child victims. According to the Committee, such mechanisms should be established by law.

5. The Dutch Government attaches great importance to the existence of such mechanisms. However, in the Government’s view, it is more important that these mechanisms are in place than how they are structured and whether or not they are established by law. What matters in the Government’s view is that they are – as the Committee describes – widely available, easily accessible, child- and gender-sensitive and confidential. Ensuring this does not require statutory provision. The Government takes the view that this recommendation by the Committee goes too far.

6. The Government would note that the Committee does not make this recommendation with respect to the other points in paragraphs 102 and 103, and therefore asks the Committee to formulate paragraph 102 (a) such that the mechanisms should be provided for rather than established by law.

7. In paragraph 104 the Committee recommends that cases concerning sexual exploitation and sexual abuse of children should be expedited through, *inter alia*, priority tracking. The Government endorses the Committee’s reaffirmation that a core principle of child-friendly justice is speediness of proceedings. However, this principle may be of equal importance for other urgent cases which concern sexual exploitation and abuse, but do not involve children. Prioritising cases involving children could impair the speediness of proceedings in other urgent cases. The Government of the Netherlands would therefore ask the Committee to recommend that the States parties’ public prosecution services prioritise all sexual abuse cases, including those involving children, in part with a view to implementing their responsibilities under the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention).

8. In paragraph 106 (b)the Committee recommends that States develop a comprehensive continuum of care and support that includes closely-monitored, post-trial reintegration services, including for foreign victims. With respect to foreign victims the Government would ask the Committee to clarify and specify this recommendation. In the Government’s view, it should concern foreign nationals who are victims of sexual offences in the territory of a State party. The Government would ask the Committee to add this element to the recommendation.

9. The Government would further advise the Committee to include in this recommendation that care and support should be easily accessible to victims (in accordance with the Istanbul Convention) and should be provided as needed rather than on the basis of victim categories.

10. The Government would comment as follows on paragraph 109. The Committee addresses the continued existence and circulation online of material depicting the sexual abuse of a child and the threat this poses to the child’s reintegration into the home and community. The Committee recommends that States parties provide fast and effective procedures for blocking and removal of prejudicial or harmful material involving children. The Government would suggest that the Committee make the following slight modification to this last sentence: The Committee recommends that States parties provide fast and effective procedures for blocking *and/or* removal of prejudicial or harmful material involving children.

11. In paragraph 110 the Committee addresses the issue of providing victims with the possibility to bring civil action in order to claim compensation, regardless of their economic status, including through the provision of legal aid or through the establishment of a State-operated compensation system. The Government would note that civil action is not necessarily the only route to compensation for victims. Indeed, there may, for example, be legal systems where the possibility to claim damages is provided for in the context of the criminal proceedings. The Committee’s recommendation in paragraph 110 does not appear to acknowledge this, as it is formulated rather narrowly. The Government would therefore ask the Committee to either explicitly include the criminal domain in this paragraph or to formulate this paragraph more neutrally, by focusing on the need to enable victims to claim compensation through legal action instead of specifying the form that this legal action should take.