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RIGHTS OF THE CHILD

**Establishing a monitoring, reporting and compliance mechanism for the
protection of children exposed to armed conflict**

**Report of the Special Representative of the Secretary-General for Children
and Armed Conflict, Olara A. Otunnu***

* This document is submitted late as to include the most up-to-date information possible.

Summary

Significant advances have been made in efforts to ensure the protection and well-being of children exposed to armed conflict. Yet, there remains a disturbing and conspicuous gap between strong standards and various initiatives developed for the protection of children on the one hand, and atrocities that continue to be perpetrated against children by parties to conflict on the other. To close this gap, the international community must embark on an “era of application”, to ensure compliance with child protection instruments and norms on the ground.

The establishment of a monitoring, reporting and compliance mechanism to provide systematic, reliable and objective information on grave violations against children - and to ensure action on and compliance with protection standards relating to Children and Armed Conflict (CAAC) - constitutes the central component of the “era of application” campaign. This report addresses key issues and presents concrete proposals for the establishment of such a mechanism.

The report identifies six grave violations that should be particularly monitored, both because they constitute especially egregious abuses against children and because they are “monitored” practices. These are: killing or maiming of children; recruiting or using child soldiers; attacks against schools or hospitals; rape and other grave sexual violence against children; abduction of children; and denial of humanitarian access for children.

The report sets out international instruments and standards that constitute the basis for monitoring - the yardsticks for judging the conduct of parties to conflict. It specifies the entities that should undertake the gathering and compilation of information at the country level, and those that should undertake the scrutiny and integration of information and preparation of reports at Headquarters level.

Particularly important, the report identifies key bodies that constitute “destinations for action”, responsible for taking concrete measures in response to these grave violations against children. The key “destinations for action” are the Security Council, the General Assembly, the Commission on Human Rights, the International Criminal Court, regional organizations and national Governments. These entities, acting within the purview of their respective roles and mandates, will undertake, based on the monitoring reports, concrete and targeted measures to ensure compliance. It is important to stress that information compiled and transmitted in monitoring reports is only useful if it serves as a “trigger for action”.

The proposed monitoring and reporting mechanism draws on existing resources, ensuring coordination and streamlining of efforts, both at national and international levels. Thus, no new entity will be established for this purpose. The mechanism operates at three principal levels: information-gathering, coordination and action at country level; review, scrutiny and integration of information and preparation of reports at Headquarters level; and concrete actions to ensure compliance, to be taken by the bodies that constitute “destinations for action”.

The proposed mechanism relies much on the Task Force on CAAC at Headquarters level and the Task Force on Monitoring and Reporting at the country level. Working with the two task forces, the Office of the Special Representative on Children and Armed Conflict, the United Nations Children's Fund, United Nations peacekeeping missions and United Nations country teams will play especially important roles in the establishment and implementation of this mechanism.

For the Commission on Human Rights, particular attention should be given to the actions recommended in section I.F.6 of the report entitled "United Nations human rights regime".

List of abbreviations

AU	African Union
ASEAN	Association of South-East Asian Nations
CAAC	Children and Armed Conflict
CPA	Child Protection Adviser
CPN	Child Protection Network
CRC	Committee on the Rights of the Child
ECOWAS	Economic Community of West African States
EU	European Union
EU-ACP	European Union - African, Caribbean and Pacific States (Partnership Agreement)
EUSRs	European Union Special Representatives
ICC	International Criminal Court
ICRC	International Committee of the Red Cross
ILO	International Labour Organization
NGOs	Non-governmental organizations
OAS	Organization of American States
OCHA	Office for the Coordination of Humanitarian Aid
OHCHR	Office of the United Nations High Commissioner for Human Rights
OSCE	Organization for Security and Cooperation in Europe
RC	Resident Coordinator
TFMR	Task Force on Monitoring and Reporting
UNCT	United Nations Country Team
UNDP	United Nations Development Programme
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UNPKOs	United Nations peacekeeping operations

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Introduction

1. This report to the Commission on Human Rights is devoted to a discussion of key issues and proposals for establishing a monitoring, reporting and compliance mechanism for the protection of children affected by armed conflict. For the Commission on Human Rights, particular attention should be given to actions recommended in section I.F.6 entitled “United Nations human rights regime.” This report supplements the report of the Special Representative of the Secretary-General for Children and Armed Conflict to the General Assembly (A/59/426) and the reports of the Secretary-General to the Security Council on children and armed conflict (A/59/695 - S/2005/72), in particular the lists annexed thereto.

2. Children are the primary victims of armed conflict. They are both its targets and increasingly its instruments. Their suffering bears many faces, in the midst of armed conflict and its aftermath. Children are killed or maimed, made orphans, abducted, deprived of education and health care, and left with deep emotional scars and trauma. They are recruited and used as child soldiers, forced to give expression to the hatred of adults. Uprooted from their homes, displaced children become very vulnerable. Girls face additional risks, particularly sexual violence and exploitation. All of these categories of children are victims of armed conflict; all of them deserve the attention and protection of the international community.

3. All non-combatants are entitled to protection in times of war. But children have a special and primary claim to that protection. Children are innocent and especially vulnerable. Children are less equipped to adapt or respond to conflict. They are the least responsible for conflict, yet suffer disproportionately from its excesses. Children represent the hopes and future of every society; destroy them and you have destroyed a society.

4. The Graça Machel report of 1996 on the impact of armed conflict on children (A/51/306 and Add.1) laid the foundation for the CAAC* agenda and constituted a seminal call to action. In the course of the past several years, the Special Representative for Children and Armed Conflict (hereafter “the Special Representative”) has led collective efforts, involving UNICEF and other United Nations entities, Governments, regional organizations and NGOs to develop and transform the CAAC agenda into concrete actions and initiatives. These have yielded important and tangible results and generated strong momentum for the CAAC agenda, including:

- There is greatly increased visibility, global awareness, and advocacy on CAAC issues;
- The protection of war-affected children has been firmly placed on the international peace-and-security agenda;
- An impressive and comprehensive body of CAAC norms has now been put in place;

* CAAC is used as shorthand to denote “children and armed conflict” and “children affected by armed conflict”.

- The protection and well-being of children has become part of the *raison d'être* for UNPKOs; this is increasingly reflected in their mandates, training and reports;
- Key regional organizations - such as EU, OSCE, OAS, AU, the Commonwealth, ECOWAS, the Human Security Network, and the Group of eight (G-8) industrialized countries - have adopted CAAC concerns as part of their own agendas through important political declarations, advocacy and programme activities;
- Children's concerns are increasingly being included in peace negotiations and in post-conflict programmes for rehabilitation and rebuilding;
- Children are now receiving greater priority, focus and resource allocation in post-conflict programmes for rehabilitation and rebuilding;
- A major movement for advocacy and operational activities on the CAAC agenda has developed among NGOs;
- War-affected children are coming into their own, serving as their own advocates and participating actively in rebuilding peace;
- Mainstreaming of CAAC issues is taking hold in several institutions and mechanisms, within and outside the United Nations;
- Transitional justice processes and mechanisms have incorporated CAAC concerns to hold accountable those responsible for crimes against children;
- Important local initiatives on CAAC issues have developed in several countries and situations, including in Afghanistan, Angola, Colombia, the Democratic Republic of the Congo, Guatemala, Northern Ireland, Rwanda, Sierra Leone and Sri Lanka;
- National Commissions for Children in post-conflict situations have been established;
- The establishment of the role and deployment of CPAs in peacekeeping missions represents an important innovation designed to ensure that CAAC concerns are integrated in a significant way into all aspects of peace operations;
- The practice of listing offending parties in the Secretary-General's annual reports to the Security Council represents a landmark development for monitoring and reporting;
- The systematic practice of obtaining concrete commitments and benchmarks from parties to conflict has been developed;
- There have been initiatives to develop systematic documentation of abuses against children in conflict situations, such as the database on abduction in Uganda and on recruitment in Sri Lanka, developed by UNICEF;

- The International Research Network on CAAC has been established to provide much-needed scientific information, data, analysis, indicators and lessons learnt, in order to inform and strengthen action by policy makers and practitioners for protection, monitoring, and rehabilitation.

5. In spite of these advances, the situation for children remains grave and unacceptable on the ground. The international community is now faced with a cruel dichotomy. On the one hand, clear and strong CAAC protection standards and important concrete initiatives, particularly at the international level, have been developed. On the other hand, atrocities against children and impunity for violators continue largely unabated on the ground.

6. The key to overcoming this gulf lies in a systematic campaign for the “era of application”. This is why the Special Representative has made the campaign for the “era of application” a leitmotif of his advocacy, urging the international community to redirect its energies from the normative task of the elaboration of standards to the enforcement mission of ensuring their application on the ground.

7. The call for the “era of application” has been endorsed by the Senior Management Group, the Secretary-General and the Security Council. And in resolution 1539 (2004), the Council called for the urgent establishment of a monitoring and reporting mechanism.

8. The campaign for the “era of application” encompasses four key components:

- (a) Advocacy and dissemination of CAAC norms;
- (b) Developing and strengthening local civil society networks for protection, monitoring, and rehabilitation;
- (c) Mainstreaming of CAAC issues into the programmes and mechanisms of key institutions, within and outside the United Nations;
- (d) Establishment of a monitoring and reporting mechanism to ensure compliance with CAAC norms.

9. This paper is devoted to a discussion of the establishment of the mechanism for monitoring and reporting, leading to action to ensure compliance and end impunity.

I. MONITORING AND REPORTING, LEADING TO ACTION*

10. The purpose of a monitoring and reporting mechanism is to provide for systematic gathering of objective, specific and reliable information on grave violations committed against children in situations of armed conflict, leading to well-informed, concerted and effective responses to ensure compliance with international and local CAAC protection norms.

* A flow-chart for the monitoring, reporting and compliance mechanism is attached at annex.

11. In the course of the last few years, the establishment of a concerted and effective monitoring, reporting and compliance mechanism has constituted a particular preoccupation and priority for the Office of the Special Representative. This has been marked by a number of preparatory activities, including:

(a) The call for the “era of application” (and monitoring and reporting as the most important component thereof) has constituted a particular preoccupation of the Special Representative’s advocacy. This call has been endorsed by the Senior Management Group (1999), the Secretary-General (2002), and the Security Council (2003);

(b) In 2001 the Security Council endorsed the proposal to monitor and list parties to conflict that recruit and use children in situations of armed conflict. Since that time, the Office of the Special Representative has devoted much effort to the development, updating and submission to the Security Council of the annual monitoring “lists” of offending parties to conflict that recruit and use children in situations of armed conflict. The listing of offending parties in the Secretary-General’s annual reports to the Security Council, which gives this report a unique saliency and impact, has evolved in three stages. In the first stage, the Security Council in resolution 1379 (2001) requested a “list of parties to armed conflict that recruit or use children ... in situations that are on the Security Council’s agenda”. This provided the basis for the listing practice. In the second stage, in resolution 1460 (2003), the Council added a new provision in the context of listing, i.e. “taking into account the parties to other armed conflicts that recruit or use children which are mentioned in the report [of the Secretary-General]”. This provided the basis for the second list contained in annex II to the reports since 2003. In the third stage, in resolution 1539 (2004), the Council added another provision in the context of listing, i.e. “bearing in mind all other violations and abuses committed against children affected by armed conflict being committed against children”. This provided the basis for recording other grave abuses under the lists;

(c) In 2001, the Office of the Special Representative commissioned an independent two-year study on monitoring and reporting. The consultant’s report was disseminated in April 2003;

(d) Since 2001, the Office of the Special Representative has convened the Task Force on CAAC, bringing together all concerned United Nations actors to work on issues of monitoring and reporting and the preparation of the Secretary-General’s annual reports to the Security Council on CAAC;

(e) The Office of the Special Representative has promoted the development of local initiatives for monitoring and reporting in several countries;

(f) In October 2003, policy proposals on monitoring and reporting were submitted to the Security Council;

(g) In the period 2003-2004, the Office of the Special Representative conducted extensive consultations on monitoring and reporting, in New York and internationally, with delegations, United Nations actors, regional organizations, and NGOs;

(h) In April 2004, the Security Council in resolution 1539 (2004) called for the urgent establishment of a monitoring and reporting mechanism.

12. The objective of this paper is to address several pertinent issues and present proposals for the establishment of a monitoring and reporting mechanism, in particular the following:

- The most grave violations that should be particularly monitored;
- Standards that constitute the basis for monitoring;
- Parties whose activities should be monitored;
- Gathering and compilation of information at the country level;
- Review, scrutiny and integration of information, and the preparation of reports at the Headquarters level;
- Bodies that constitute “destination for action” with responsibility for taking necessary action based on monitoring reports.

13. The proposals discussed below represent an action plan for the establishment of a monitoring and reporting mechanism composed of various bodies and actors, each of whom brings the role and value-added of their respective areas of jurisdiction, mandate, competence and expertise. The proposed actions, taken together, are designed to create a critical mass of response to ensure compliance and the “era of application”.

14. The proposed monitoring, reporting and compliance mechanism draws on the existing resources both at national and international levels. Thus, no new entity or structure will be established for this purpose. The mechanism operates at three principal levels: information-gathering, coordination and action at country level; review, scrutiny and integration of information, preparation of reports at Headquarters level; and concrete actions to ensure compliance, to be taken by bodies that constitute “destinations for action”. The Office of the Special Representative, UNICEF, UNPKOs and UNCTs will play especially important roles in the establishment and implementation of this mechanism.

A. The most grave violations that should be particularly monitored

15. Certain practices should receive priority attention, both because they constitute especially egregious violations against children and because they are “monitorable” abuses.

16. Specifically, monitoring efforts should focus on the following six grave violations:

- Killing or maiming of children;
- Recruiting or using child soldiers;
- Attacks against schools or hospitals;
- Rape and other grave sexual violence against children;

- Abduction of children;
- Denial of humanitarian access to children.

17. Although some of the above abuses may occur in non-conflict situations, the monitoring and reporting regime proposed here is specific to situations of armed conflict. Within this framework, particular priorities may vary according to specific situations.

B. The standards that constitute the basis for monitoring

18. A credible monitoring and reporting system must be based on specific and clear standards. There is now a comprehensive body of such instruments and norms in place for the protection of war-affected children. These standards, listed below, are specific and provide well-defined yardsticks for monitoring and reporting violations against children in situations of armed conflict.

(a) The Convention on the Rights of the Child (1989) is the primary international legal instrument covering all aspects of child rights; its articles 37 and 38 specifically address the protection and rights of children affected by armed conflict;

(b) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2000) sets 18 as the age-limit for compulsory recruitment and participation in hostilities and 16 as the minimum age for voluntary recruitment into national armed forces; it also prohibits insurgent armed groups, “under any circumstances”, from recruiting persons under the age of 18 or using them in hostilities;

(c) The Rome Statute of the International Criminal Court (1998) classifies as war crimes the enlistment and use of children under age 15 in hostilities, intentional attacks on hospitals and schools, rape and other grave acts of sexual violence against children. In addition, the forcible transfer of children from a group targeted for destruction constitutes genocide under the Statute;

(d) International Labour Organization Convention No. 182 (1999) declares child soldiering to be among the worst forms of child labour and prohibits forced or compulsory recruitment of children under the age of 18 in armed conflict;

(e) The African Charter on the Rights and Welfare of the Child (1999) establishes 18 as the minimum age for all compulsory military recruitment and participation in hostilities;

(f) The Geneva Conventions of 12 August 1949 and the two Additional Protocols thereto of 1977;

(g) Security Council resolutions 1261 (1999), 1314 (2001), 1379 (2001), 1460 (2003) and 1539 (2004);

(h) Peace accords incorporating CAAC commitments, such as the 1998 Good Friday Agreement on Northern Ireland; the 1999 Lomé Peace Accord on Sierra Leone; the 2000 Arusha Accords on Burundi; and the 2003 Accra Peace Agreement on Liberia;

(i) National legislations providing for the protection, rights and well-being of children;

(j) Concrete commitments on CAAC that have been entered into by parties to conflict; these commitments typically concern recruitment and use of children, attacks on schools and hospitals, assurance of humanitarian access, observance of humanitarian ceasefires, release of abducted children, use of landmines, etc.;

(k) Traditional norms. In addition to international instruments and standards, various societies can draw on their own traditional norms governing the conduct of warfare. Societies throughout history have recognized the obligation to provide children with special protection from harm, even in times of war. Distinctions between acceptable and unacceptable practices have been maintained, as have time-honoured taboos and injunctions prohibiting indiscriminate targeting of civilian populations, especially children and women. These traditional norms provide a “second pillar of protection”, reinforcing and complementing the “first pillar of protection” provided by international instruments.

C. Parties whose activities should be monitored

19. An effective monitoring, reporting and compliance regime must monitor and seek to influence the conduct of all parties to conflict, Governments as well as insurgency groups. In this respect, it is also important to monitor the conduct of international peacekeeping and humanitarian personnel.

20. The international instruments and standards listed above, which constitute the normative yardsticks for monitoring violations, address and place obligations at the doorsteps of all parties to conflict. It is crucial to engage in a protection dialogue with all entities whose actions have a significant impact on children, without any implications as to their political or juridical status. That is why the Special Representative has developed the practice of systematically engaging in dialogue with and obtaining concrete commitments from all parties to conflict. And the Security Council has called on all parties to conflict to observe the concrete commitments they have undertaken.

21. The “lists” submitted to the Security Council, which identify the offending parties, encompass all violating parties, while preserving a clear distinction between parties in situations on the agenda of the Council and parties in situations not on the agenda of the Council and other situations of concern.

22. At the political and practical levels there are levers of influence that can have significant influence on all parties to conflict. In today’s world, parties to conflict cannot operate as islands unto themselves. The viability and success of their political and military projects depend on networks of cooperation and goodwill that link them to the outside world, to their immediate neighbourhood, as well as to the wider international community. There are consequently powerful means of influencing all parties to conflict: the force of international and national

public opinion; the desire of the parties for acceptability and legitimacy at national and international levels; international accountability as enforced by the ICC and ad hoc tribunals; restriction on the external provision of arms, financial flows and illicit trade in natural resources; the growing strength and vigilance of international and national civil societies; and media exposure.

D. Gathering, vetting and compiling information at the country level

23. At the forefront of efforts to advocate, monitor and ensure compliance for the “era of application” are country-level child protection actors, some of whom are already engaged in various levels of monitoring and reporting activities. UNPKOs and UNCTs, under the direction of Special Representatives of the Secretary-General and RCs respectively, are present and active in virtually all conflict-affected situations. Their presence, knowledge and ongoing operations provide unique opportunities for advocacy, monitoring and reporting. As reaffirmed in Security Council resolution 1539 (2004), the primary responsibility for follow-up, coordination and monitoring of CAAC issues at the country level belongs to the United Nations field teams, both UNPKOs and UNCTs.

24. Child Protection Networks (CPNs), which bring together all stakeholders concerned with child protection and rehabilitation into informal networks and forums for dialogue and collaboration, now exist in several war-affected countries and situations, including in Afghanistan, Angola, Burundi, Colombia, Eritrea, Guatemala, Liberia, Northern Ireland, northern Uganda, Sierra Leone, Somalia and Sri Lanka. These informal networks should provide the foundation for building a structured and concerted CAAC monitoring and reporting system on the ground. CPNs are typically composed of United Nations actors, relevant government ministries or institutions, international NGOs, and local NGOs and civil society organizations, who undertake a range of advocacy and programmatic activities for the benefit of children. Where they are not yet in place, UNICEF and UNPKOs-CPAs should undertake to facilitate the formation of CPNs in those conflict-affected countries.

25. In each country where CAAC is an issue, a Task Force on Monitoring and Reporting (TFMR) will be constituted, involving key members of the CPN. TFMR should be the primary focus and locus of action on monitoring and reporting at the country level - gathering, vetting and combining field-level information, and providing their reports to the country Special Representative or RC who, in turn, transmits the reports to the Special Representative in CAAC.

26. It is crucial to support and strengthen national institutions for the protection and rehabilitation of children in conflict and post-conflict situations. The development and strengthening of civil society networks for advocacy, protection, monitoring and rehabilitation, at national and subregional levels, should become a particular priority. This is the best way to ensure local ownership and sustainability. It will require enhanced support and assistance by international partners, including the provision of much-needed training, communication capacities, and funding. Initiatives such as the National Commission for War-Affected Children in Sierra Leone and the Commission for Children and Young People in Northern Ireland should be encouraged and supported.

Actions to be undertaken by United Nations Field Teams

27. SRSGs and RCs are ultimately responsible for ensuring United Nations-wide follow-up, mainstreaming, coordination, monitoring, and engaging in dialogue with parties to conflict on CAAC issues; they are the focal points at the country level. They may delegate day-to-day responsibility for these tasks to the TFMRs. The direct leadership and personal involvement of Special Representatives and RCs is critical with respect to such key issues as dialogue, action plans, and specific political démarches at country level with government authorities and other concerned parties.

28. TFMRs should be constituted and, whenever possible, draw particularly from Child Protection Networks on the ground. The TFMR should be a selected and cohesive group of those United Nations (UNPKO, UNICEF, OCHA, UNHCR, OHCHR, UNDP) and NGO actors and local civil society organizations that have the experience and are most directly concerned with monitoring and reporting. The TFMR would serve as both the locus and focus of action, providing a forum for addressing monitoring and reporting issues, such as collaboration, division of labour, quality control for information-gathering and integration, methodology, training and guidance to information gatherers, practical and political constraints, and feedback to affected local communities. Where there is a peacekeeping mission, the TFMR would be coordinated and co-chaired by the Deputy Special Representative of the Secretary-General and the UNICEF representative, with the former serving as the reporting conduit to the Special Representative of the Secretary-General. In a country without a peace mission, the UNICEF representative would chair the TFMR and report to the RC.

29. In order to perform effectively the functions of protection, monitoring and reporting, UNICEF, UNHCR, UNPKO, OHCHR and OCHA, as United Nations entities with important child protection mandates, should take concrete steps to strengthen the capacities of their field presence in terms of personnel, training and funding. Similarly, NGOs and local civil society organizations involved in monitoring and reporting should also strengthen their capacities for this purpose.

30. In peacekeeping missions, advocacy and monitoring and reporting on child protection should constitute core functions not only for CPAs, but also for other personnel, such as human rights officers, humanitarian affairs officers and military observers. Military observers can be a particularly important resource, when appropriate, as they normally have a deep presence in all sectors and areas. Within the UNCT, these functions depend particularly on UNICEF providing leadership, in close cooperation with UNHCR, OHCHR and OCHA. In carrying out their respective roles, a collaborative division of labour should be developed to ensure inter-agency coordination at the country level.

31. To ensure the reliability of information and devise a system for quality control and confidentiality, each TFMR should establish a rigorous and systematic procedure for vetting information gathered, protecting sources and ensuring security of raw data. Although general monitoring and reporting practice may be the same across country situations, country-level

particularities will necessitate specific approaches by the TFMR. Ultimately, it is critical that information transmitted to the Special Representative on CAAC be objective, accurate and precise. Typically, such information should include concise descriptions, specifying incidents of violations, locations and period of the incidents, and the identity of the parties responsible for perpetrating the violations.

32. The TFMR should prepare annual country reports, monthly reports on relevant developments, and alert reports as necessary.
33. Under the coordination and management of UNICEF, the TFMR should establish and maintain a monitoring and reporting database at the country level, which feeds into the central monitoring and reporting information database at the Headquarters-level.
34. In order to ensure effective mainstreaming, coordination and monitoring on CAAC issues in UNPKOs, the role and deployment of CPAs should be systematically considered for every mission.
35. Existing field manuals should incorporate sections devoted to child protection and monitoring and reporting, including specific guidelines and procedures concerning information-gathering, and should instil the necessary sensitivities regarding interviewing children themselves.
36. In order to encourage and develop effective “neighbourhood initiatives” to address cross-order and subregional CAAC concerns, it is necessary to constitute a neighbourhood consultation framework - a “Neighbourhood Watch” - that would periodically bring together UNICEF and UNPKOs (CPAs) or other child protection actors in neighbouring countries to address common challenges, strengthen collaboration, share information, and explore joint initiatives and reporting, in cooperation with the Governments concerned.
37. TFMRs should undertake periodic assessment of best practices and lessons learnt in the context of CAAC monitoring and reporting. Lessons learned at the country level should be shared with Headquarters (Special Representative on CAAC, Task Force on CAAC, UNICEF and DPKO) and the “Neighbourhood Watch”.
38. Special Representatives of the Secretary-General should take concrete steps to ensure that their country reports devote specific sections to child protection, as stipulated by the Security Council in resolutions 1460 (2003) and 1539 (2004).

E. Review, scrutiny and integration of information, and the preparation of reports at Headquarters level

39. Information gathered at the country level is transmitted to the Office of the Special Representative on CAAC by Special Representatives of the Secretary-General or RCs, for review, scrutiny, consolidation and compilation into monitoring and compliance reports. This Headquarters exercise is spearheaded by the Office of the Special Representative, which is

the focal point for the preparation of the Secretary-General's report and convenor of the Task Force on CAAC. The Task Force on CAAC, established in May 2000, consists of the Office of the Special Representative, UNICEF, the Department of Peacekeeping Operations, the Department for Political Affairs, the Office of Legal Affairs, OHCHR, OCHA, UNIFEM, the Department of Disarmament Affairs, the Office of the Special Adviser on Africa, the Office of the Special Adviser on Gender Issues, UNHCR, UNDP and ILO.

40. Working in close consultation with the Task Force on CAAC, the Office of the Special Representative will be responsible for reviewing, scrutinizing and consolidating the country reports, and compiling the information into an annual monitoring and compliance report. In the preparation of this report, the Office of the Special Representative will undertake the following tasks: coordinate the consolidation of information and preparation of monitoring reports; scrutinize information received and seek necessary clarification from United Nations field teams; draft the monitoring and compliance reports; prepare lists of offending parties, while maintaining a clear separation between parties in situations on the agenda of the Security Council and parties in situations not on the agenda of the Council; distribute draft reports to members of the Task Force on CAAC for their review, inputs and comments; convene the Task Force on CAAC for review of and consultation on structure, content, monitoring lists, and scrutiny of draft reports; and consult with and solicit inputs and comments from delegations, regional organizations, ICRC and NGOs.

41. The annual report should be comprehensive in approach, encompassing the aforementioned six categories of grave violations, in situations of armed conflict and other situations of concern. It should provide concise, objective and accurate information on violations. Where applicable, it is important for the report to record concrete examples of protection-and-compliance measures undertaken by parties to conflict.

42. A steering committee of the Task Force on CAAC will be convened to undertake regular review of overall progress in monitoring and reporting, focusing particularly on the implementation and functioning of the mechanism. The steering committee, which shall meet at the level of principals twice a year and at the level of experts every month, will be composed of the following members of the Task Force: Office of the Special Representative, UNICEF, OCHA, the Department of Peacekeeping Operations, UNHCR and OHCHR.

43. In the context of preparing monitoring reports and lists, it should be emphasized that there is no universally applicable definition of "armed conflict" in general, and in particular the mandate of the Special Representative does not contain a definition of the term. In the conduct of his mandate, the Special Representative has adopted a pragmatic and cooperative approach to this issue, focusing on ensuring broad and effective protection for children exposed to situations of concern, rather than on the definition of the term "armed conflict". The mention or discussion of any particular situation in the monitoring reports should not be construed as a legal determination that there is a situation of armed conflict within the context of the Geneva Conventions and their Additional Protocols.

44. It should also be made clear that monitoring lists are not intended to name countries as such; the purpose is to identify parties to conflict that are responsible for specific grave violations against children. In this respect, the names of countries are only referred to in order to indicate the locations or situations where the offending parties are committing the violations in question.

Actions to be undertaken by the Task Force on CAAC at the Headquarters level

45. The Office of the Special Representative, working with the Task Force on CAAC, will continue to prepare an annual monitoring and compliance report. This report will be submitted to the Security Council, the General Assembly, regional organizations, national Governments, the International Criminal Court and the Commission on Human Rights, for their review and action in the context of their respective mandates and competences.

46. The Office of the Special Representative and the Task Force on CAAC will also compile ad hoc reports as necessary for transmission to other “destinations for action”, in particular the Committee on the Rights of the Child and the proposed working group of the Sub-Commission on the Promotion and Protection of Human Rights.

47. The Office of the Special Representative and the Task Force on CAAC will monitor progress concerning the integration of CAAC issues into key peace-and-security activities, particularly in relation to mandates of peace operations, the planning of new peace missions, reports from peacekeeping missions, and country-specific and relevant thematic Security Council resolutions.

48. The Office of the Special Representative and the Task Force on CAAC shall keep a regular watch on significant CAAC developments in specific situations, in order to propose actions and raise timely alerts as necessary.

49. The Office of the Special Representative and UNICEF will establish and manage a central monitoring and reporting information database on behalf of the Task Force on CAAC, drawing on the monitoring database compiled at the country level.

50. Each United Nations entity that is a member of the Task Force on CAAC shall designate a departmental CAAC focal point, at a senior or middle-management level. The focal points should be dedicated and become the regular participants in the Task Force on CAAC.

51. In order to provide common approaches and guidelines for the monitoring and reporting mechanism, the Office of the Special Representative and UNICEF shall compile monitoring and reporting guidelines, drawing on experience to date and working with the Task Force on CAAC, UNPKOs, UNCTs and NGOs.

52. Members of the Task Force on CAAC, particularly the Office of the Special Representative, UNICEF, OHCHR, OCHA and UNHCR, will continue actively to play their respective advocacy roles, drawing on the information provided through the mechanism.

53. After the launch of the mechanism, its smooth implementation and full operationalization will require intensive interaction, including regular field visits by the Office of the Special Representative and UNICEF, and regular contact between the Task Force on CAAC at Headquarters and United Nations field teams, to ensure ongoing review, feedback, and a smooth two-way flow of information. A formal assessment of the implementation of the mechanism shall be conducted one year after its launch.

F. Bodies that constitute “destinations for action”, with responsibility for taking necessary action based on the monitoring reports

54. The reports compiled should serve as “triggers for action” on the part of the appropriate international, regional or national bodies, each employing the means and levers of influence at their disposal to ensure the protection, rights and well-being of children affected by armed conflict. Such actions may range from calls for compliance, to condemnation of violations, to the application of targeted measures. The key “destinations for action” are national Governments, the Security Council, the General Assembly, the International Criminal Court, the Commission on Human Rights, and regional organizations.

1. National Governments

55. Governments have the most direct formal, legal and political responsibility to ensure the protection of all children exposed to armed conflict within their countries. It is important to stress both the centrality and the immediacy of the role of national authorities of providing effective protection and relief to all children in danger. In this regard, national Governments constitute the first “destination for action”, the first line of response. Any actions by United Nations entities and international NGOs at the country level should always be designed to support and complement the protection and rehabilitation roles of national authorities, never to supplant them. And in situations where national protection institutions have been greatly weakened by the experience of protracted armed conflict, international partners should make it a priority to support the rebuilding of local institutions and capacities for protection and rehabilitation.

Actions to be undertaken by national Governments

56. National Governments should enact and apply relevant national legislation to ensure the protection, rights, and well-being of children.

57. National Governments should ensure the protection and rehabilitation of children affected by armed conflict within their jurisdiction.

58. Whenever appropriate, relevant parliamentary committees, such as committees covering human rights, development, humanitarian action or foreign affairs, should be encouraged to receive periodic national and international monitoring and compliance reports on CAAC, for their own review and action.

59. In the context of their international responsibility, Governments should promote the CAAC agenda within multilateral organizations and in their bilateral cooperation.

2. The Security Council

60. Because of its primary responsibility for peace and security, the Security Council has a special responsibility for ensuring the protection of children who are being brutalized in the context of armed conflict. With respect to ensuring compliance with CAAC protection norms, the Security Council is by far the most important international “destination for action”.

Actions to be undertaken by the Security Council

61. The annual debate by the Security Council on children affected by armed conflict should be devoted to a systematic review of the state of monitoring and compliance on the ground. In this context, the Secretary-General’s annual report to the Council serves as the primary vehicle for transmitting monitoring and compliance information compiled through the mechanism.

62. The Council should review monitoring and compliance whenever a specific country situation is under consideration and ensure that CAAC concerns are incorporated into ensuing resolutions. In this connection, Special Representatives and RCs should ensure the full implementation of the Council’s stipulation in resolutions 1460 (2003) and 1539 (2004) that specific child protection sections should be included in all country reports.

63. Whenever the Security Council conducts fact-finding field missions, it should include a checklist of specific CAAC monitoring and compliance concerns in its briefs and discussions.

64. In order to promote CAAC protection, mainstreaming and monitoring, the Council should ensure the inclusion of child protection into the mandates of all peacekeeping missions.

65. Above all, monitoring and compliance reports received by the Security Council should serve as “triggers for action”. In order to end impunity, it is critical that grave and persistent violations should lead to targeted and concrete measures of response by the Council. The Security Council should take targeted and concrete measures where insufficient or no progress has been made by parties listed in the monitoring reports. Such measures should include the imposition of travel restrictions on leaders, their exclusion from any governance structures and amnesty provisions, a ban on the export or supply of small arms, a ban on military assistance, restriction on the flow of financial resources to offending parties, and a ban on illicit trade in natural resources.

3. The General Assembly

66. The regular annual session of the General Assembly provides an important opportunity for that body to contribute to the “era of application” by reviewing the monitoring and compliance reports and taking appropriate action.

67. It should be noted that the annual report of the Secretary-General to the Security Council on CAAC, which already records grave abuses and lists parties responsible for the violations, is being submitted simultaneously to the Security Council and the General Assembly.

Actions to be undertaken by the General Assembly

68. Under its agenda item, "Promotion and protection of the rights of children", the General Assembly should devote a dedicated resolution to CAAC monitoring and compliance. Such a resolution might include calls for compliance, condemnation of grave violations, and specific recommendations on corrective measures to be undertaken by offending parties.

69. When considering human rights in country-specific situations, relevant monitoring and compliance information on CAAC issues should be incorporated into the discussion and ensuing resolutions.

4. The Economic and Social Council

70. Unlike the Security Council and the General Assembly, the Economic and Social Council does not constitute a direct "destination for action". But the functional commissions are subsidiary bodies of the Council, to which they submit their resolutions for endorsement. Thus, the annual consideration of the report and resolutions of the Commission on Human Rights provides the Council with the opportunity to review actions taken at the level of the Commission.

Action to be undertaken by the Economic and Social Council

71. The Economic and Social Council should periodically devote its high-level segment to CAAC review, focusing particularly on the issue of monitoring and reporting.

5. The International Criminal Court

72. The establishment of the ICC is important both for its deterrent effect and the prospect of actual prosecution for war crimes against children.

Actions to be undertaken by the ICC

73. Concrete steps should be taken to ensure the earliest possible prosecution of persons responsible for war crimes against children. Some initiatives are already under way in this direction. The Office of the Special Representative, the Task Force on CAAC and TFMRS can contribute to this by providing the ICC Prosecutor with relevant information at their disposal.

74. The deterrent role of ICC needs to be actively promoted through proactive advocacy and public information by United Nations and NGO actors at all levels.

6. The United Nations human rights regime

75. The cluster of mechanisms that comprise the United Nations human rights regime needs to be more systematically channelled to promote effective CAAC monitoring and compliance. Their roles are crucial in this context.

Actions to be undertaken by the Commission on Human Rights

76. The Commission on Human Rights receives the annual CAAC monitoring and compliance report. This should constitute the basis for annual review and action through a resolution dedicated to this purpose, at the regular session of the Commission.

77. When considering country-specific human rights situations in countries affected by armed conflict, the Commission should incorporate specific CAAC concerns into its discussion and resulting resolutions.

Actions to be undertaken by the Office of the High Commissioner for Human Rights

78. OHCHR should proactively undertake public advocacy, fact-finding, and independent investigation of specific episodes of atrocities and other grave violations against children.

79. CAAC concerns should be systematically integrated into the tasks and capacities of human rights field officers.

Actions to be undertaken by the Committee on the Rights of the Child

80. CRC should use the occasions of scheduled reviews of country reports to discuss and promote monitoring and accountability on CAAC issues.

81. The Office of the Special Representative now provides CAAC-specific supplementary information ahead of country reviews; this practice should be expanded in collaboration with the Task Force on CAAC and TFMRS.

Actions to be undertaken by special procedures of the Commission

82. When special rapporteurs and independent experts prepare their reports, they should include CAAC-specific sections, focusing particularly on the six grave violations identified in section I.A of this paper.

83. It is also important that the special procedures invoke the international instruments and norms listed in section I.B of this paper as a basis for proactive advocacy for CAAC concerns, and draw on information in reports issued by treaty bodies of the United Nations system.

84. There are special procedures that cover thematic issues that are pertinent to CAAC concerns, particularly the Special Rapporteur on extrajudicial, summary and arbitrary executions; the Special Rapporteur on violence against women, its causes and consequences; the Special Rapporteur on trafficking in persons, especially women and children; and the Representative of the Secretary-General on the human rights of internally displaced persons.

Action to be undertaken by the Sub-Commission on the Promotion and Protection of Human Rights

85. A standing working group on CAAC should be constituted under the Sub-Commission. Its task would be to undertake regular review of CAAC monitoring and compliance in specific situations, and to make recommendations for appropriate action by the Sub-Commission. The Office of the Special Representative and the Task Force on CAAC would compile and provide relevant information to the Working Group.

7. Regional and subregional organizations

86. In the course of the last several years, many regional organizations, working with the Office of the Special Representative, have incorporated the protection of children affected by armed conflict into their agendas and programmes. The Security Council has urged and encouraged this development. The Special Representative will continue to transmit the annual monitoring reports to regional organizations, for review and action, within their mandates and jurisdictions.

87. Regional organizations can make important contributions to a concerted monitoring and compliance regime on CAAC. The European Union and ECOWAS, for example, have already taken specific initiatives in this direction. In this paper, their roles will serve to illustrate the contribution that regional organizations can make in this respect.

Actions to be undertaken by EU

88. Concrete actions that can be undertaken by the EU, working in cooperation with the United Nations, towards the implementation and the operationalization of the "EU Guidelines on Children and Armed Conflict" (2003) include the following.

89. EU heads of mission (HoM) and EU special representatives, particularly in countries and situations mentioned in the Secretary-General's reports to the Security Council, should continue to include CAAC-specific sections in their country reports, giving particular attention to the six grave violations identified in section I of this paper.

90. The Council of the European Union (through the Council's Working Party on Human Rights) should continue to undertake an annual review of the implementation of the EU guidelines; within this context, special attention should be given to issues of monitoring and compliance. This review should be based on the country reports from HoM, the annual United Nations monitoring report, and other relevant sources.

91. Child protection and rehabilitation concerns, as well as calls for ratification and implementation of relevant instruments, should be included in political dialogue and confidential démarches with third countries.

92. EU, UNPKOs and UNCTs should collaborate on pilot projects and cases in selected situations, as well as on training for child protection.

93. CAAC reporting and compliance should be incorporated into the mandates and reports of relevant special representatives of the European Union (EUSRs), such as the EUSRs for the Middle East, the South Caucasus, Afghanistan, and the African Great Lakes Region. This is already the case for the EUSR for the Great Lakes Region, who is working in close collaboration with the Office of the Special Representative. EUSRs should also invoke CAAC instruments and standards as part of their proactive advocacy.

94. EU and the United Nations should undertake, whenever appropriate, joint or complementary démarches or visits and projects to underline their common commitment to protect children affected by armed conflict.

95. The close collaboration developed between EU institutions and the Office of the Special Representative should be extended to field-level cooperation on CAAC issues; in particular, regular interaction and collaboration on CAAC monitoring and reporting should be developed at the country level between UNCTs and HoM and European Commission delegations.

96. The European community and EU member States should continue to make child protection and rehabilitation one of the priority issues of their concerted technical assistance projects.

97. The European Parliament, which has already been very active on CAAC advocacy, could hold annual hearings, based on EU and United Nations reports, with resulting resolutions.

Actions to be undertaken by the EU-ACP Joint Parliamentary Assembly

98. In the context of the implementation of EU-ACP Joint Parliamentary Assembly report and resolution on CAAC (2003), the following concrete actions should be undertaken.

99. Rapporteurs appointed by the Joint Parliamentary Assembly should prepare an annual report on the implementation of its resolution on CAAC, which should focus on monitoring and compliance.

100. The annual session of the Joint Parliamentary Assembly should review implementation of its resolution, based on the report of its rapporteurs and the annual United Nations monitoring report.

Actions to be undertaken by ECOWAS

101. The following actions can be undertaken towards the implementation of the ECOWAS Peer Review framework for the protection of children (2003).

102. The Child Protection Unit of the ECOWAS secretariat, with the support of United Nations agencies and NGO networks in West Africa (particularly the UNICEF Regional Office and TFMRs), should compile an annual report on CAAC monitoring and compliance in West Africa, focusing on the six grave violations listed in section I of this paper.

103. The ECOWAS Ministerial Council should undertake an annual review of CAAC concerns in West Africa, based on the report of the Child Protection Unit as well as the United Nations annual monitoring report, with consequent resolutions.

104. Other regional organizations, such as the African Union, the Organization of American States, the League of Arab States, the Organization for Security and Cooperation in Europe and the Association of South-East Asian Nations, could develop similar initiatives, working in cooperation with the Office of the Special Representative.

II. NGOS AND CIVIL SOCIETY ORGANIZATIONS

105. NGOs and civil society organizations, both local and international, have crucial roles to play in developing and strengthening the CAAC monitoring and reporting regime. A major movement has developed among them on the CAAC agenda. For the specific purpose of promoting monitoring and reporting, three categories of actors are especially important: international advocacy networks, such as the Coalition to Stop the Use of Child Soldiers; international NGOs devoted to conducting operational programmes on the ground, such as World Vision and Save the Children; and the growing movement of local NGOs and civil society groups devoted to advocacy, protection and rehabilitation at the front line.

106. Specifically, the roles of NGOs and civil society organizations are important in the following areas.

107. International NGO networks, such as the Coalition to Stop the Use of Child Soldiers, can best contribute by continuing to develop and deepen monitoring projects in their areas of specialization. The Watchlist, on the other hand, covers monitoring and reporting on all aspects of CAAC; its activities also need to be developed and strengthened.

108. As well as issuing their own independent monitoring reports, these NGOs can provide important inputs into the United Nations monitoring and compliance reports.

109. NGOs should continue to provide briefings to the Security Council under the Arias formula.

110. International NGOs that are focusing mainly on protection and rehabilitation activities on the ground are well placed to make important contributions through their active participation in CPNs and TFMRs.

111. Local NGOs and civil society organizations, such as women's associations, teachers' and parents' associations, chiefs and elders, communities of faith and youth groups, play an indispensable role in the gathering and confirmation of information. Equally important is their active participation in CPNs and TFMRs, as part of their activities for advocacy, protection and rehabilitation at the front line.

112. Along with their contribution to monitoring and reporting activities as outlined above, all categories of NGOs and civil society organizations should continue to play their critical advocacy roles, drawing on information provided through the mechanism.

FLOW-CHART FOR MONITORING, REPORTING & COMPLIANCE MECHANISM

