**Advanced version of the Committee on the Right of the Child’s draft revised General Comment NO.10 (2007) on children’s rights in juvenile justice**

**COMMENTS BY THE GOVERNMENT OF THE REPUBLIC OF KOREA**

The Republic of Korea (hereinafter, the ROK) appreciates the kind consideration of the Committee on the Rights of the Child for States parties and welcomes the opportunity to comment on the advanced version of its draft revised General Comment NO.10 (2007). The ROK Government hereby would like to submit its comments to the Committee as follows:

Regarding Paragraph 33 of the draft revised General Comment, the ROK Government is aligned with the Committee’s stance that international standards recommend that the minimum age of criminal responsibility shall not be fixed at too low an age level, bearing in mind the facts of emotional, mental and intellectual maturity. At the same time, it is the ROK’s view that allowing for sufficient legislative discretion would be desirable (although the General Comment is recommendatory in nature), considering that raising the minimum age of criminal responsibility should be adjusted to the circumstances of respective countries and cases. According to the statistics of the recent three years, among children aged 10-19 who received special protective measures in the ROK, 0.2%~2% were between the ages of 10 and 12, and more than 8% were at the age of 13, which indicates that 13 year olds account for a significant proportion of juvenile offenders. As the number of children in conflict with the law rapidly increases at age 13, the ROK Government seeks to lower the minimum age of criminal responsibility in order to assist in the sound development of such children through effective rehabilitation according to each person’s specific cases.

Regarding Paragraph 41 of the draft revised General Comment, the ROK Government acknowledges positives and negatives of applying Juvenile Act in two different measures with respect to the age of the offender: a) based on the time of the commission of the offence, or b) the time of the trial; neither approach is categorically more beneficial. Considering that the juvenile justice system is a legal institution that fundamentally aims to aid sound development of children, extending the application of juvenile justice to those who are above the age of minority at the time of the trial would hardly be considered necessary. Rather, applying Juvenile Act based on the offender’s age at the time of the trial would result in more appropriate decisions.

Regarding Paragraph 101 of the draft revised General Comment, the ROK Government agrees with the view that the deprivation of children’s liberty requires a very careful approach. The ROK Government invites the Committee to take into consideration that there are certain cases of child offenders who are under investigation or serving the sentence where the deprivation of liberty is regarded as unavoidable or inevitable. The Republic of Korea respectfully submits that, instead of setting an age limit, the deprivation of liberty should only be used as a last resort for the shortest appropriate period of time according to the law. The ROK Government also notes that this approach conforms to the Article 37(b) of the Convention on the Rights of the Child.