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From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

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Subject: Draft Council Conclusions on addressing trafficking in human beings (THB) for labour exploitation

Draft Council conclusions in the Annex aim to strengthen multidisciplinary cooperation against trafficking in human beings (THB) for labour exploitation and to provide input regarding THB for labour exploitation for the post-2016 anti-trafficking strategy that the Commission intends to develop. They are based (among other things) on the results of five workshops held in 2015 and the conference TeamWork! Strengthening multidisciplinary cooperation against trafficking in human beings for labour exploitation, which took place on 18-19 January 2016 in Amsterdam. The workshops and conference were organised by the Netherlands, in cooperation with Luxembourg, the Slovak Republic and Malta.

The draft Council conclusions, as set out in the Annex to doc. 5287/16, were presented by the Presidency and initially discussed at the meeting of the Working Party on General Matters, including Evaluations (GENVAL) on 3 February 2016. The GENVAL Working Party expressed general support for the draft Council conclusions, subject to some changes to the text proposed by a number of delegations. Corresponding changes were introduced in the draft Council conclusions and discussed again in the GENVAL Working party of 16 March 2016 and in the Standing Committee on Operational Cooperation on Internal Security (COSI) at their meeting on 18 April 2016. The draft conclusions were thereby agreed, subject to some minor changes which have been introduced in the document in Annex to this note.

In view of the above, Coreper is invited to confirm this agreement and to submit the draft Council conclusions, as set out in the Annex to this note, to the Council, for adoption under part "A" of the agenda of its meeting on 9-10 June 2016.

**DRAFT COUNCIL CONCLUSIONS ON ADDRESSING TRAFFICKING IN HUMAN BEINGS
(THB) FOR LABOUR EXPLOITATION**

- EMPHASISING that addressing all forms of trafficking in human beings (THB), including the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs, is of fundamental importance and that these efforts should be continued with full vigour;
- EMPHASISING that THB for labour exploitation is both a serious and often organised form of crime and a gross violation of fundamental rights as stipulated in the EU Charter of Fundamental Rights, and that many victims, both children and adults, are trafficked for the purpose of labour exploitation by means of, for example, violence, threats or abuse of a position of vulnerability and can find themselves in abhorrent circumstances;
- ACKNOWLEDGING that smuggling of migrants and trafficking in human beings are two distinct forms of crime, covered by distinct legal frameworks at EU and international level, that both forms of crime can be interlinked and that measures need to be taken to prevent smuggled migrants, especially children, from falling victim to THB, including for labour exploitation, since they may be vulnerable to it;

- RECALLING the importance of the UN protocol against trafficking in persons¹ and the Council of Europe (CoE) Convention on action against trafficking in human beings²;
- RECALLING Directive 2011/36/EU³ of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims⁴ and Directive 2009/52/EU⁵ of the European Parliament and of the Council providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, which includes measures against employers who knowingly employ illegally staying third-country nationals who are victims of trafficking;
- RECALLING Council Conclusions 'Targeting developing forms of trafficking in human beings in the EU Member States';
- RECALLING the EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016⁶, the Council conclusions on the new EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016, and the Mid-term report on the implementation of the said Strategy⁷;
- RECALLING the Renewed EU Internal Security Strategy, including the Commission's Communication on a European Agenda on Security, and the European Agenda for Migration;

¹ United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, Palermo, 2000.

² Council of Europe Treaty Series (CETS) No 197.

³ DK is not bound by this Directive.

⁴ OJ L 101, 15.4.2011, p. 1.

⁵ DK is not bound by this Directive.

⁶ The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016, COM(2012) 286 final, 19 June 2012.

⁷ Mid-term report on the implementation of the EU strategy towards the eradication of trafficking in human beings, COM(2014) 635 final, 17 October 2014.

- EMPHASISING that the Council⁸ set THB as one of the priorities for the fight against serious and organised crime between 2014 and 2017 in the framework of the EU policy cycle for Organised and Serious International Crime;
- EMPHASISING the importance of promoting decent work in the European labour market and of improving compliance and enforcement of relevant international, EU and national standards in the field of labour law, working conditions and health and safety at work as well as of preventing, deterring and combating undeclared work, as discussed during the recent conference Promoting Decent Work held in Amsterdam on 8-9 February 2016;
- CONSIDERING that THB for labour exploitation results in unfair competition which damages companies that conduct business in full compliance with applicable laws and regulations;
- EMPHASISING the efforts already made by the European Commission and the EU agencies to tackle THB for labour exploitation;
- WELCOMING the efforts made by Member States including, among other examples, the creation of dedicated investigation units competent for THB for labour exploitation;
- WELCOMING the work done by Europol and Eurojust to counter THB for labour exploitation, while noting that there seems to be scope to increase the information provided to Europol and the number of cases dealt with by Eurojust as regards THB for labour exploitation;
- WELCOMING the *TeamWork!* Manual for experts on multidisciplinary cooperation against trafficking in human beings for labour exploitation, based on contributions from experts from the Member States and drawn up by the (previous, current and incoming) presidencies of the Council, of Luxembourg, the Netherlands, the Slovak Republic and Malta and the *TeamWork!* conference held on 18-19 January 2016 in Amsterdam;

⁸ Doc 12095/13.

The Council of the European Union and the Member States meeting within the Council,

EMPHASISE the importance of cooperation between Member States and EU agencies against THB for labour exploitation by using a comprehensive and multidisciplinary cross-border approach that encompasses both the public sector, and in particular judicial and prosecution services, police and other criminal investigation services, labour, social, health and other inspectorates, border services, immigration services, embassies and consular services, local and regional governments and tax authorities, and the private sector, including companies, their suppliers and sub-contractors, trade unions and civil society;

UNDERLINE the importance of the adoption of a European Agenda to eradicate trafficking in human beings (following the current EU anti-trafficking strategy) by the European Commission, to continue addressing all forms of THB, including for labour exploitation;

CONCLUDE therefore that the following actions would contribute to a strong response to THB for labour exploitation and

REQUEST THE COMMISSION to:

- continue to include multidisciplinary measures and actions to address THB, including for labour exploitation, for example in company operations and in their supply chain, and to support the victims of all forms of THB in the new European Agenda to eradicate THB (post-2016 anti-trafficking strategy), in particular by:
 - continuing to promote the exchange of best practices on multidisciplinary cooperation to provide assistance, support and compensation to victims of THB, including for labour exploitation, for both male and female, adult and child⁹, individual and groups of victims;
 - including best practices in the Visa Handbook on the detection of signs of THB, including for labour exploitation, when processing visa applications;
 - encouraging Member States to strengthen the sharing of best practices and measures to reduce the demand for goods produced by and services from victims of THB for labour exploitation;
 - further strengthening a coordinated EU external action against THB, including for labour exploitation;
 - stimulating cooperation against THB for labour exploitation with companies, including suppliers and sub-contractors, and trade unions;

⁹ As per Article 2(6) of Directive 2011/36 on preventing and combating trafficking in human beings and protecting its victims, 'child' shall mean any person below 18 years of age.

- continuing to provide adequate funding for activities against THB for labour exploitation, and in particular:
 - to stimulate practical and operational cooperation amongst Member States against THB for labour exploitation, for example through projects on joint inspections;
 - to develop and carry out awareness campaigns on THB for labour exploitation aimed at professionals and the general public and to reach out to vulnerable groups to increase knowledge about their rights,
 - to fully involve labour and other inspectorates and local and regional governments, where appropriate in association with the Committee of Regions, in multidisciplinary (EU) cooperation against THB for labour exploitation, for example to stimulate the use of the administrative approach in the fight against this form of exploitation;

- further coordinating actions with, and making full use of the monitoring reports of, international organisations as well as other European bodies, especially the Council of Europe Group of Experts on Trafficking in Human Beings (GRETA).

INVITE MEMBER STATES to:

- Fully implement Directive 2011/36/EU¹⁰ and ensure that all victims have access to rights accorded to them by the Directive, as well as to take action to effectively prevent THB for labour exploitation and to prosecute traffickers; and to fully implement Directive 2009/52¹¹;
- Consider ratification of the Protocol of 2014 to the Forced Labour Convention, 1930, of the International Labour Organisation, as agreed in Council Decision (EU) 2015/2071¹²;
- Strengthen multidisciplinary national and cross-border cooperation and information exchange against THB for labour exploitation, including within the EU policy cycle for organised and serious crime, by involving a wide range of stakeholders in the activities regarding this subject included in the Operational Action Plan for the EU crime priority THB, providing anti-trafficking investigation units with the tools they need to play their role both nationally and at EU-level and by setting up Joint Investigation Teams where possible, relevant and in accordance with national law;
- Pro-actively use financial investigations in all cases of THB, including for labour exploitation, for the purpose of gathering evidence, mapping criminal organisations, gathering financial intelligence, identifying, freezing and confiscating criminal assets;
- Jointly carry out, where possible, simultaneous awareness raising campaigns in countries of origin and destination in order to reduce the demand for and to discourage the supply of goods produced by and services from victims of THB for labour exploitation;
- Provide training (specialised and multidisciplinary training) that is targeted at the professionals of all relevant authorities and organisations involved in the multidisciplinary approach, including on how to detect, identify, collect evidence on and prosecute THB for labour exploitation and on how to support its victims in claiming their rights;

¹⁰ DK is not bound by this Directive.

¹¹ DK is not bound by this Directive.

¹² OJ L 301, 18.11.2015, p. 48.

- Provide funding and sufficient resources for actions to address THB for labour exploitation and the needs and rights of its victims;
- Provide labour and other inspectorates with the tools they need to play their role in multidisciplinary cooperation against THB for labour exploitation, both nationally and at EU-level, for example an EU directory that details the powers of and the contact persons in the relevant inspectorates, secondment of inspectors to inspectorates in other member states and ways to exchange experience, best practices and trends; and to that end to:
- Explore the possibilities to facilitate cross-border cooperation between labour and other inspectorates, for example possibilities for setting up an EU network for labour and other inspectorates on the issue of THB for labour exploitation and the development of tools to support that cooperation.

INVITE THE MEMBER STATES AND THE COMMISSION to strengthen their support to criminal investigations and judicial cooperation to counter THB for the purpose of labour exploitation, and to promote, together with the private sector, measures, including practices and norms, to prevent THB for labour exploitation.

INVITE THE FOLLOWING EU AGENCIES:

- EASO: to ensure that THB for labour exploitation is included in the tools developed for detection of victims of THB in asylum procedures;
- Europol: to support Member States' law enforcement authorities in multidisciplinary cooperation on THB for labour exploitation, for example by including labour inspectors and other relevant stakeholders in meetings of EMPACT THB, operational meetings and action days on this subject; and to assist Member States in pro-actively using financial investigations in all cases of THB, including for labour exploitation, and to share knowledge on gathering evidence, mapping criminal organisations, gathering financial intelligence and identifying, freezing and confiscating criminal assets, including all relevant stakeholders such as FIUs, prosecution services, tax authorities and financial institutions.

- Frontex: to further develop risk profiles to be used by border guards to identify potential victims and perpetrators of THB for labour exploitation at air, land and sea borders;
- Eurojust: to continue to assist Member States in the coordination of judicial cross-border cooperation against THB for labour exploitation, and to contribute to strengthening Member States' joint capacity in this area, including by increasing the number of cases of investigations and prosecutions into THB for labour exploitation, as appropriate;
- CEPOL, EJTN and EIGE: to ensure regular and appropriate training to address the issue of THB for labour exploitation, including on how to detect, identify, collect evidence on and prosecute THB for labour exploitation, bringing together police services, labour inspectorates and other government agencies where appropriate.

WELCOME the Study on case-law relating to trafficking in human beings for labour exploitation, the Study on high risk groups for trafficking in human beings and the Study on prevention initiatives on trafficking in human beings, published by the European Commission, as well as the report by the FRA on Severe forms of labour exploitation, and the joint work with Eurofound for the development of a best practice guide¹³ for labour market intermediaries to prevent trafficking in human beings for labour exploitation, and INVITES all stakeholders to develop and distribute relevant and well-targeted handbooks and manuals, in particular

INVITE the Presidency, the Commission and all relevant EU Agencies and bodies to report, as and when appropriate, to the Council about progress in the implementation of these conclusions.

¹³ Still to be published.