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## Working Group on Trafficking in Persons

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Item 3 of the provisional agenda\*

**Measures to strengthen procurement policies at the  
national, regional and international levels**

### **Measures to strengthen procurement policies at the national, regional and international levels**

**Background paper prepared by the Secretariat**

#### **I. Introduction**

1. The present background paper was prepared by the Secretariat to facilitate discussions of the Working Group on Trafficking in Persons at its eleventh meeting. It provides an overview of issues related to addressing trafficking in persons in public procurement and supply chains that the Working Group may wish to address in the course of its deliberations. It provides background information on topics such as multilateral policy and corresponding action by the United Nations system, and it references challenges and promising practices in related efforts by States. It also contains a list of specific references, resources and tools that States can use in further developing their responses to trafficking in persons.

#### **II. Issues for discussion**

2. Delegations may wish to consider the responses of their States to the following issues in preparing for the Working Group's deliberations:

(a) What is the nexus between public procurement, global supply chains and trafficking in persons?

(b) What principles relevant to trafficking in persons currently govern public procurement procedures?

(c) At this point in time, how is public procurement potentially enabling, perpetuating or increasing the risk of exploitation of trafficking victims?

(d) What measures or tools are currently in place to ensure non-procurement of goods and/or services produced by people in exploitative situations?

(e) What legal measures are being used to counter trafficking in persons in public procurement and supply chains?

\* CTOC/COP/WG.4/2021/1.



(f) How do State functions cooperate with the private sector to ensure prevention of trafficking in persons in public procurement and supply chains?

(g) Why are procurement policies critical in countering trafficking in persons?

(h) How will suppliers be held accountable for their involvement in trafficking in persons and/or ancillary crimes? Are commercial entities prosecutable for facilitating or being complicit in trafficking in persons?

(i) What measures have been taken by government departments to conduct supply chain mapping and ensure clean, transparent and sustainable procurement?

(j) Do existing legislative frameworks make it voluntary or mandatory for due diligence to be conducted in relation to supply chains?

(k) What specific challenges have been encountered in addressing possible trafficking in persons in public procurement and supply chains?

(l) What mechanisms are in place to facilitate the reporting and referral of potential cases of trafficking in persons identified through public procurement and supply chain-related action?

(m) Do procurement actors play any role in existing national strategies on trafficking in persons, and in any related national coordination mechanisms?

3. The Working Group might wish to consider the following possible actions by States parties in addressing trafficking in persons through procurement and supply chain arrangements:

(a) Strengthening public procurement and transparency measures by requiring suppliers to provide access to audit reports and to the names and addresses of all subcontractors in their supply chains, in line with national laws governing the release and protection of private data, and defining award criteria that require the implementation of human rights standards in supply chains;

(b) Strengthening the implementation of existing policies, including by monitoring and enforcing procurement contract provisions, developing codes of conduct based on existing strategies, establishing effective auditing processes and strengthening accountability measures, including administrative, civil and criminal sanctions, to improve business compliance;

(c) Harmonizing compliance requirements by promoting consistency and clarity between jurisdictions in obligations for commercial entities operating globally;

(d) Increasing collaboration among key stakeholders and sectors, including between and within Governments, the private sector, employment agencies, international organizations, trade unions and civil society;

(e) Enhancing information-sharing by promoting the sharing of best practices and expertise and the availability of reliable data and evidence for all relevant stakeholders;

(f) Encouraging dedicated training and capacity-building for all relevant stakeholders.

### **III. Overview of issues and related topics**

4. The perpetuation of trafficking in persons can be closely linked to the economic principles of supply and demand, whereupon the general desire to maximize profits and the constant demand for cheap goods and services may increase the demand for cheap and exploitative labour, resulting in more exploitation of people, including through trafficking in persons. With this in mind, responses seeking to address trafficking in persons by focusing on supply chains and procurement are ultimately focused on the objective of ensuring that goods and/or services are not produced from the exploitation of trafficked persons. States are central to the pursuit of this objective,

as it is they that must ensure that companies act responsibly, through binding legislation and codifying principles that require transparency and due diligence in private sector supply chains. They must also lead by example, by applying the same criteria to their own procurement.

5. Multiple challenges exist in addressing trafficking in persons through procurement and supply chain arrangements.

6. Key to these, in any jurisdiction, is the assumption of responsibility by the State and the private sector and the undertaking of targeted efforts to seek an effective balance in corresponding action by all stakeholders. In 2008, at the Vienna Forum to Fight Human Trafficking, the issue of supply chain management to eliminate the risk of forced labour and trafficking was tackled and pertinent questions were raised regarding the use of codes of conduct and controls on supply chain management. During the Forum, the private sector and international employers' organizations expressed the need to ensure anti-trafficking provisions within their supply chain purchasing practices and called for proactive measures to address the ways in which the globalized economy generated supply and demand for trafficking.<sup>1</sup> In parallel to any such action is the related governance imposed by States on commercial practice to effect the same end goal. Beyond a simple division of State- and private sector-initiated and/or sanctioned action, specific challenges for any well-intentioned stakeholder can relate to the particular characteristics of a commercial sector, the transnational nature of commercial activities and the involvement of multiple, distinct legal entities in one commercial activity.

7. While attention is increasingly being paid to ensuring that public procurement does not contribute to trafficking in persons, given that most public goods and services are procured from the private sector, it is challenging for States to effectively address public procurement alone in the absence of laws that neither compel the private sector to prevent and/or report cases of trafficking in persons in their supply chains nor recognize private entities as distinct prosecutable legal persons for trafficking in persons offences. Article 10 of the United Nations Convention against Transnational Organized Crime provides that States parties are to adopt the necessary measures, consistent with their legal principles, to establish the liability of legal persons for participation in serious crimes involving an organized criminal group. Meanwhile, in the *Legislative Guide for the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, it is emphasized that the criminalization requirements contained in article 5, paragraph 2, of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, apply to both natural and legal persons.<sup>2</sup> However, the application of legal liability is further complicated in cases of transnational procurement involving legal persons (suppliers) in jurisdictions where the aggrieved State cannot enforce its laws or policies.

8. In the majority of commercial and State procurement policies, the need to procure goods and services that are reasonably priced (cheap) and within budget, normally referred to as "value for money", is emphasized. However, procurement practices based solely on the principle of the lowest bidder can risk facilitating and perpetuating trafficking in persons and ancillary offences, as focusing only on rapid turnaround times, high flexibility for production and low margins for large quantities of goods can leave workers vulnerable to exploitative practices.

9. National laws and policies on labour, particularly those on preventing and addressing all forms of labour exploitation, should provide a key context for all

<sup>1</sup> The Vienna Forum to Fight Human Trafficking is, to date, the largest international conference ever convened on the issue of trafficking in persons. It brought together representatives of States, civil society and the private sector. The report on the Forum was submitted to the Commission on Crime Prevention and Criminal Justice at its seventeenth session (E/CN.15/2008/CRP.2).

<sup>2</sup> United Nations Office on Drugs and Crime (Vienna, 2020), para. 171.

measures to respond to trafficking in persons by means of procurement action, both domestically and across borders. This includes addressing the use of labour recruiters in supply chains and the associated risk of trafficking in persons when corrupt practices and the imposition of unfair recruitment fees are allowed to prevail. Labour brokering, whereby companies contract labour brokers to recruit casual employees, is a practice that has a high risk of enabling the recruitment of persons into exploitative situations.

10. Law enforcement entities also encounter practical challenges in obtaining relevant information, including on the ownership of foreign entities that may have links with organized criminal groups, or in obtaining international cooperation to identify the natural person or persons with beneficial ownership of a commercial entity in their State but residing in another jurisdiction. This points to the need for international cooperation among States to facilitate and strengthen information-sharing with regard to procurement by both public and private entities.

### **Emerging awareness and policy coherence**

11. In recent years, awareness has increased of the possibility of inadvertently contributing to trafficking in persons through public procurement. There is growing concern that related goods and/or services, or their direct material inputs, may be produced by victims of trafficking.

12. The focus on preventing trafficking in persons in public procurement and supply chains is consistent with article 9, paragraph 5, of the Trafficking in Persons Protocol, which requires States parties to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking. This provision has been reinforced by subsequent regional instruments on trafficking in persons. For example, article 6 of the Council of Europe Convention on Action against Trafficking in Human Beings and article 11, paragraph 5, of the Association of Southeast Asian Nations Convention against Trafficking in Persons, especially Women and Children, oblige States parties to adopt or strengthen legislative or other measures to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

13. Governments have a multifaceted role in discouraging the demand that fosters trafficking in persons. By failing to provide legislative protection to certain individuals, such as domestic workers, “entertainers” and migrant workers, legislators can stimulate demand for cheaper goods and services, which creates an environment that encourages demand for the labour of persons vulnerable to exploitation and perpetuates related trafficking in persons.<sup>3</sup> Public procurement, which involves transactions by public entities, including government departments and local authorities, plays a significant role in preventing trafficking in persons because the government purchasing market constitutes the largest business sector in the world, with the resulting turnover from supplying goods and services to Governments crucial for profit-making enterprises globally. It is widely acknowledged that the major role of public spending in most national economies means that public administrations have significant bargaining power to influence the behaviour of their contractors and subcontractors, even beyond territorial borders.<sup>4</sup>

14. The Guiding Principles on Business and Human Rights are based on fundamental United Nations human rights and labour standards, and were endorsed by the Human Rights Council in its resolution 17/4. They outline the roles of both States and businesses according to three key principles, namely:

(a) The State duty to protect human rights, including from third parties such as business enterprises;

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<sup>3</sup> Office of the United Nations High Commissioner for Human Rights, *Human Rights and Human Trafficking*, Factsheet No. 36 (New York and Geneva, 2014).

<sup>4</sup> International Labour Organization, *Ending Forced Labour by 2030: A Review of Policies and Programmes* (Geneva, 2018).

(b) The corporate responsibility to respect human rights, which requires companies to avoid contributing to adverse human rights impacts and to seek to prevent them;

(c) The need to establish access to effective remedies when business-related abuses occur.

15. Through these principles, the State duty to protect against human rights violations extends to public procurement.

16. Related action by States is further reinforced by the Sustainable Development Goals, with target 12.7 of the Goals being to promote public procurement practices that are sustainable. This means prioritizing procurement from suppliers that comply with economic, social and environmental criteria. States should therefore employ procurement practices that integrate requirements, specifications and criteria that are compatible with the protection of the environment and social progress and in support of economic development. Also within the framework of the 2030 Agenda for Sustainable Development, targets 8.7 and 16.2 of the Sustainable Development Goals are to take immediate and effective measures to eradicate forced labour, end modern slavery and trafficking in persons, secure the prohibition and elimination of the worst forms of child labour, end child labour in all its forms by 2025 and end abuse, exploitation, trafficking and all forms of violence against and torture of children.

17. At the multilateral level, United Nations Member States have increasingly prioritized the prevention of trafficking in persons in their public procurement and supply chains. At its thirtieth session, held in Vienna from 17 to 21 May 2021, the Commission on Crime Prevention and Criminal Justice recommended to the Economic and Social Council the adoption of a resolution on the implementation of the United Nations Global Plan of Action to Combat Trafficking in Persons in which the Council would invite Member States to consider developing and implementing national policies, in line and in accordance with their domestic laws, to prevent trafficking in persons in government procurement and global supply chains, and to consider, where appropriate, promoting partnerships and engagement of the business community and civil society, including non-governmental organizations, in developing and implementing sustainable initiatives to prevent and combat trafficking in persons in supply chains, bearing in mind the primary role and responsibility of Member States in that regard.

18. In 2017, the Organization for Security and Cooperation in Europe (OSCE) Ministerial Council adopted decision No. 6/17, on strengthening efforts to prevent trafficking in persons, in which it called upon States to, among other things, promote policies, in complementarity with national legislation, that take into account whether businesses are taking appropriate and effective steps to address the risks of trafficking in persons, including with regard to their subcontractors and employees, when considering the awarding of government contracts for goods and services.

19. In the Americas and the Caribbean, under the second workplan against trafficking in persons in the western hemisphere (2015–2020) of the Organization of American States, member States are recommended to develop or revise, as appropriate, policies or regulations to prevent government procurement of goods and services derived from the exploitation of victims of trafficking in persons.

20. In 2011, the OSCE Ministerial Council adopted the Ministerial Declaration on Combating all Forms of Human Trafficking,<sup>5</sup> in which the Council encouraged States to work with the business sector to apply principles of due diligence and transparency in assessing and addressing risks of exploitation throughout supply chains and ensuring that workers have access to mechanisms for the redress and remedy of abusive practices. In the same declaration, the Council also encouraged Governments to consider incorporating similar standards, including “zero-tolerance” policies, in government procurement of goods and services.

<sup>5</sup> OSCE, document MC.DOC/1/11/Corr.1.

21. Likewise, in 2016, the Council of Europe Committee of Ministers adopted a recommendation for States members of the Council to apply additional measures to require business enterprises to respect human rights, including, where appropriate, by carrying out human rights due diligence, that may be integrated into existing due diligence procedures.<sup>6</sup>

22. Regarding public procurement by international organizations, the Security Council, in its resolution 2331 (2016), addressed the risks of the United Nations system contributing to trafficking in persons and requested the Secretary-General to consider recommendations for United Nations agencies to mitigate the risk of contributing to trafficking in persons in armed conflict through procurement and supply chains. The Council followed this with the adoption of resolution 2388 (2017), in which it called upon United Nations system organizations to enhance transparency in their procurement and supply chains and step up their efforts to strengthen protections against trafficking in persons in all United Nations procurement and requested major suppliers to establish and implement anti-trafficking in persons policies and disclose information on measures taken to counter trafficking in persons in their operations and supply chains.

23. On the basis of those two resolutions, the Human Trafficking and Forced Labour Task Force was established by the High-level Committee on Management Procurement Network to prioritize the development of harmonized United Nations policies and guidelines to reduce the exposure to and consequences of trafficking in persons and forced labour within United Nations supply chains. As part of its 2021 workplan, the Task Force is in the process of developing a trafficking in persons and forced labour in United Nations supply chains policy framework to guide future procurement procedures in all United Nations system organizations by specifically addressing the risk of contributing to trafficking in persons. The importance of this objective was affirmed in the aforementioned resolution recommended to the Economic and Social Council by the Commission on Crime Prevention and Criminal Justice for adoption, in which the Council would request the relevant agencies of the United Nations system to ensure that United Nations procurement is free from trafficking in persons.

#### **Examples of related action**

24. In 2011, the United Nations, through its Joint Inspection Unit, conducted a system-wide review of procurement policies and practices in United Nations system organizations from July 2010 to May 2011 (JIU/NOTE/2011/1). The Joint Inspection Unit noted that the organizations did not have a consolidated approach to socially responsible procurement, characterizing their approaches as selective, fragmented and varied, and depending upon the specific interest of each organization. The Unit also noted that the consideration of the lowest procurement cost as the sole objective could promote bad social practices, such as child and forced labour. As a result, one of the United Nations procurement principles is best value for money,<sup>7</sup> which looks beyond the lowest price of the goods or services to consider other principles, governing freedom of association and collective bargaining, forced or compulsory labour, child labour, discrimination, wages, working hours and other conditions, and health and safety, as outlined in the United Nations Supplier Code of Conduct.

25. Related to this, the United Nations strongly encourages its vendors to be active members of the United Nations Global Compact. The Global Compact is a special initiative of the Secretary-General and is aimed at accelerating and scaling the global collective impact of business and delivering the Sustainable Development Goals through accountable companies and ecosystems that enable change. It is the largest corporate sustainability initiative globally and member vendors are required to abide by 10 principles, as detailed in the table below.

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<sup>6</sup> Council of Europe, recommendation CM/Rec(2016)3.

<sup>7</sup> See United Nations, Department of Operational Support, *United Nations Procurement Manual*, DOS/2020.9 (June 2020).

## Ten principles of the United Nations Global Compact

<i>Thematic group</i>	<i>Principles</i>
Human rights	Principle 1: Support and respect the protection of internationally proclaimed human rights Principle 2: Make sure that there is no complicity in human rights abuses
Labour	Principle 3: Uphold the freedom of association and the effective recognition of the right to collective bargaining Principle 4: Eliminate all forms of forced and compulsory labour Principle 5: Effectively abolish child labour Principle 6: Eliminate discrimination in respect of employment and occupation
Environment	Principle 7: Support a precautionary approach to environmental challenges Principle 8: Undertake initiatives to promote greater environmental responsibility Principle 9: Encourage the development and diffusion of environmentally friendly technologies
Anti-corruption	Principle 10: Work against corruption in all its forms, including extortion and bribery

26. Several other promising practices in countering trafficking in persons in public procurement and global supply chains have been recorded. For example, in 2014, the European Parliament and the Council of the European Union adopted directive 2014/24/EU on public procurement. Pursuant to that directive, contracting authorities in European Union member States are required to exclude an economic operator from participation in a procurement procedure if it is established that the operator has a conviction for criminal offences, including child labour and other forms of trafficking in persons. In addition, through its upcoming legislative initiative on sustainable corporate governance, the European Union will seek to compel companies to conduct due diligence and promote respect for human rights. It recognizes that public institutions have a key role in ensuring that public procurement incentivizes transparency and due diligence in supply chains.<sup>8</sup> Furthermore, in March 2021, the European Parliament adopted a resolution in which it recommended that the European Commission initiate a binding legislative proposal on mandatory corporate due diligence and corporate accountability, to address the limitations encountered in voluntary due diligence.<sup>9</sup>

27. Some European States have reported that they have adopted measures to address the responsibility of businesses and legal persons, due diligence in the supply chain and the relationship between business and human rights, while civil society organizations have emphasized the need for increased transparency in the product supply chains where trafficking in persons may occur, as well as introducing due diligence requirements.<sup>10</sup> Legislative measures to address trafficking in persons in public procurement and supply chains include:

(a) Article 54 of the Modern Slavery Act of 2015 of the United Kingdom of Great Britain and Northern Ireland, under which commercial organizations registered

<sup>8</sup> European Commission, “Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Strategy on Combatting Trafficking in Human Beings 2021–2025” (COM(2021) 171).

<sup>9</sup> 2020/2129(INL).

<sup>10</sup> European Commission, “Third report on the progress made in the fight against trafficking in human beings (2020) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims” (COM(2020) 661).

in the United Kingdom are obligated to prepare annual statements detailing the steps that they have taken during the financial year to ensure that slavery and trafficking in persons do not take place in any of their supply chains and in any part of their own business;

(b) The Procurement (Scotland) Regulations of 2016, under which contracting authorities are mandated to exclude an economic operator from participation in a procurement procedure if the contracting authority has established or is otherwise aware that that economic operator or a person associated with the operator has been convicted of offences including trafficking in persons;

(c) The duty of vigilance law of 2017 of France, which compels companies to set up a vigilance plan detailing measures to detect risks of violation of human rights and fundamental freedoms, health and safety, and environment rights, and measures to prevent severe impacts on such rights;

(d) The child labour due diligence law of 2018 of the Netherlands and the modernization of public procurement legislation of 2016 of Germany.

28. In Africa, the African Development Bank has noted that there is a risk of anonymous, front or shell companies being misused for criminal purposes, including for the commission of offences such as money-laundering, the financing of terrorism, corruption, tax fraud, trafficking and other organized crime-related offences. In this regard, the Bank has noted that relevant requirements mandated by law, including international conventions, such as a prohibition on use of child labour, could be included in the requirements for a procurement, with failure to meet them considered a major deviation.<sup>11</sup> The African Union has noted that, in some of its member States, Governments have collaborated with businesses in public-private partnerships to eradicate child labour in supply chains, mostly in the agricultural sector. Through the implementation of its 10-Year Action Plan to Eradicate Child Labour, Forced Labour, Human Trafficking and Modern Slavery (2020–2030), adopted by the African Union Assembly in February 2020, the African Union will support multi-stakeholder engagement, including with business and employers' and workers' organizations, to address child labour, trafficking in persons, modern slavery and forced labour, including in the supply chains of multinational enterprises and in associated communities.

29. Meanwhile, other countries have relevant frameworks that are aimed at reducing the risk of trafficking in persons in public procurement and supply chains. For example:

(a) The Federal Acquisition Regulation of the United States of America regulates the acquisition of supplies and services by all executive agencies of the United States using appropriated funds. In this regard, contractors, their employees and agents are prohibited from engaging in acts of trafficking in persons for the duration of their contracts, including using forced labour and using recruiters that do not comply with the labour laws of the country in which the recruitment takes place. The United States also has a certification system whereby a successful offeror of a service whose cost exceeds \$500,000 to be procured or performed outside the United States is required, by law, to present certification regarding a trafficking in persons compliance plan prior to the award of the contract. The certification should state that the offeror has implemented a compliance plan to prevent trafficking in persons and to monitor, detect and terminate the contract with any subcontractor engaging in trafficking in persons. Furthermore, due diligence is to be performed to ensure that neither the offeror nor any of its agents and subcontractors is engaged in forms of trafficking in persons, and that if trafficking in persons-related abuses have been found, then the offeror or proposed subcontractor has taken the appropriate remedial and referral actions. Meanwhile, the California Transparency in Supply Chains Act of 2010 requires retailers and manufacturers operating in California and having an annual gross turnover exceeding \$100 million to disclose their efforts to eradicate

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<sup>11</sup> African Development Bank, *Operations Procurement Manual: Part A, Volume 1*.

slavery and trafficking in persons from their direct supply chains for their products to ensure that the goods they sell are not produced by workers who are enslaved, coerced or otherwise forced into service or who have been the victims of trafficking;

(b) The Modern Slavery Act of 2018 of Australia requires entities with an annual turnover of 100 million Australian dollars or above to report on the risk of modern slavery in their operations and supply chains, including the actions to address those risks. Following the legislative framework, Australia has developed a toolkit of resources for government procurement officers<sup>12</sup> to educate them about modern slavery, how to identify modern slavery in government supply chains, what should be done to address the risks and how to report modern slavery practices identified in government procurement. Furthermore, the legislative framework of Australia requires entities to report and deposit their modern slavery statements by means of an online register (available at <https://modernslaveryregister.gov.au>). The country also prepares annual modern slavery statements in line with the national procurement rules.

### **Previous Working Group recommendations on related topics**

30. The Working Group on Trafficking in Persons has, to date, formulated more than 250 recommendations advising States parties on the implementation of the Trafficking in Persons Protocol.

31. The Working Group has adopted several recommendations for States related to public procurement and global supply chains. They include taking the following possible actions: (a) reviewing public procurement practices in order to avoid trafficking in persons; (b) raising the awareness of employers to ensure that their supply chains are free of trafficking in persons; (c) adopting measures to discourage the use of the services of victims of trafficking; (d) enforcing labour regulations; (e) increasing the protection of migrant workers' rights; (f) enforcing labour and human rights standards through labour inspections and the development of ethical codes of conduct, including for supply chains; (g) strengthening measures to regulate, register and license private recruitment agencies; (h) prohibiting charging workers fees, directly or indirectly, for their recruitment and placement; (i) cooperating with labour unions; (j) strengthening partnerships with civil society; and (k) establishing national or regional business coalitions.

32. Furthermore, in its most recently adopted recommendations, the Working Group emphasized the following:<sup>13</sup> (a) working in partnership with businesses, civil society and public sector organizations to develop policies and legislation addressing the risks of forced labour in supply chains; (b) encouraging regional and international organizations to prevent and address trafficking in persons in their supply chains, including by reviewing their procurement practices, and training relevant personnel, especially management, on the risks of trafficking in persons; (c) utilizing existing guidance to improve public procurement policies, deter fraudulent and abusive recruitment practices and harmonize policy frameworks in preventing trafficking in persons in supply chains; (d) encouraging businesses to engage in due diligence practices to prevent forced labour in global supply chains and eliminate worker-paid recruitment fees and other practices that put migrant workers at greater risk of forced labour; and (e) implementing measures to prevent and address trafficking in persons in government procurement processes, in collaboration with international organizations.

33. In *Trafficking in Persons: Compendium and Thematic Index of Recommendations, Resolutions and Decisions*, prepared by the Secretariat and containing an index of recommendations adopted by the Working Group on Trafficking in Persons at its first 10 meetings, relevant guidance can be found on the following topics: (a) consumers, clients and users of products and services of victims

<sup>12</sup> Australia, "Addressing modern slavery in government supply chains: a toolkit of resources for government procurement officers".

<sup>13</sup> CTOC/COP/WG.4/2019/6, para. 5, recommendations 19–23.

of trafficking; (b) forms of trafficking in persons, labour exploitation; (c) recruitment agencies and recruitment fees; (d) responders, private sector; and (e) supply and demand.

#### **IV. Key tools and recommended resources**

##### *Global Trafficking in Persons Report 2020*

34. In the *Global Trafficking in Persons Report 2020*, published by the United Nations Office on Drugs and Crime (UNODC), it is noted that certain economic sectors, including fishing, construction, agriculture and domestic work, are susceptible to trafficking for forced labour and that the use of recruitment agencies and labour intermediation and subcontracting worsens the likelihood of exploitation of unsuspecting labourers. The need to regulate government procurement and global supply chains, including prohibiting recipients of government funding from engaging in practices known to facilitate trafficking in persons, is emphasized. Cooperation with civil society and the private sector is encouraged and it is noted that businesses, including technology companies, represent essential partners in addressing supply chain integrity, in stopping trafficking for forced labour and other forms of exploitation and in countering recruitment and exploitation over the Internet.

##### **“Preventing trafficking in persons by addressing demand”**

35. The Inter-Agency Coordination Group against Trafficking in Persons is a policy forum that was established in 2007, pursuant to General Assembly resolution 61/180, in which the Assembly requested the Secretary-General to improve upon the inter-agency coordination group on trafficking in persons to enhance cooperation and coordination and facilitate a holistic and comprehensive approach to trafficking in persons.

36. The issue paper entitled “Preventing trafficking in persons by addressing demand”, published by the Group in September 2014, contains an analysis of the demand that contributes to trafficking for labour exploitation in the context of the production of goods and/or services. Appropriate actions by the private sector to address exploitation in their supply chains and by consumers against products made by victims of trafficking for labour exploitation are proposed.

##### **“Preventing trafficking in persons: the role of public procurement”**

37. An issue brief entitled “Preventing trafficking in persons: the role of public procurement” is to be published by the Inter-Agency Coordination Group against Trafficking in Persons in August 2021. It is to explore the role of public procurement in preventing trafficking for forced labour and will contain an analysis of existing relevant policy frameworks at the international and national levels. Mitigating measures that can ensure that sustainable public procurement is attained will also be examined.

##### *The Role of Recruitment Fees and Abusive and Fraudulent Recruitment Practices of Recruitment Agencies in Trafficking in Persons*

38. The UNODC publication entitled *The Role of Recruitment Fees and Abusive and Fraudulent Recruitment Practices of Recruitment Agencies in Trafficking in Persons* contains an analysis of the role of recruitment agencies in facilitating the movement of workers looking for job opportunities outside their home countries. Some abusive recruitment practices seem to flourish in all parts of the world, and those practices seem to be closely linked with trafficking in persons.

### **Human Trafficking and Forced Labour Task Force of the High-level Committee on Management Procurement Network**

39. The High-level Committee on Management established its Procurement Network in 2007 to promote the strategic role of procurement and supply chain management in programme and service delivery in a transparent and accountable manner. The Procurement Network created its Human Trafficking and Forced Labour Task Force with the aim of prioritizing the development of harmonized United Nations policies and guidelines to reduce the exposure to and consequences of trafficking in persons and forced labour within United Nations supply chains. As of July 2021, the Task Force was in the process of developing a policy framework to counter trafficking in persons in the United Nations procurement process.

### **Committee on the Elimination of Discrimination against Women general recommendation No. 38 (2020) on trafficking in women and girls in the context of global migration**

40. The Committee on the Elimination of Discrimination against Women, in its general recommendation No. 38 (2020) on trafficking in women and girls in the context of global migration (CEDAW/C/GC/38), the national implementation of which is currently the subject of widespread discussion, recommends the following in order to prevent and address trafficking in all business operations, public procurement and corporate supply chains:

(a) Investigate, prosecute and convict all perpetrators involved in trafficking of persons, including those on the demand side;

(b) Provide in law a civil cause of action, in both the country of operation and the country of incorporation, for workers in global supply chains who suffer harm due to the non-fulfilment of mandatory due diligence laws;

(c) Encourage businesses and public agencies to ensure that a dedicated regulatory body in which workers and their representatives are represented has the power and resources to proactively investigate and monitor compliance with mandatory due diligence laws and to sanction non-compliant entities;

(d) Conduct and/or fund awareness-raising campaigns to inform consumers and customers of products and services that may involve exploitative labour, including unethical recruitment practices and slave labour, and of where to report suspicions of criminal activity.

### *Model Guidelines on Government Measures to Prevent Trafficking for Labour Exploitation in Supply Chains*

41. The *Model Guidelines on Government Measures to Prevent Trafficking for Labour Exploitation in Supply Chains*, published by OSCE in 2018, seek to provide a practical tool to assist OSCE participating States and partners for cooperation in implementing specific measures to prevent trafficking in persons in supply chains. It is highlighted in the publication how States can implement legislation and policies that promote transparency to ensure that public supply chains are free from trafficked labour and promote the fair and ethical recruitment of workers.

### *Compendium of Relevant Reference Materials and Resources on Ethical Sourcing and Prevention of Trafficking in Human Beings for Labour Exploitation in Supply Chains* (second updated edition)

42. The *Compendium of Relevant Reference Materials and Resources on Ethical Sourcing and Prevention of Trafficking in Human Beings for Labour Exploitation in Supply Chains*, published by OSCE and updated in 2020, takes stock of existing legislation, policies, guidelines, recommendations, reports, studies and other types of initiatives developed to better understand and respond to the global problem of trafficking in persons through its prevention in supply chains.

*Ending Exploitation: Ensuring that Businesses do not Contribute to Trafficking in Human Beings – Duties of States and the Private Sector*

43. *Ending Exploitation: Ensuring that Businesses do not Contribute to Trafficking in Human Beings – Duties of States and the Private Sector*, published by OSCE in 2014, outlines measures that businesses can take to ensure that trafficking in persons does not occur in their workplaces or those of their suppliers (i.e. other businesses that sell products or services to them).

*OECD Due Diligence Guidance for Responsible Business Conduct*

44. The *OECD Due Diligence Guidance for Responsible Business Conduct*, published by OECD in 2018, seeks to help enterprises avoid and address adverse impacts related to workers, human rights, the environment, bribery, consumers and corporate governance that may be associated with their operations, supply chains and other business relationships. It also seeks to promote a common understanding among Governments and stakeholders on due diligence for responsible business conduct.

**“Addressing modern slavery in government supply chains: a toolkit of resources for Government procurement officers”**

45. The toolkit of resources for procurement officers in the Government of Australia entitled “Addressing modern slavery in government supply chains” provides a range of resources to assist procurement officers in identifying, assessing and managing modern slavery risks at all stages of the procurement process. It complements the Commonwealth Procurement Rules.

**Directive 2014/24/EU of the European Parliament and of the Council**

46. Although directive 2014/24/EU applies to public procurement in general, it requires contracting authorities in European Union member States to exclude an economic operator from participation in a procurement procedure if it is established that the economic operator has a conviction for criminal offences, including child labour and other forms of trafficking in persons.

**“Normative framework guide: responsibility of businesses concerning human rights, labour exploitation and human trafficking” and *Navigating Through your Supply Chain: Toolkit for Prevention of Labour Exploitation and Trafficking***

47. The “Normative framework guide: responsibility of businesses concerning human rights, labour exploitation and human trafficking”, published in 2020 by the European Institute for Crime Prevention and Control, provides an overview of existing legal frameworks outlining businesses’ responsibilities with regard to human rights, with a focus on labour exploitation and trafficking in persons. The guide is to be read together with *Navigating Through your Supply Chain: Toolkit for Prevention of Labour Exploitation and Trafficking*, also published in 2020 by the European Institute for Crime Prevention and Control, which is a resource for businesses to address and reduce the risk of labour exploitation and trafficking in their operations. Both resources are aimed at businesses, non-governmental organizations and other organizations that use low-skilled migrant workers through outsourcing, subcontracting, recruitment companies and labour intermediaries in, for example, construction, cleaning or catering services; businesses working in sectors where a risk of labour exploitation or trafficking in persons has been identified; public procurement units working for States, municipalities and/or State enterprises; and corporate social responsibility and business and human rights experts and networks.

*Human Rights Due Diligence Legislation: Options for the European Union*

48. The publication entitled *Human Rights Due Diligence Legislation: Options for the European Union*, produced by the European Union in 2020, contains two briefings. The first is on substantive elements of potential legislation on human rights due diligence, such as type and scope of human rights violations and types of

companies that could be subject to a future European Union regulation. The second is on options for monitoring and enforcing due diligence obligations, as well as different ways to ensure access to justice for victims of human rights abuses.

**“Tackling modern slavery in government supply chains: a guide for commercial and procurement professionals”**

49. The guide entitled “Tackling modern slavery in government supply chains: a guide for commercial and procurement professionals”, produced by the Government of the United Kingdom, promotes a risk-based approach to tackling modern slavery in government supply chains. It acknowledges that Governments have the opportunity to use their extensive buying power to help mitigate the risks of modern slavery occurring in their supply chains by adopting new processes and procedures in both procurement and supplier management.

*Ending Child Labour, Forced Labour and Human Trafficking in Global Supply Chains*

50. The report entitled *Ending Child Labour, Forced Labour and Human Trafficking in Global Supply Chains*, published by the International Labour Organization, OECD, the International Organization for Migration (IOM) and the United Nations Children’s Fund in 2019, presents joint research findings and conclusions on child labour, forced labour and trafficking in persons linked to global supply chains. It acknowledges that global supply chains have the potential to generate growth, employment, skill development and technological transfer, but that they can also be linked to trafficking in persons and ancillary offences.

**Interactive Map for Business of Anti-Human Trafficking Organisations**

51. The Interactive Map for Business of Anti-Human Trafficking Organisations is a resource for companies to navigate emerging partners, and facilitates coordination on the eradication of trafficking in persons. It contains profiles of organizations working with the business sector to combat modern slavery. It was developed by the Global Business Coalition Against Human Trafficking, the Responsible and Ethical Private Sector Coalition against Trafficking (RESPECT) Initiative (consisting of the Babson College Initiative on Human Trafficking and Modern Slavery, IOM and the Global Initiative against Transnational Organized Crime) and the United Nations Global Compact, through the Action Platform on Decent Work in Global Supply Chains, with support from Alliance 8.7.

**“Sweat & toil: child labor, forced labor, and human trafficking around the world”**

52. The mobile telephone application entitled “Sweat & toil: child labor, forced labor, and human trafficking around the world” is produced by the Department of Labor of the United States. It is aimed at documenting child labour and forced labour worldwide, as well as increasing access to countries’ efforts to eliminate child labour. It contains data on child labour, goods produced with child labour or forced labour, and laws and ratifications. It also contains suggestions on what Governments can do to end child labour.