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DRAFT REMARKS: Mil Niepold, Senior Policy Advisor, Verité

Verité would like to thank the OSCE for inviting us to participate in this important meeting.

First, a bit of context.

- Verité, founded in 1996, is a leading human and labor rights NGO working globally to ensure fair, safe and legal conditions in nearly 70 countries
- We work across virtually all industries (agriculture, electronics, apparel, etc.)
- Our partners include trade unions, companies, governments and civil society

We believe that Fair labor starts with fair hiring. So does the leverage to eliminate trafficking.

One of best moderators that I ever had the pleasure to work with, once kicked off one of my presentations by dispelling the myths that he thought might be in the room. This was over 10 years ago, and all of those present are still talking about this approach. Thus, here are some of the myths that are held by some (but certainly not all) about trafficking and forced labor:

- Modern slavery is limited to sex trafficking
- Modern slavery is waning
- Companies have no role to play in addressing trafficking
- Companies have no responsibility to “protect, respect and remedy” human rights (“the UN has no teeth... and who is John Ruggie anyway?”)

The leverage to effect change comes at the intersection of the private sector and governments. Verité recently launched our Help Wanted campaign, which includes (on our website) a Toolkit (open source) that enables all stakeholders, from the private sector, to civil society and governments, to learn good practices to address rampant problem of trafficking and migration that results in forced labor. As part of this campaign, we are currently calling for the certification of labor brokers and we are pleased to see that just yesterday the Global Economic Symposium has endorsed this approach. We are also working closely with the world’s largest recruitment agency, Manpower, on this campaign. A major intersection for business and policy is the regulation of migration (sending and receiving countries), labor brokers, etc.

- Governments and business each have a vested interest in regulating labor flows

VAMAS Example : VAMAS is the Vietnam Association of Manpower Supply. It is the national association that represents the recruitment industry in Vietnam and labor brokers playing workers internationally and in the domestic market. In 2010, VAMAS launched a Code of Conduct Applied to Vietnamese Enterprises Sending Workers for Overseas Employment. This

code of conduct sets standards that regulate the behavior of VAMAS' member companies on areas of work such as job advertisement, recruitment, training, sending and protecting workers overseas, and dispute settlement. The code was developed with support from VAMAS' members and in close cooperation with the Vietnam Ministry of Labor, Invalids and Social Affairs and the ILO to ensure consistency with national law and international standards.

Labor Brokers are at the Center of the Global Economy

- Labor brokers are middlemen in the recruitment, hiring, and/or management of laborers.
- Complex supply chains mean that companies need coordination and expertise to manage challenges of recruiting and hiring across countries and time zones.
- **Companies turn to labor brokers to manage these challenges. Brokers promise to provide a cheap and flexible workforce. These pressures conflate to increase demand for trafficking.**

THE BAIT: DEBT

Debt is the most powerful factor in setting the stage for a migrant worker to become enslaved.

- The worker is often required to take on debt to pay high recruitment fees, both legal and illegal.
- Debt means that a worker can be more easily manipulated and coerced into working in abusive settings such as illegally low wages, poor working conditions, excessive work hours, etc.
- The worker will also be more affected by threats of deportation, and consequent cessation of her earning potential, than a worker with not debt obligations

Debt can seem like a reasonable risk if a worker has been promised a high paying job.

THE BAIT: DECEPTION

False promises may be made regarding terms and conditions of employment including wages.

In addition to recruitment fees, fraudulent fees may be charged for travel, health, and documentation.

The broker may also use fraudulent visa practices

THE SWITCH

Workers are promised one thing, but given another at the worksite. They may find that:

- The labor broker is the on-site manager.

- Their passports are confiscated.
- Employers take control of their bank accounts.
- Their visa is fraudulent, or ties them to a single employer.
- They are required to submit “run-away insurance.”
- They are threatened with deportation if they complain.
- They are forced to work overtime.
- Wages are lower than promised.
- DEBT combined with DECEPTION means that the worker can become ‘bound’ to his job. **This leaves the worker vulnerable to exploitation, abuse, forced labor and drives trafficking.** Debt leads to debt bondage, which the ILO classifies as a form of forced labor- modern day slavery.
- A worker who ends up in a situation of forced labor, even one which is temporary in nature, has been trafficked, exposing brokers and employers to a host of other business risks:
 - Legal risk
 - Threats to brand value and company reputation
 - Trade-related risk
 - Threats to investment and finance
 - Damaged social license to operate

The Help Wanted Toolkit and Primer offer tools, information, and strategies for brands, suppliers, investors, advocates, governments, and auditors to understand and combat these risks.

So, in conclusion we wanted to leave you with some recommended next steps for companies:

- Strengthen Company codes to include explicit prohibitions on forced labor, trafficking, etc.
- Codes should extend well beyond first tier suppliers (and include labor brokers)
- And they should be enshrined in commercial contracts
- Companies should know their supply chains and assess their risks

- Companies should improve methods of social auditing to more effectively detect these often hidden abuses – e.g. audit the labor brokers you or your suppliers use
- Where discovered, companies must take immediate and effective corrective action that places the needs of trafficking victims first; work with victim service providers (public authorities or civil society groups)
- Develop management systems that place prevention at the heart of action against forced labor and work towards system-wide continuous improvement
- Build in layers of transparency
- Engage across industries and with multiple stakeholders to share good practices and lessons learned
- Report publicly to meet growing expectations of stakeholders and, in some jurisdictions, legislators
- Engage in public policy advocacy at national, regional and international levels, for example with organizations like OSCE; e.g. to tackle policy issues like recruitment fees, passport retention or others that might place workers at risk

And, recommendations for OSCE member states:

- Strengthen the legal and regulatory framework to effectively monitor labor brokers and their industry (e.g. ratify ILO Convention 181 and bring national legislation in line with its provisions)
- Build institutional framework to better enforce law and regulate recruitment industry (e.g. establish rigorous and transparent certification or licensing program for brokers)
- Situate regulatory reform with a system of migration governance that establishes robust protections for migrant workers
- Cooperate with sending or receiving country governments, and consider formalizing this cooperation in bilateral agreements that include migration provisions
- Make sure relevant ministries and department staff and civil servants, at home and abroad, are trained on trafficking, forced labor and risks posed to migrant workers
- Engage across industries and with multiple stakeholders
- Convene dialogues across industries to promote sharing good practice
- Adopt policies to encourage increased transparency and public reporting of companies on their efforts to address human trafficking and forced labor
- Build capacity (technical assistance to key trading partners, etc.)

END HERE

EXAMPLES (IF THERE IS TIME DURING DISCUSSION):

HP: Hewlett Packard has also taken a leading role in public forums advocating for business engagement against trafficking. It has raised awareness of the human and labor rights risks in the electronics industry linked to labor migration (for example, deception in recruitment, excessive recruitment fees, document retention and related limitations on freedom of movement), and on that basis represented the corporate sector at a special session of the UN General Assembly Thematic Debate on Human Trafficking in June 2008.

The results of the **ICI** since its founding have resulted in large scale outcomes from the original investment. For example, the ICI has held 7,000 community mobilization meetings, reaching out to over 250,000 community members and trained more than 1,600 involved citizens on forced labor and human trafficking. Further, it worked with local governments and communities to implement Community Action Plans designed to sustainably reduce to vulnerability of children to the worst forms of child labor.

None of these tasks could have been accomplished by any one stakeholder working in isolation. The partnership approach allowed the brands involved to impact cocoa communities in a more meaningful, comprehensive way than a series of uncoordinated, possibly duplicated efforts, from individual companies.

PMI FORCED LABOR FINDINGS:

Verité teams did not identify clear cases of forced labor. Workers categorically denied that they were unable to leave their job or were employed against their will. However, there was a substantial number of cases (between 25 and 30%), where passport retention by the farmer still occurs, which is generally a 'red flag' in terms of migrant workers being exposed to the risk of forced labor. Verité's investigation of all retention cases revealed that most workers still had access to their passports, and all workers stated they had handed over their documents voluntarily. Through further checks on all cases of concern at the end of the season, Verité teams were reasonably satisfied that passport retention had not been used by farmers as a means of coercion vis-à-vis workers.

Verité also notes that crossing the border between Kazakhstan and Kyrgyzstan without ID is feasible for migrants (with or without a passport a migrant is likely to have to pay an appropriate cash bribe). This, plus the availability from the Kyrgyz consulate, for a small fee, of a 'spravka' or pass, in the case of passport loss, means that retention is not as determining a factor in forced labor in Kazakhstan as is often the case for migrant workers elsewhere. Nonetheless, the practice of farmers keeping their workers' passports remains a very serious issue which PMK will need to closely monitor in the next season.

With respect to debt induced forced labor, the data revealed only a small number of cases where workers ended up owing money to the farmer. These cases were investigated by Verité teams and although at least two were situations of concern, neither were per se attributable to bad faith, manipulation, or deception on the part of the farm owner. As already noted, some migrant families experienced poor financial outcomes, which can increase the risk of having to carry over debt to the next season and will therefore require ongoing monitoring

Migrant populations are generally considered as particularly vulnerable to potential forced labor situations. This issue is therefore critically important in Kazakhstan because the country depends on migrant labor in the economy as a whole, and likewise tobacco production is dependent on the availability of skilled or semi-skilled migrant workers.

RECOMMENDATIONS:

3.5 Indicators of Potential Forced Labor Situations

Commentary: The 25 to 30% of farm workers who hand over their ID or passports to farm owners is a significant area of concern.

Risks: Passport retention is widely recognized as key potential means of coercion, making workers vulnerable to forced labor situations.

Strengths: PMK itself is bringing forward cases of potential forced labor for further review and investigation, demonstrating a deeper understanding of the various factors that can contribute to this.

Recommendations:

- **A set of indicators or ‘tips’ should be developed based on what is already known from PMK experience and the findings of this report to support the agronomists (and LCF and other possible PMK field partners in the future) in systematically ‘flagging’ farms which require monitoring for potential forced labor situations, including, for example:**
 - **Passport retention**
 - **Poor yields (e.g. because of lack of experience) which can significantly increase the risk of debt-induced forced labor;**
 - **Deportation/threat of deportation;**
 - **The facilities to save money safely if paid regularly in cash;**
 - **Motives for not returning to Kyrgyzstan at the end of the season;**
 - **Workers’ bad health.**