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5th April 2006

TACKLING HUMAN TRAFFICKING: CONSULTATION ON PROPOSALS FOR A UK ACTION PLAN.

Please find attached the written submission of ECPAT UK to *Tackling Human Trafficking: the Consultation on Proposals for a UK Action Plan*.

ECPAT UK welcomes this opportunity to contribute to the consultation process and will be available for any further verbal or written input if required. ECPAT UK represents a coalition of nine leading charities in the United Kingdom. They are Anti-Slavery International, Barnardo's, Jubilee Campaign, NSPCC, Save The Children UK, The Children's Society, UNICEF UK, World Vision UK, and The Body Shop Foundation. ECPAT UK is a UK registered charity (Charity number 1104948) and the UK national representative of the global ECPAT movement with partner organisations in over 70 countries around the world campaigning against the commercial sexual exploitation of children, including child trafficking. As a children's rights organisation ECPAT UK will only make comments on the trafficking of children or on laws and policies as they affect child victims of trafficking. ECPAT UK has taken into consideration the following positive obligations through international agreements and instruments in developing this submission:

- United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, 2000
- United Nations Convention on the Rights of the Child, 1989
- European Union Framework Decision on Combating Trafficking in Human Beings, 2002
- Stockholm Declaration and Agenda for Action against the Commercial Sexual Exploitation of Children, 1996
- International Labour Organisation Convention 182 on the Worst Forms of Child Labour, 1999

ECPAT UK is also mindful of relevant UK (and where relevant, the equivalent Scottish and Northern Ireland) legislation pertinent to children and their protection, including:

- The Children Act, 1989, 2004
- Sexual Offences Act, 2003
- Nationality, Immigration and Asylum Act (Treatment of Claimants, etc.), 2004
- Gangmasters Licensing Act, 2004
- Identity Cards Bill, Clause 27 (5) related to false identity documents, 2004

And fully supports the principles and stipulations in the

- Council of Europe Convention on Action against Trafficking in Human Beings, 2005.

ECPAT UK would also like to bring to your attention the consultative process established in 1996 for a UK National Plan later called the *National Framework for Safeguarding Children from Commercial Sexual Exploitation* (Department for Education and Skills) that identified a range of actors and strategies in protecting child victims of trafficking.

ECPAT UK contributed to the above process as well as to consultations on the Sexual Offences Act 2003 (Home Office) and the Crime Reduction Toolkit: Trafficking of People (Home Office). In 2004 – 2005 ECPAT UK was a co-convenor of the Counter-Trafficking Victim Support Group and in 2005 a member of the advisory reference group to the Association of London Government (ALG) and London Child Protection Committee '*Pan-London Process for Safeguarding Trafficked and Exploited Children*'. ECPAT UK and the ALG will jointly launch the Pan-London initiative in June, 2006.

ECPAT UK has produced two research reports on the trafficking of children into the UK and is currently undertaking a scoping study on child trafficking in Manchester, Newcastle and Liverpool.

ECPAT UK uses the definition of trafficking as set down in the United Nations Protocol to Prevent, Suppress and Punish Trafficking In Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime (also known as the Palermo Protocol).

“The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if this does not involve any of the means set forth” (elsewhere in the Palermo Protocol).

Although we use the terminology of ‘unaccompanied’ children in this document we do so for the sake of consistency with terms and definitions used in UK legislation. When thinking about trafficking it would be more accurate to describe children as ‘separated’ (from their primary caregiver). The term ‘separated’ is more useful as it would encompass many ‘accompanied’ children who entered the UK with adults who are not their legal guardian or primary caregiver.

Please do not hesitate to contact me for further information.

Sincerely,

Christine Beddoe
Director, ECPAT UK

Note: The views in this written submission have been agreed by the nine organisations that represent the coalition members of ECPAT UK. However, not all ECPAT UK coalition members have expertise and evidence in all areas covered by this submission".

TACKLING HUMAN TRAFFICKING CONSULTATION ON PROPOSALS FOR A UK ACTION PLAN

PREAMBLE

ECPAT UK considers that the only appropriate response to child trafficking is one that recognises the guiding principles of protection and respect as set out in the United Nations Convention on the Rights of the Child (UN CRC).

ECPAT UK fundamentally disagrees with a policy approach that looks upon child trafficking solely within the paradigm of immigration crime. When viewing child trafficking as immigration crime it undermines the UN CRC principles of non-discrimination and best interest of the child. It also risks being diverted from situations where children have been trafficked from within the European Union (no immigration crime committed) and within the borders of the United Kingdom (internal trafficking).

For the purpose of clarity ECPAT UK has chosen to frame the answer to Question 8 against other questions in the Home Office Consultation document.

Q. 8. How should we tackle the specific problem of child trafficking?

GENERAL

1. Have we got the scope of the plan right? Have we adequately covered the various forms of exploitation that can arise in the trafficking context?

ECPAT UK considers the scope of current proposals to be inadequate for dealing with the identification and protection of trafficked children. Any National Plan to protect child victims of trafficking must be consistent with, and add value to, existing policy and legislation for safeguarding children such as the Every Child Matters strategy, and international legal instruments such as the UN CRC.

ECPAT UK recommends:

- Drafting a separate strategic framework document for *Safeguarding Trafficked Children*;
- The appointment of a national *Child Trafficking Rapporteur*¹ independent of government, to ensure oversight and accountability in line with the principle of the best interests of the child. ECPAT UK suggests the Children's Commissioners of England, Wales, Northern Ireland and Scotland be consulted in this process;
- The ministerial responsibility for the implementation of any National Plan for Safeguarding Trafficked Children be shared equally with the Minister responsible

¹ An example to consider is the Dutch National Rapporteur who presents an annual report to the Dutch Government. See, Anna G. Korvinus, (2005) 'Trafficking in Human Beings, Third Report of the Dutch National Rapporteur', Bureau NRM: The Hague.

for the Department for Education and Skills (DfES); recognising the significant responsibilities of Social Services, the Department of Education and the Department of Health in the identification and care of trafficked children;

- DfES appoint a policy lead on child trafficking;
- The UK government ratify the *Council of Europe Convention on Action against Trafficking in Human Beings* as soon as possible to ensure that minimum standards for the protection of victims of trafficking are embedded within a National Plan, and
- The UK Government withdraws its reservation from the UN CRC to ensure separated children are afforded the best possible protection and that there is no impediment to a comprehensive plan for safeguarding trafficked children.

ECPAT UK is concerned by the limited geographical scope within the Home Office Consultation document. There is no mention of Africa and given the extreme vulnerability of African children because of poverty, HIV/AIDS, civil war and intra-regional trafficking, ECPAT UK recommends that Africa be looked at more closely as a source region. ECPAT UK's previous research has identified cases of African children trafficked for domestic servitude and sexual exploitation. ECPAT UK is also aware of cases of children being trafficked from a number of other source countries for sexual exploitation and exploitative labour specifically in restaurants, as building site labour, and in organised cannabis growing houses. Evidence also suggests that trafficked children become highly vulnerable to rape and sexual exploitation even though they may not have been originally trafficked for sexual exploitation.

ECPAT UK recommends:

- Trafficking of children into the UK be considered a global issue and not limited to those countries where criminal investigations have focussed attention on trafficking for off-street prostitution, and
- Trends and emerging issues from the UK be compared to those across other parts of Europe to identify hidden trafficking patterns such as baby trafficking and trafficking for organ donation (both now occurring in other parts of Europe) and geographic trends where the UK could be a transit country.

2. Are there any areas for action or specific actions missing from the proposals?

A National Plan must be a 'live document' that remains valid and is reviewed on a regular basis. The format of the proposed National Plan has not been articulated in the Home Office Consultation document.

An effective National Plan relies on complementarity and co-operation among all organisations and institutions concerned for the care and protection of trafficked children. Co-operation between governmental and non-governmental sectors should be based on transparency and clear delineation of responsibilities.

ECPAT UK recommends:

- Any National Plan on safeguarding trafficked children be time bound, have clear targets, indicators of success and nominated focal points/persons to ensure accountability. A National Plan must lead to clear outcomes and outputs, and
- Any National Plan on safeguarding trafficked children include multi-agency protocols and agreements to ensure that any authority or organisation involved in the protection of child victims adopts policies and procedures for information sharing and networking.

PREVENTION

3. How can we measure the extent to which trafficking is taking place into and within the UK? In particular, how can we improve our knowledge on the scale of child trafficking and trafficking for labour exploitation into and within the UK?

Child trafficking cannot be accurately measured until systems are in place across government to identify, risk assess and document trafficked children against a common set of *Indicators of Trafficking*. Ideally, an annual report by an independent Trafficking Rapporteur would be the vehicle for sharing a summary of this information with practitioners and policy makers on trends and emerging issues.

Victims of trafficking are only rarely able to extricate themselves independently from their exploitative situation. Children who have been trafficked will most likely come to the attention of government or voluntary sector agencies for reasons other than trafficking. Identification requires a proactive environment with guidance and training. Working with trafficked children requires an ethical and systematic approach to the collection of data at various stages in case management. It also requires co-ordination of information across agencies to ensure appropriate information is shared. The main route to identification is disclosure and therefore creating the conditions for disclosure is of paramount importance. Children are unlikely to disclose their experiences until they feel protected and this may come only after they are assured of safety. Anecdotal and case study evidence suggests this can be months, possibly years, after they were trafficked. An asylum process where children and young people's experiences and age are often challenged creates an environment of mistrust. Children who arrive with experiences of officials mistreating them and are then faced with officials not trusting them in the UK make it difficult to provide the environment for disclosure.

ECPAT UK recommends:

- *Indicators of Trafficking* are included within the existing assessment mechanisms for safeguarding children, such as the Common Assessment Framework for Children and Young People within the Every Child Matters strategy in England and Wales;
- A systematic approach to information collection and reporting is harmonised across the UK through existing mechanisms such as the Local Safeguarding Boards managed and monitored by a DfES lead;

- Information on child trafficking is collected for the purpose of analysis at a national level, but that rigorous and ethical methodology eliminates the risk of reprisal or risk of re-traumatisation of the child. Data Protection principles must guarantee the right to confidentiality of the affected child for the use of their personal data, and
- An independent national *Child Trafficking Rapporteur* is appointed and responsible for annual reporting on national statistics, trends and emerging issues.

4. Does your organisation have information on cases of trafficking in the UK, in particular trafficking for forced labour including domestic service?

Yes.

ECPAT UK is currently undertaking a scoping study of child trafficking in Manchester, Newcastle and Liverpool. Early results of interviews² in Manchester indicate that both voluntary and statutory agencies feel ill equipped to deal with child trafficking. Interviews confirm that appropriate systems are not in place to identify or respond to trafficked children and concerns have been raised that trafficked children may have passed through services without ever being identified or recorded.

In 2004, ECPAT UK published '*Cause for Concern? London Social Services and Child Trafficking*'. This research interviewed Social Services staff across London and while many Local Authorities could not provide details of specific cases, 32 out of 33 boroughs in London were concerned that they had a problem with trafficked children. ECPAT UK considers that trafficking of children for labour exploitation is more frequent but less documented than sexual exploitation.

As a coalition of charities working with children ECPAT UK's members are also experiencing increased reporting of child trafficking across their services. Although much information is anecdotal, until systematic identification systems are in place anecdotal information needs to be given appropriate consideration.

A 2005 London research study conducted by Barnardo's³ found that 12 out of 32 local authority representatives interviewed in the research were aware of cases of young people from abroad who had been sexually exploited. Both ECPAT UK and Barnardo's research agrees that it is most likely that sexual exploitation of trafficked children and young people occurs in 'informal locations' such as private flats where they are expected to have sex with groups of men.

Evidence from the NSPCC's Bfree/Streetmatters service highlights the kinds of problems children who have been trafficked face including an unsympathetic and punitive asylum process. The service has a number of young victims of trafficking who did not claim asylum upon their immediate arrival (they may not have identified themselves as having

² Interviews conducted by telephone between March 30 – April 3 2006 with representatives from medical health services, Home Office UKIS, refugee support services and voluntary sector agencies supporting unaccompanied asylum seeking children.

³ Harper, Z. Scott, S (2005) 'Meeting the Needs of Sexually Exploited People in London', Barnardo's.

been trafficked or understood what had happened to them or used the word ‘trafficking’). This has complicated their applications for indefinite leave and diluted the support available to them. It now appears likely that they will be deported and returned to countries where they will have no support or means of survival. These young people will therefore be vulnerable to re-trafficking and placed at risk of further sexual exploitation.

5. How can we raise awareness among potential trafficking victims about the risks and realities of the exploitation they are likely to suffer through being trafficked?

This question assumes that all victims of trafficking know they are being trafficked and have the choice to say no (see question 6 below). It, therefore, fails to acknowledge that in many instances family members or trusted elders may be involved in the trafficking chain and children are inextricably bound by familial obligation to what is happening to them. This question is not applicable to children unless it is part of a wider child protection strategy in source countries to enable all children to have equal access to justice, education and care systems. This can be better achieved with the support of increased funding from the Department for International Development (DfID) through international child protection programmes.

6. How do we ensure that victims are identified at the earliest opportunity particularly in source countries (prior to departure) and at our borders where the victims themselves may not be aware that they are being trafficked?

(See also question 5 above)

ECPAT UK recommends:

- The introduction of multi-agency safeguarding teams operating at all ports of entry and departure (in UK and in source countries);
- 24-hour access to safe accommodation for children;
- Where Accompanying Adult names do not correlate on new entry permit Vignettes that the child is assessed as a possible victim of trafficking and not immediately removed as an illegal entrant, thus minimising risk of returning the child to traffickers in the country of departure, and
- A broader conceptual understanding that child trafficking does not simply start at the port of departure. Children may have been exploited and controlled by traffickers for some period before they actually leave their own country. Children who are identified as trafficked prior to departure should be supported as a victim of trafficking and afforded the best possible care and protection.

INVESTIGATION, LAW ENFORCEMENT AND PROSECUTION

9. We have provided for heavy maximum penalties for trafficking offences. Are we achieving the right sentences in these cases?

ECPAT UK has been pleased to see the length of sentences in recent cases where children have been victims of trafficking, although it is too early to tell if this has had any

deterrent effect. However, there is little indication that investigations have focussed on anything other than trafficking for sexual exploitation in off-street settings. ECPAT UK is concerned that other forms of child trafficking are not being investigated and never get to court.

10. What more needs to be done to get trafficking into core police business?

ECPAT UK brings your attention to Lord Laming's comments following the investigation of the tragic death of Victoria Climbié. Laming states "*Chief Constables must ensure that the investigation of any crime against children is as important as any other form of serious crime. Any suggestion that child protection is of a lower status than other forms of policing must be eradicated.*"⁴

The fact that child protection is still not a UK Police performance target is unacceptable.

ECPAT UK recommends:

- Safeguarding children to be included as a community policing priority with related Best Value Performance Indicators. The trafficking of children as a safeguarding issue should then be mainstreamed across core police business and included in policing plans.

11. What more needs to be done to raise awareness of organised immigration crime, including trafficking, among police forces?

ECPAT UK recommends:

- A new national policing portfolio for child trafficking be held within the newly formed Child Exploitation and On-Line Protection Centre (CEOP). With appropriate resourcing CEOP should be able to provide a mechanism for centralised intelligence support, training and guidance for law enforcement agencies as well as become the interface with Interpol, international policing networks and children's charities.

VICTIMS

12. How could support services provided to victims of trafficking be replicated or expanded?

There are no specific support services for child victims of trafficking. Some voluntary sector agencies have adapted existing programmes but this has been a reactive process rather than a targeted programme. There are no 'safe house' facilities for child victims of trafficking in the UK. Safe accommodation is the central point around which every other service should co-ordinate. ECPAT UK considers the appropriate safe house model to be a holistic and integrated approach with other support services that can provide an interface with specialist legal, interpreting, medical and counselling services. In some cases, the child will also require secure accommodation to safeguard them from the threat of traffickers. Young people need to feel safe and secure before disclosing their story or giving evidence. Unaccompanied Asylum Seeking Children (UASC) are often

⁴ Laming, Lord (2003) Report of an Inquiry. The Victoria Climbié Inquiry. Section 13.24, page 299.

isolated, face barriers to accessing services and quality legal advice and face confusion and increased problems as they turn 18. The current situation is often inadequate for UASC and if this is the structure onto which trafficked children are to be supported we need to raise standards to meet the goals of The Children Act 1989 & 2004 and Every Child Matters.

ECPAT UK recommends:

- Children identified as trafficked should be appointed a Guardian who has a statutory duty to support the child in their legal, practical and emotional needs and who can advocate on their behalf;
- Children identified as trafficked should be offered free specialist and experienced legal representation from an early stage and be provided with information on their legal rights as a victim of trafficking under UK and international law;
- Appropriate specialist accommodation, including Safe House accommodation and highly trained foster care, must be provided across the UK;
- A multi-agency panel should determine what is in the best interests of that particular child, together with the participation of the child;
- A national Helpline for professionals on child trafficking be established to assist in referrals to specialist support such as legal advice, counselling and accommodation;
- Measures should be put in place to harmonise existing policy with good practice and procedures on the treatment of victims of trafficking. For example: protocols for *looked-after children who disappear* need to be made relevant to trafficked children;
- Young people who are age disputed should be treated as minors whilst they are awaiting independent assessment, and
- Trafficked children (*and suspected trafficked children*) should always be assessed under Section 20 of the Children Act 2004 to prevent vulnerable children being placed in unsuitable accommodation such as bed and breakfast accommodation.

14. How do we identify vulnerable child victims?

All child victims of trafficking are vulnerable until they are assured of safety and security.

ECPAT UK recommends:

- A common set of *Indicators of Trafficking* be developed in consultation with stakeholders currently working with trafficked children;
- Guidance and training on identification for all who come into contact with children (including teachers, health professionals, immigration, police, faith groups etc.);

- Enhanced knowledge of child trafficking for specialist groups such as asylum teams, sexual health workers, foster carers etc;
- *Indicators of Trafficking* be included within the existing assessment mechanisms for safeguarding children, such as the Common Assessment Framework for Children and Young People within the Every Child Matters strategy in England, Wales and Northern Ireland;
- Community education campaigns in the UK, targeting black and minority ethnic (BME) communities where trafficked children are likely to be living, implemented in partnership with voluntary and community based organisations;
- A common agreement is reached with all airlines and airport authorities to ensure child protection measures at airports, in-flight and air-side (in-bound and out-bound) are consistent and fully compatible with best practice on identification and care of trafficked children;
- Research undertaken across the UK to map suspected cases of child trafficking across support services (both voluntary and statutory agencies).
- Immigration services (UKIS) be subject to Section 11 of the Children Act 2004 that places a statutory duty on key people and bodies to make arrangements to safeguard and promote the welfare of children.

15. What are the benefits and drawbacks of providing reflection periods and/or residence permits to victims of trafficking?

ECPAT UK believes that all returns should be voluntary. Implicit within this is that child victims of trafficking should have the right to remain in the UK if it is in their best interest. Although the usual vehicle for accessing permanent residency would be the asylum process it should be remembered that not all trafficked children apply for asylum. Protection must be provided irrespective of whether the child has claimed asylum or not.

ECPAT UK believes that the UK asylum process should recognise child trafficking as a cause of persecution and that trafficked children should be seen as a distinct group. ECPAT UK bases this opinion on case evidence of child trafficking victims who are often severely traumatised by their experience and have a deep-seated lack of trust of State authorities, which they have often been taught to mistrust by their traffickers. Therefore, for trafficked children to disclose their experiences they first need to feel protected and safe. Agencies with experience in caring for such children find that the level of trust and security necessary for a child to share their story could take more than a few months and can often take years. However, it should not be forgotten that the aim of a reflection period is to provide the space and time for trafficking victims to come to terms with their experiences and help them to recover and heal from physical and psychological harm done to them. Trafficked children should never be put under pressure to give evidence – the requirement to give evidence should not be part of any agreement for reflection or residence permits for children.

16. How can we ensure that vulnerable victims returning to their countries of origin are not re-trafficked?

ECPAT UK believes that all returns should be voluntary. The only way to ensure that child victims of trafficking are not re-trafficked is to identify and implement a durable solution based on the best interests of the child – including long-term arrangements for children as opposed to short-term solutions (such as emergency assistance and temporary leave to remain). It is important that any decision-making surrounding a child's best interests is carried out by a multi-agency panel, which takes a wide-ranging view of the interests of the child. It should not always be assumed that family reunification is in the child's best interests. Family reunification is seen as a strong factor in favour of a child's return. However, in some circumstances a child may have been trafficked by their family or guardian and clearly returning the child back into that environment would not be in the best interests of the child. Any process where a child is to be returned to their family should start with an assessment of the ability and willingness to receive the child. A primary consideration for children should be safety, and a full risk assessment must be carried out to decide the risk or harm, exploitation, abuse or trafficking should they be returned.

ECPAT UK is deeply concerned by the recent Home Office Immigration and Nationality Directorate (IND) policy to implement an Enforced Returns of Failed Unaccompanied Asylum Seeking Children programme. A forced returns programme will increase the risk of re-trafficking and could endanger children. Both countries chosen for this programme to date (Albania and Vietnam) have a serious problem with the trafficking of children.

ECPAT UK is also concerned by the use of the European Commission Dublin II Regulation to remove failed unaccompanied asylum seeking children to a third country. The principle of best interest of the child should be the primary consideration when applying the Dublin II Regulation in cases involving children. Removing separated children and young people to a third country without assessing and addressing the risk of trafficking increases the risk of re-trafficking, especially if safeguard measures, including trafficking prevention strategies, cannot be monitored in the third country.

ECPAT UK recommends:

- That the current Home Office IND programme of Enforced Returns of Failed Unaccompanied Asylum Seeking Children be withdrawn as it does not provide the safeguards to prevent trafficking and further exploitation; and any future voluntary returns programme must provide a durable solution for every individual child and be based on the best interest of that child, and
- A review of the way in which Dublin II Regulation is being applied to separated children and in the meantime suspended to avoid risk of re-trafficking, and
- A mapping exercise should be undertaken to identify inconsistencies between current immigration policies and The Children Act, 1989 & 2004, and inconsistencies rectified to prioritise safeguarding trafficked children in accordance with The Children Act 1989, 2004 and best practice in the UK and internationally.

17. How can we ensure safe and sustainable return and reintegration of victims into their home communities?

ECPAT UK believes that all returns should be voluntary. Safe and sustainable return can only be achieved through the identification of a durable solution for each child on the determination of what is in the best interest of that child.

The Committee on the Rights of the Child⁵ has recently produced general comment on the treatment of unaccompanied and separated children outside their country of origin. This outlines how any decision on the return of a child must take into account the following:

- Safety, security and conditions, including socio-economic conditions awaiting the child upon return;
- Views of the child expressed in the exercise of his or her right to do so under Article 12 of the UN CRC and those of the caretakers;
- The child's level of integration in the host country and the durability of absence from the home country;
- The child's right to preserve his or her identity, including nationality, name and family relations, and
- The desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

ECPAT UK recommends:

- That any UK return and reintegration policy framework take into consideration the above guidance from the UN Committee on the Rights of the Child as minimum standard and work in partnership with Government and Voluntary sector agencies in the UK and abroad to ensure each child has access to long term care and protection. This should include guarantees for: security, food, safe accommodation, access to health care, psycho-social support, legal assistance, social services and education with a view to their social re-integration. Additional appropriate assistance should be provided to children with special needs including post-traumatic stress disorder associated with trafficking and exploitation, pregnancy and child care.

**** END****

⁵ United Nations Committee on the Rights of the Child. General Comment no. 6 (2005). Treatment of unaccompanied and separated children outside their country of origin.