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NOTE

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Subject:	CSAD - Joint BE/DE/NL-Compromise Proposal for Art. 17 Paragraph 3 and Recital 34a

Delegations can find below the proposal from Belgium, Germany and the Netherlands on article 17(3).

Joint Compromise Proposal by Belgium, Germany and the Netherlands on Article 17 Paragraph 3 of the Recast of the Directive combatting child sexual abuse and exploitation

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Article 17 Paragraph 3

Member States shall ensure that professionals working in close contact with children in the child protection, education, childcare and health care sectors have the obligation to report to the competent authorities at least when they have substantial grounds to believe that the wellbeing of the child is in serious and imminent danger because an offence punishable under this Directive has been committed or is likely to be committed.

New Recital 34a

The best interests of the child as provided by Article 3 of the UN Convention on the rights of the child and Article 24, section 2, of the European Charter of Fundamental Rights must be the guiding principle for professionals working in close contact with children in the child protection, education, childcare and health care sectors when reporting suspicion that an offence punishable under this Directive has been committed or is likely to be committed to the competent authorities. Article 17 para. 3 therefore provides for an obligation to report at least in cases where the professionals in question have substantial grounds to believe that the wellbeing of the child is in serious and imminent danger. Moreover, experiences in the field show that there can be circumstances where the best interest of the child may be best served by at least postponing reporting to law enforcement agencies. Therefore, a child-centered approach should also take into consideration if the child doesn't consent to getting law enforcement agencies involved and/or if criminal proceedings would constitute an imminent threat to the physical or psychological well-being of the child that cannot be avoided otherwise. It is therefore the responsibility of each Member State to determine the competent authorities to which such suspicion must be reported. Those competent authorities are in particular not limited to law enforcement agencies but can also include for example youth welfare offices.