

## AEPC Dossier

### To remove Garments & Embellished Textiles from the TVPRA list

#### Background:

List of Goods Produced by Child Labor or Forced Labor - The Bureau of International Labor Affairs (ILAB) maintains a list of goods and their source countries, as required under the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005 and subsequent reauthorizations. The List of Goods Produced by Child Labor or Forced Labor comprises 156 goods from 77 countries, as of June 23<sup>rd</sup>, 2021.

In the 2021 TVPRA List by Country, in India's Child Labor & Forced Labor section there are products Garments & Embellished Textiles mentioned.

#### Request:

We request to remove the products of Garments & Embellished Textiles from the list of List of Goods Produced by Child Labor or Forced Labor.

#### Justification:

##### **A. Initiatives taken by Government of India for Eradication of Child Labour**

- i. Under Legislative action plan Government has enacted the Child Labour (Prohibition & Regulation) Amendment Act, 2016 which came into force w.e.f 01.09.2016. The Amendment Act, inter alia, provides for complete prohibition on employment or work of children below 14 years and also prohibits employment of adolescents (14-18 years) in hazardous occupations and processes.
- ii. After strengthening the legislative framework through amendment in Child Labour Act, Government has framed the Child Labour (Prohibition & Regulation) Amendment Rules, 2017 which inter alia specifies the duties and responsibilities of State Governments and District Authorities to ensure effective enforcement of the provisions of the Act. Government has also

- devised a Standard Operating Procedure (SOP) as a ready reckoner for trainers, practitioners and enforcing and monitoring agencies and the same has been forwarded to all States/UTs.
- iii. To ensure effective enforcement of the provisions of the Child Labour Act and smooth implementation of the National Child Labour Project (NCLP) Scheme a separate online portal PENCIL (Platform for Effective Enforcement for No Child Labour) has been developed. The Portal connects Central Government to State Government(s), District(s) and all District Project Societies.

### **B. Constitutional Provisions**

- i. Article 21 A : Right to Education The State shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the State, by law, may determine.
- ii. Article 24 : Prohibition of employment of children in factories, etc. No child below the age of 14 years shall be employed in work in any factory or mine or engaged in any other hazardous employment.
- iii. Article 39 : The State shall, in particular, direct its policy towards securing:- The health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.

### **C. Other Laws and Regulations**

- iv. Bonded Labour System (Abolition) Act, 1976 (BLA): The provisions the BLA suggest that there are four important stipulations that need to be satisfied to be bonded labour as per the Act. First, there should be an advance. Second, the worker should be doing work in lieu of that advance. Third, the wages paid are less than the minimum wage prescribed by the competent authority. Fourth, worker loses the right to move freely through out the country.
- v. Right of Children to Free and Compulsory Education Act, 2009: The act asks for free and compulsory education for every child above 6 years and less than 14 years, under which the child can not be expelled or withdrawn from school during this phase.

- vi. The Juvenile Justice (Care and Protection of children) Act, 2000: This act defines a child as a person who has not completed 18 years of age. The act demands protection of child employee against mental and physical exploitation which in the given conditions is by all means not followed. It also prohibits the exploitation of a juvenile or child employee (Sec. 26) and is a cognizable offence.
- vii. The Interstate Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979: The act asks for registration of all establishments which hires more than five workmen and restriction on hiring migrant worker by any unregistered unit.
- viii. In June 2017, India ratified the two core ILO Conventions regarding admission of age to employment (138), and on the worst forms of child labour (182).

**D. Initiatives taken by Non-Government Organisations**

- i. Educating the communities about the ills attached to child labour and discouraging them from sending their children to work.
- ii. Increasing enrolment rates and improving education quality so that more children reach school and stay there.
- iii. Mapping of child laborers, vulnerable children and out-of-school children and facilitating their movement to schools.
- iv. Setting up of bridge schools for child labourers and grooming them to take the leap to formal schooling.
- iv. Rehabilitation and counselling of former child labourers and sending them to school.

**E. Initiatives taken by AEPC**

- i. AEPC had done pioneering work towards better awareness, monitoring and eradication of child labour from apparel value chain under the DISHA initiative.

- ii. Driving Industry towards Sustainable Human Capital Advancement (DISHA) was one-of-its-kind, industry owned and driven initiative of a self-regulatory voluntary code of conducts. Supported by Ministry of Textiles, the programme had created awareness and capacity building of apparel clusters across India.
- iii. The then Chairman AEPC, Dr A Sakhtivel had made a detailed presentation on the achievements made under this initiative during a delegation meeting with US Dept of Labour in 2012. The delegation, with senior representatives from Ministry of Textiles, Govt of India had also submitted a report on all the aspects of the programme and other initiatives , which was appreciated and acknowledged.
- iv. AEPC has done numerous workshops and webinars for awareness of Exporters.
- v. A detailed AEPC submission and presentation before Bureau of International Labor Affairs (ILAB) was done on 26<sup>th</sup> November 2012. It is enclosed as Annexure -3.
- vi. AEPC has circulated a detailed protocol for prevention of Child Labour at work place. The circular is appropriately displayed at AEPC's website.
- vii. AEPC had done a survey through Northern India Textile Research Association (NITRA) in 2010 regarding the Child Labor in Garment Industry. The report indicating due diligences taken by industry on child labour was submitted to US DoL, as part of the dossier.
- viii. Apart from it, in 2021, AEPC proactively requested Ethical Trading Initiative (ETI), a forum of international buyers with a good influence on the buyer's community, to bring on board some major global and domestic brands to discuss the issue of child labour/forced labour. ETI held the said stakeholder consultations with the relevant brands on 6th September 2021, along with NGO Fair Wear Foundation, besides leading brands.
- ix. AEPC in association with Social Accountability International (SAI), New York organised a webinar on the topic "Enhancing Awareness and Compliance on Sustainability in Global Apparel Industry" connecting apparel buyers and suppliers in December 2021.

- x. On 11th August 2022 a delegation of AEPC led by Chairman held a meeting with the Social Accountability Initiative (SAI), New York to discuss this issue. The delegation briefed the SAI about various initiatives taken by the apparel industry in India and informed them that apparel export sector of India is child/forced labour free.
- xi. AEPC had also issued an advisory to all of its members on the legal requirements on Child Labour Prohibition in the factories, as also ways to ensure that there is no child labour in the apparel units. (The Advisory is appropriately displayed at AEPC's website).
- xii. AEPC had reviewed the Bibliography published in the 2021 list of goods produced by child labor or forced labor. It had been observed that in the 29 Bibliography under Embellished Textiles and 23 Bibliography under Garments used for TVPRA listing, all are very old and out dated as given below:

(i)	Embellished Textiles (29 bibliography)	All published before 2012 while some are dating back to 2001
(ii)	Garments (23 bibliography)	1 media news is from 2017 and all other reports and media news are from before 2015 while some are dating back to 2002
Review has been done for the bibliography as given at: <a href="https://www.dol.gov/sites/dolgov/files/ILAB/ListofGoodsBibliography2021.pdf">https://www.dol.gov/sites/dolgov/files/ILAB/ListofGoodsBibliography2021.pdf</a>		

**F. Initiatives taken by Industry**

- i. Sign board on the gates of garment factory premises clearly mentioning that “*Child Labour is Strictly Prohibited in the factory*”.
- ii. Some specific examples of the Initiative taken by Apparel Exporters are given below:

- <https://www.shahi.co.in/our-people/#production-units>
- <http://sahuexports.com/about-us.aspx?mpgid=2&pgid=9&spgid=11>
- <http://www.texportsyndicate.com/compliance.html>
- [http://www.abfri.com/docs/corporate\\_governance/policies/Human-Rights-Policy.pdf](http://www.abfri.com/docs/corporate_governance/policies/Human-Rights-Policy.pdf)
- <http://www.paramountproducts.in/compliance.php>
- <http://www.icewearcreation.com/code.html>
- <http://www.ahillapparel.com/quality.html>

**G. Other Positive Development/Initiatives**

- i. Some other positive developments and initiatives taken by apparel and textile industry, NGOs and government in this regard are given below:

- <https://indiacsr.in/csr-of-indian-textile-industry-saying-no-to-child-labor/>
- <https://economictimes.indiatimes.com/industry/cons-products/garments/-/textiles/trident-founder-rajinder-gupta-to-step-down/articleshow/93461375.cms>
- <https://www.hindustantimes.com/india-news/press-1-for-child-labour-how-garment-workers-mumbai-report-abuse-on-mobiles/story-hyFa5BAxTjm3Hguo2vwsGL.html>



**Apparel Export Promotion Council**

# **AEPC Advisory and Protocol**

## **On Child Labour at workplace**

Apparel Export Promotion Council (AEPC)

November, 2020

## 1. Background

India is a leading supplier of apparel to the world. Consumers all over the world are now becoming increasingly conscious of the conditions under which the apparel is produced and hence, suppliers need to be extremely careful while implementing the workplace compliances. One of the major areas of reputational risk is the use of child labour in the units. Though the opening of global market has brought great growth opportunities for the apparel suppliers, it has also brought great responsibility in terms of curbing child labour.

Informed by the Indian laws, policies and regulations, this AEPC Advisory on child labour expresses the clear intent for apparel manufacturers and aims at protecting children and ensuring that their basic needs and fundamental rights such as health, safety, education and skilling are upheld.

As such to guide the apparel manufacturing units for the same, AEPC is placing this Advisory on Zero Tolerance to Child Labour at the work place. This includes prohibition of employment of children below fourteen years on any occupation in the factory and also the regulation of number of hours of work that can be allowed by a young person (above fourteen years of age and less than 18 years of age) in the factory. The same is done to safeguard their fundamental rights.

Further, to ensure that this advisory is understood both in spirit and in action, the apparel manufacturer are expected to devise and implement a functional and effective management system that embedded with processes for compliances, creating a healthy and young person friendly work environment. Additionally, the apparel manufacturers should educate all employees and sub-contractors about the need and importance of protecting children's rights, and on the penalties that may be inflicted on non-compliance.

The apparel manufacturer may ensure that a consistent message is conveyed to all by following the AEPC protocol on child labour in various practices like visitor and applicant screening, recruitment, personnel records management, induction, communication, training and wages and benefits management.

Below are the following details to facilitate understanding and implementation of the AEPC Advisory on Child Labour

- Applicable definitions
- Interpretations
- Advisory
- The relevance and acts
- The responsibilities of the member units
- And the protocols

These are outlined in the following sections.

### 1.1 AEPC Advisory

AEPC Member Unit shall ensure that no child, who has not completed fourteenth year of age, should be required or allowed to work in any occupation in the factory.

AEPC Member Unit shall also adhere to all applicable local laws for employment of young persons and prohibit young persons from performing any work that is likely to be hazardous or harmful to their health or their physical or mental development.

### 1.2 Indian Central Act Rules as Applicable to the Apparel Industry

The laws governing this principle of AEPC Advisory are mentioned below:-

- ***The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 amended in 2016 (CLPR Act)*** – as a principal law for the definition of the child.
- ***The Factories Act, 1948*** – as a principal law to define conditions for employment of persons between 14-18 years of age.
- ***The Industrial Employment (Standing Orders) Act, 1946 and associated rules*** – to further define the provisions for employment of persons between 14-18 years of age.

However, in case any State Acts and Rules specify conditions on the subject of employment of children and young persons, different from provisions of the Central Acts and Rules listed above, the relevant State Acts and Rules shall prevail. AEPC Member Unit shall be responsible for identifying the relevant State Acts and Rules.

### 1.3 Definitions and Interpretations as Applicable to the Apparel Industry

- 1.3.1 **“Child”** means a person who has not completed fourteenth year of age<sup>1</sup>
- 1.3.2 **“Adolescent”** has been interpreted by the Factories Act, 1948, as person who has completed fifteenth year of age but has not completed eighteenth year.
- 1.3.3 **“Young person”** has been interpreted by the factories Act, 1948, as a person who is either a child or an adolescent. For the purpose of AEPC Advisory on child labour, as per Chapter 7 of Factories Act, 1948, a young person *is a person who has completed 14<sup>th</sup> year and has not completed 18<sup>th</sup> year of age.*
- 1.3.4 **“Hazardous Process”** has been interpreted by the Factories Act, 1948, Section 2(cb), as any process or activity in relation to an industry specified in the First Schedule<sup>2</sup> where, unless special care is taken, raw materials used therein or the intermediate or finished products, by-products, wastes or effluents thereof would: (i) cause material impairment to the health of the persons engaged in or connected therewith, or (ii) result in the pollution of the general environment.

Hazardous process, in the apparel industry, may include operating any electrically operated machine, handling or lifting heavy tools, handling dyes, chemicals and solvents, or working in the boiler or generator room or in any other process which may cause injury or harm to health of the persons employed by the factory. Nonhazardous processes in a garment factory may include thread trimming, fabric spreading, garment packing, helping in core processes and similar activities.

<sup>1</sup> The Child Labour (Prohibition and Regulation) Act, 1986 (part 1, para 1 point 2 (II), amended in 2016 (CLPR Act)

<sup>2</sup> Refer to the list of industries and processes in “The First Schedule” listed The Factories Act, 1948

#### 1.4 Responsibilities of AEPC Member Unit

AEPC Member Unit shall be committed to adhere to the AEPC Advisory on child labour and take the responsibility to:

- Understand and identify applicable laws and their implementation;
- Understand general industry practices and perception; and
- Establish management systems for sustenance and their continual improvement

The basic requirements (as per Indian Central Acts and Rules) applicable to an apparel manufacturing set up have been listed below. The AEPC Member Unit is expected to add any other relevant laws as applicable.

Salient Points	Relevant Section of Applicable Act
<b>The Child Labour (Prohibition and Regulation) Act, 1986</b>	
1. Display the abstract of the Child Labour (Prohibition and Regulation) Act, 1946 at conspicuous and accessible place in the factory premises containing the abstract of Section 3 & 14.	Section 12
<b>The Factories Act, 1948</b>	
2. No child who has not completed fourteenth year of age shall be required or allowed to work in the factory	Section 67
3. Where certificate of fitness is obtained/renewed, it is valid only for a period of twelve months	Section 69
4. Persons who have completed fourteenth, but not eighteenth, year of age are not employed in hazardous or dangerous operations	Section 87
5. Where certificate of fitness is issued to “work as a child” (for a person who has completed fourteenth year, but not fifteenth year of age), the person shall not be employed or permitted to work during the night, and not beyond 4 <sup>1/2</sup> hours during the day.	Section 71
6. NO female young person shall be required or allowed to work in any factory except between 8:00 AM and 7:00 PM	Section 71 (5)
7. Where certificate of fitness is issued to “work as an adult”, the young person (who has completed fifteenth year but not eighteenth year of age) is allowed a full day’s work. A person who has completed fifteenth year but not seventeenth year of age shall not be allowed to work from 7:00 PM to 6:00 AM.	Section 71 (1A)
8. No young person shall be required or allowed to work in any factory on any day on which the person has already been working in another factory.	Section 71(4)
9. Register of Child Worker	Section 73

### **1.5 Vision for the development of AEPC Child Labour Protocol to be followed at factory:**

By implementing AEPC Advisory, it will be possible for AEPC Member Units to establish systems to adhere to Indian laws, re-frame policies and better practices aimed at improving social and environmental impacts in their factories. The advisory provides a framework for the apparel factories to establish and implement the AEPC Advisory.

Accordingly, the following Protocol on Child Labour may be followed by the factory unit:-

- (i) A factory shall have a policy on prohibition of child labour;
- (ii) A factory shall have a designated person who has been given the responsibility and authority to implement systems and procedures relating to prohibition of child labour and employment of young persons
- (iii) A factory shall have a procedure for training and creating awareness amongst all persons employed specially those employed in recruitment and selection procedure;
- (iv) A factory shall have a system for
  - screening of visitors to ensure that no child enters the manufacturing areas;
  - procedure for verifying of the applicant to prevent employment of child labour;
  - regulating employment of young persons, including conditions of their employment;
  - identifying potential conditions for employment of child labour or violation of conditions of employment of young persons and taking adequate preventive measures;
  - detecting if a child is employed inadvertently, and a procedure for remedial action;
  - maintaining and controlling documents of children and young persons and reporting the same to the management;
  - periodically reviewing issues arising out of employment of children and young persons by the factory management and implementing procedures for corrective and preventive action for continual improvement

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