भारत का दूतावास
Embassy of India
Commerce Wing
Washington, DC

Vinay Kwatra
Minister (Commerce)
Phone: 202 939 9826
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Email:-mincom@indiagov.org

May 20, 2011

Dear Ms.Eugenio,

Subject: (1) Re: Your letter dated April 11, 2011 addressed to Ambassador requesting information and/or comment on reports issued by Bureau of International Labor Affairs (ILAB), U.S. Department of Labor, regarding child labor and forced labor in foreign countries.

(2) Re: Federal Register Notice of request for information and/or comment on reports issued by Bureau of International Labor Affairs (ILAB), regarding child labor and forced labor in foreign countries. Docket No. DOL-2011-0002: Request for Information and Invitation to Comment; 76 Fed. Reg. 22921 (April 25, 2011)

This has reference to Bureau of International Labor Affair's (ILAB) Federal Register Notice dated April 25, 2011 and U.S Department of Labor's letter dated April 11, 2011, seeking information or comments on reports issued by the U.S. Department of labor to update findings and suggestions. More Specifically, comments/ information has been sought with regard to:

a) **U.S.** DOL's 2009 findings on worst form of child labor (TDA Report).

b) 2010 List of goods produced from Child Labor or Forced Labor(TVPRA List).

c) Current Executive Order 13126 List of products requiring Federal Contractor Certification as to forced or indentured child labor(EO13126 list).

In this regard, we have the pleasure to forward a response from Ministry of Labour & Employment of Government of India on several aspects raised in this report. The response also details key policy approaches and development efforts undertaken by the Government and private sector, stakeholders in India aimed at not only eliminating the child labor but also in addressing related issues in a comprehensive manner.

We would request a line in confirmation of receipt of this communication.

Best regards,

Yours sincerely

(Vinay Kwatra)

Ms. Marcia Eugenio
Director
Office of Child Labor, Forced Labor and Human Trafficking
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210
Email: Eugenio.Marcia@dol.gov

Copy to:

Ms. Tina McCarter
Office of Child labor, Forced labor and Human Trafficking
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Washington, DC 20210
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Enclosures:

Annexure-1 : Comments by Ministry of Labour And Employment Government of India

Annexure-2: Comments or information to update the findings and suggestions for government action for countries reviewed in the TDA report on the USDOL Report.

Annexure-3: Note on Child Labour.

Comments by Ministry of Labour And Employment Government of India

Annexure - I

Comments on the USDOL Report on Child Labour and Forced Labour in India on worst forms of child labour dated April 8th 2011to be forwarded to USDOL are as under:

1. **Prevalence and sectoral distribution of the worst forms of child labour** The source of the figure/data on the child labour mentioned in the Report is not known. The exact data on the magnitude of child labour is expected shortly as all the activities of Census 2011 collection are completed.

2. **Laws and regulations on the worst forms of child labour:** The Government of India has added two more occupations i.e. caring of elephant and working of children in the circus into the list of hazardous occupations where of employment of children is prohibited. So as on date there are 18 occupations and 65 processes where the employment of children below the age of 14 is prohibited.

   The issue of worst forms of child labour has already been addressed in India under the various Acts. Slavery, debit bondage and forced and compulsory labour which are other forms of bonded labour is banned through Bonded Labour System (Abolition) Act. 1976. Procuring or offering of a child for prosecution, for the production of pornography or for pornographic performances or procuring or offering of child for illicit activities, in particular for production and trafficking of drugs has been banned under Indian Penal Code Immoral Trafficking Prevention Act, 1956 and the Narcotic Drug Psychotropic Substances Act, 1985. Though the use of child labour in the hazardous occupations is prohibited under Child Labour (Prohibition & Regulation) Act, 1986, the provision extends to the children below the age of 14 years.

Other Acts where children below the age of 14 years prohibited for entry into the employment

- Factories Act, 1948
- The Merchant Shipping Act,1958
- The Motor Transport Act, 1961
- The Beedi and Cigar Workers Act, 1966
- The Minimum Wages Act, 1948
- Plantations Act, 1951

3. **Government Task Forces or Commissions on Child Labour**:
   i. National Commission for Protection of Child Rights (NCPCR) was set up in March, 2007 under the Commission For Protection of Child Right Act, 2005, an Act of Parliament (December, 2005). The Commission's mandate is to ensure that all laws, policies, programmes, and administrative mechanism is in consonance with the child rights perspective as enshrined in the Constitution of India.
   ii. There is a Child Labour Advisory Board (CAB) in Ministry of Labour & Employment to review the implementation of existing legislations administered by the Central Government, to suggest legislative measures as well as welfare measures for working children and to recommend the industry and areas where there must be progressive elimination of child labour. The Board is tripartite in character which include representative of various Central Ministries, trade unions, employer organisations, NGOs, activist and prominent personalities.
   iii. There is a Central Monitoring Committee (CMC) under the chairmanship of Secretary, Labour & Employment to review the magnitude of the child labour and to monitoring of all the steps taken for elimination of child labour.
   iv. Under the Child Labour Act, a Technical Advisory Committee is constituted to advice for inclusion of further occupations and processes to the schedule which is a statutory Committee.
   v. Government of India has developed a protocol on prevention, rescue, repatriation and rehabilitation of trafficked and migrant child labour which provides practical guidelines to key stakeholders on crucial issues relating to prevention, rescue, repatriation and rehabilitation of trafficked and migrant child labour

4 & 5 **Institutions and mechanism for enforcement of Labour Laws regarding child labour and hazardous child labour**: The Central and the State Government is enforced the provision of Child Labour Act in their respective sphere. Under the Child Labour (Prohibition & Regulation) Act, since 1997-98 to 2008-09, overall about 35.83 lakh inspections have been carried out resulting in 90932 prosecutions. Out of which 24829 convictions were obtained.

6. **Government Policy on Child Labour**: The National Policy on Child Labour declared in August, 1987, the policy addresses the complex issue of child labour in a comprehensive, holistic and integrated manner. The Action Plan under this policy is multi-pronged and mainly consists of:
   1. **A legislative action plan** – Under the Legislative Action Plan a Child Labour (Prohibition & Regulation) Act.

2. **Project Based Action Plan in areas of high concentration of Child Labour** – A National Child Labour Project Scheme was started in 1988 to rehabilitate the child labourers which is in operation in 271 districts in 20 States. At present 8710 special schools under NCLP are in operation where 3.4 lakh children are enrolled and about 7.4 lakh children have been mainstreamed in the formal system so far.
3. **Focus on general development programmes for the benefit of the families of Child Labour :** Considering poverty and illiteracy are the root causes for child labour, Government is following, educational rehabilitation of the children which has to be supplemented with economic rehabilitation of their families so that they are not compelled by the economic circumstance to send their children to work. Ministry is taking various pro-active measures towards different schemes in coordination with other ministries including:

Ministry of Women and Child Development for supplementing the efforts of this Ministry in providing food and shelter to the children withdrawn from work through their schemes of Shelter Homes, etc.

Ministry of Human Resource Development for providing Mid-day meal to the NCLP school children, teachers training, supply of books, etc under Sarva Shiksha Abhiyan and mainstreaming of NCLP children into the formal education system.

Convergence with Ministries of Rural Development, Urban Housing and Poverty Allievation, Panchyati Raj for covering these children under their various income and employment generation scheme for their economic rehabilitation.

Convergence with Ministry of Railways for generating awareness and restricting trafficking of children.

Right to Education (RTE): Right of children to free and compulsory Education Act, 2009 was enacted for Universalisation of Elementary Education (UEE). With the enactment of the Right to Education Act, our efforts to eliminate child labour will definitely receive a big boost. Children who should have been in classrooms but are instead in the workplace will find their rightful place in schools rather than factories.

ILO-IPEC Programmes in India

- Government initiatives in the area of elimination of child labour have been supported by the ILO through its International Programme for the Elimination of Child Labour(IPEC) which is a global programme launched by the ILO in December, 1991.
- As on date, ILO has implemented 2 State based project in Andhra Pradesh and Karnataka, 5 area specific projects in Sivakasi and Tirupur (T.N.),

Jaipur (Rajasthan), Mirzapur and Ferozabad (UP); and about 5 small initiatives through trade unions etc.

7. **Social programme to eliminate or prevent child Labour:**

A. Mid Day Meal (MDM) Scheme: the MDM Scheme is in operation with the objective to:

(i) Address hunger in schools by serving hot cooked meal.

(ii) Improve nutritional status of children.

(iii) Encourage poor children, belonging to disadvantaged sections, to attend school more regularly and help them concentrate on classroom activities.

(iv) Provide nutritional support to children in drought-affected areas during summer vacation.

The Scheme is being implemented by Ministry of Human Resource Development and under convergence all children of NCLP schools are being covered in this mid day meal scheme.

B. Introduction of **Mahatma Gandhi National Rural Employment Guarantee Act (NREGA)** which is a flagship programme of the Government that directly touches the lives of the poor and promotes inclusive growth. The Act aims at enhancing livelihood security of households in rural areas of the country by providing at least 100 days of guaranteed wage employment in a financial year.

The introduction of NREGA helps in minimizing the trafficking/migration of child labour and their families from rural areas to urban areas.

C. Government has adopted various innovative measures to benefit and empower the informal sector workers in the form of **Labour Welfare Funds** and the **Unorganised Workers Social Security Act, 2008** has been introduced. The **RSBY (Rashtriya Swasthya Bima Yojana)** a scheme for providing cashless health cover to Below Poverty Line families of the child labourers are given preference is running successfully all over the country and its coverage has now reached 14.5 million smartcard users. Government has created a **National Social Security Fund** for informal sector workers during 2010-11. A legislation to ensure Food Security for the poor and vulnerable populations is in process.

D. Government of India has launched the **National Policy on Skill Development** to create a workforce empowered with improved skills and knowledge to gain access to decent opportunities of employment where the children studying in the NCLP School and their families are getting benefit.

Comments or information to update the findings and suggestions for government action for countries reviewed in the TDA report on the USDOL Report

Annexure – II

Comments or information to update the findings and suggestions for government action for countries reviewed in the TDA report on the USDOL Report titled "List of goods produced by Child labour or forced labour" in accordance to Trafficking victims protection reauthorization Act (TVPRA) of 2005 and a Federal Register Notice of initial determination revising the list of products requiring Federal Contractor Certification as of Forced/indentured child labour pursuance to Executive Order 13126.

The list of Indian products included in the July 20th Federal Register Notification are:

1. Bricks
2. Cottonseed (Hybrid)
3. Embroidered Textile (Zari)
4. Garments
5. Rice
6. Stones

In the previous year Carpets was also included in this list but was provisionally taken out through a notification in July 2010.

According to TVPRA List 19 Indian products come under it. Out of these 14 goods like bidis (Hand-rolled cigarettes), brassware, bricks, carpets, embroidered textiles (zari), fireworks, garments, gems, glass bangles, leather goods, locks, matches, soccer balls, stones are already covered under Child Labour (Prohibition & Regulation) Act, 1986 where employment of children is prohibited. However, cottonseed (Hybrid), rice are not coming under prohibited list but process in agriculture where tractors, thrashing and harvesting machines are used, chaff cutting and handling of pesticides and insecticides are prohibited. In the same way silk fabric, silk thread are not coming under the prohibited list but sericulture processing is banned i.e. commercial breeding of silkworms for their silk and processing. Footwear are not covered under Child Labour (Prohibition & Regulation) Act, 1986 however the items which are not prohibited under the Act, it regulate the working conditions of the children in employments.

Other Acts where children below the age of 14 years prohibited for entry into the employment

- Factories Act, 1948

- The Merchant Shipping Act,1958
- The Motor Transport Act, 1961
- The Beedi and Cigar Workers Act, 1966
- The Minimum Wages Act, 1948
- Plantations Act, 1951

The Government policy on a child labour, steps taken for elimination of child labour, institutions and mechanism for enforcement of labour laws and other social programmes to eliminate or prevent child labour are already covered in the note at Annexure - I.

Note on Child Labour

Annexure – III

Elimination of child labour is an area of great concern and Government of India is committed to address the issue. Considering the magnitude and nature of problem, we are following a robust multi-pronged strategy to tackle the problem of child labour. It comprises of statutory and legislative measures, rescue and rehabilitation, universal primary education along with social protection along with poverty alleviation and employment generation schemes. The objective is to create an environment where families are not compelled to send their children to work. India has all along followed a pro-active policy with respect to the problem of child labour and continuously developing elaborate measure to combat it. Our Constitution provides for protection of children from involvement in economic activities and vocations unsuited to their age. Government of India has taken an important step by making the **Right to Education a Fundamental Rights for Children** under the Constitution. Every child in the age group of 6-14 is to be provided free and compulsory education. The Right of Children to Free and Compulsory Education Act came into force on 1.4.2010 to facilitate implementation of this right.

Data on Child Labour:

The Latest data based on census 2011 is yet to come out and will be shared once available.

Policy on Child Labour

The National Policy on Child Labour declared in August, 1987, the policy addresses the complex issue of child labour in a comprehensive, holistic and integrated manner. The Action Plan under this policy is multi-pronged and mainly consists of:

4. A legislative action plan
5. Project based action in areas of high concentration of Child Labour
6. Focus on general development programmes for the benefit of the families of Child Labour

1. Legislative Action Plan

Under the Legislative Action Plan a Child Labour (Prohibition & Regulation) Act, 1986 provides:

- Child Labour (Prohibition & Regulation) Act, 1986 prohibits employment of children below the age of 14 years in 18 occupations and 65 processes.
- The Act regulates the condition of employment in all occupations and processes not prohibited under the Act (Part III).
- As per Section 3 of the Child Labour (Prohibition & Regulation) Act, 1986 no child shall be employed or permitted to work in any of the occupations set forth in Part A of the Schedule or in any workshop wherein any of the processes set forth in Part B of the Schedule is carried on. Provided that nothing in this section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from, government.

Enforcement:

- Any person who employs any child in contravention of the provisions of section 3 of the Act is liable for punishment with imprisonment for a term which shall not be less than three months but which may extend to one year or with fine which shall not be less than Rs 10,000 but which may extend to Rs 20,000 or both. (Section 14).
- The Central and the State Governments enforce the provisions of the Act in their respective spheres.
- Under the Child Labour (Prohibition & Regulation) Act since **1997-98 to 2008-09,** overall about **35.83 lakh inspections** have been carried out, resulting in **90, 932 prosecutions** out of which **24,829 convictions** were obtained.

Inclusion of occupations & processes in the schedule to the Act

Under the Act, a Technical Advisory Committee is constituted to advice for inclusion of further occupations & processes in the Schedule which is a Statutory Committee, comprising of experts, as under:

- Director General, Indian Council of Medical Research, New Delhi – Chairman
- Addl. Director General, Health Services, GOI, New Delhi - Member
- Director General, Factory Advice Services Labour Institute - Member
- Director, National Institute of Occupational Health, Ahmedabad - Member
- Director, Industrial Toxicology Research Centre, Lucknow - Member

- Director, Ballabh Bhai Patel Chest Institute, New Delhi - Member
- Director, Paediatrics, All India Institute of Medical Sciences, ND - Member
- Director, Medical Services, Tamil Nadu - Member
- Director, Medical Services, Uttar Pradesh - Member
- Joint Secretary, In charge of Child Labour Cell, MOL, New Delhi - Member

Additions to the Schedule to The Child Labour (Prohibition & Regulation) Act, 1986

YEAR	PART – A (OCCUPATIONS)		PART – B (PROCESSES)	
	Additions	Total	Additions	Total
		5		11
1986	1	6	3	14
1994	1	7	4	18
1999	6	13	33	51
2001	0	13	6	57
2006	2	15	0	57
2008	1	16	8	65
2010	2	18	0	65

2. Project Based Action Plan in the areas of high concentration of child labour

In pursuance of National Child Labour Policy, **the NCLP Scheme was started in 1988** to rehabilitate child labour which is an ongoing Centrally-Sponsored Scheme under the Scheme; working children are identified through child labour survey, withdrawn from work and put into the special bridge schools so as to provide them with enlacing environment to join mainstream education system. In these Special Schools, besides formal education, the children are provided stipend, supplementary nutrition, vocational training and regular health check-ups. In addition, efforts are also made to target the families of these children so as to cover them under various developmental and income/employment generating programmes of the Government to raise the economic Standard of the parents of working children. The Scheme also envisages awareness generation campaigns against the evils of child labour and enforcement of child labour laws.

Under the National Child Labour Project (NCLP) Scheme, NCLP schools would target the children withdrawn from hazardous occupations and processes in the age group 9-14 years with the objective of mainstreaming them within a maximum period of three years to formal schools, or linking them with effective vocational training. At present 8710 special schools are in operation where 3,39,000 children are enrolled and about 7,05,000 children are mainstreamed into formal system so far.

EXPANSION OF NCLPs

YEAR/Plan	NO. OF NCLPs Sanctioned	TOTAL
1988	12 NCLPs	12
IXth Plan	88 NCLPs	100
Xth Plan	150 NCLPs	250
XIth Plan	21 NCLPs (INDUS)	271

Grant in Aid Scheme: Under this Scheme funds are to the extent of 75% of the project cost are released directly to the NGOs for elimination of the child labour in the districts which are not covered under the National Child Labour Project.

Trafficking of Children

Ministry of Labour & Employment is taking number of steps for rescue, safe repatriation and rehabilitation of migrant and trafficked child labour. Towards this end, a high level Committee was constituted under the Chairpersonship of the Secretary (L&E) with representatives from various Ministries of the Government of India and State Labour Departments and NGOs.

- A **Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked & Migrant child Labour** was developed and circulated among the State/UT Governments to deal with the issue of migrant child labour in 2008. This Protocol has laid down guidelines action to be taken by different departments of State Governments, Police, CWC s, NGOs and other Stakeholders. Panchayati Raj institutions have been identified as an important stakeholder and can play an effective specially in awareness generation, identification and monitoring of vulnerable groups and in building conducive environment for rehabilitation and reintegration of rescued children.
- Workshops on its implementation are being conducted by the VVG NLI, where representatives of State Governments and law enforcing agencies have been invited to attend the workshop.

3. Focus on the General Development programme – Convergence Based Programmes

Considering poverty and illiteracy are the root causes for child labour Government is following, educational rehabilitation of the children which has to be supplemented with economic rehabilitation of their families so that they are not compelled by the economic circumstance to send their children to work. Ministry is taking various pro-active measures towards between schemes of different Ministries like,

Ministry of Women and Child Development for supplementing the efforts of this Ministry in providing food and shelter to the children withdrawn from work through their schemes of Shelter Homes, etc.

Ministry of Human Resource Development for providing Mid-day meal to the NCLP school children, teachers training, supply of books, etc under Sarva Shiksha Abhiyan and mainstreaming of NCLP children into the formal education system.

Convergence Ministries of Rural Development, Urban Housing and Poverty Allievation, Panchyati Raj for covering these children under their various income and employment generation scheme for their economic rehabilitation.

Convergence with Ministry of Railways for generating awareness and restricting trafficking of children.

Impact of the Right to Education Act on Child Labour

With the enactment of the Right to Education Act, our efforts to eliminate child labour will definitely receive a big boost. Children who should have been in classrooms but are instead in the workplace will find their rightful place in schools rather than factories. All of us must ensure that the new law is implemented in letter and spirit and necessary infrastructure is put in place for its success.

We have to see that schemes like the midday meal are further strengthened and expanded so that going to schools does not mean going hungry as well. I am sure that the constitutional obligation of educating our children combined with social schemes like midday meals in schools will have a positive impact on eradicating many social evils including child labour.

Government has adopted various innovative measures to benefit and empower the informal sector workers in the form of **Labour Welfare Funds** and the **Unorganised Workers Social Security Act, 2008** has been introduced. The **RSBY (Rashtriya Swasthya Bima Yojana)** a scheme for providing cashless health cover to below poverty line families is running successfully all over the country and its coverage has now reached 14.5 million smartcard users. Government has created a **National Social Security Fund** for informal sector workers during 2010-11. A legislation to ensure Food Security for the poor and vulnerable populations is in process.

To increase livelihood opportunities and asset creation in rural areas **the Mahatma Gandhi National Rural Employment Guarantee Act (NREGA)** is being implemented by the Government. This scheme has been expanded to cover the entire country. Government of India has launched the **National Policy on Skill Development** to create a workforce empowered with improved skills and knowledge to gain access to decent opportunities of employment.

The Government of India is committed to eliminate the worst forms of child labour. **Legislations** have been enacted to **abolish bonded labour, prevent child trafficking, illegal trading in narcotic drugs and administration of juvenile justice. We have to stop child labour because children are our future.**

Other Acts where children below the age of 14 years prohibited for entry into the employment

- Factories Act, 1948
- The Merchant Shipping Act,1958
- The Motor Transport Act, 1961
- The Beedi and Cigar Workers Act, 1966
- The Minimum Wages Act, 1948
- Plantations Act, 1951

ILO-IPEC Programmes in India

- Government initiatives in the area of elimination of child labour have been supported by the ILO through its International Programme for the Elimination of Child Labour(IPEC) which is a global programme launched by the ILO in December, 1991.
- As on date, ILO has implemented 2 State based project in Andhra Pradesh and Karnataka, 5 area specific projects in Sivakasi and Tirupur (T.N.), Jaipur (Rajasthan), Mirzapur and Ferozabad (UP); and about 5 small initiatives through trade unions etc.

INDUS Project

The Indus Project is jointly funded by the Ministry of Labour, Government of India and the Department of Labour, United States of America (USDOL) and is implemented in ten hazardous sectors in 21 districts across five states viz. Delhi, Maharashtra, Madhya Pradesh, Tamil Nadu and Uttar Pradesh. The Project has been completed on 31st March 2009. An estimated 103,152 child and adolescent workers withdrawn and rehabilitated against set target of 80,000 children.

List of Districts Covered Under Indus Project (21)

- **MADHYA PRADESH (5):-** Damoh, Sagar, Jabalpur, Satna and Katni
- **MAHARASHTRA(5):-** Amravati, Jalna, Aurangabad, Gondia and Mumbai Suburban
- **UTTAR PRADESH(5):-** Moradabad , Allahabad, Kanpur Nagar, Aligarh and Ferozabad
- **TAMIL NADU(5):-** Kanchipuram, Thiruvannamallai, Tiruvallur, Nammakkal and Virudhunagar
- **Delhi(1)** :- NCT Delhi

Converging against Child Labour: Support for India's Model

Objective:

- The Development Objective is to contribute to the prevention and elimination of hazardous child labour, including trafficking and migration of children for labour.
- Geographical Coverage:
- India (Two districts each in Bihar, Jharkhand, Gujarat, Madhya Pradesh, and Orissa)
- Duration: 42 months
- USDOL Donor Contribution : US$ 6,850,000

Convention No. 138 and 182

Convention No. 138 on Minimum Age for Entry to Employment

ILO Convention No. 138 concerning Minimum Age for Entry to Employment & Work was adopted by the International Labour Conference at its 58th Session in June, 1973. This Convention is one of the 8 Core Conventions of the ILO being referred to as fundamental or basic Human Rights Conventions and the ILO has been very active in promoting its ratification.

Each country ratifying this Convention undertakes to:

- Pursue a national policy designed to ensure the effective abolition of child labour;
- Specify a minimum age for Entry to employment or work which will not be less than the ages of completion of compulsory schooling;
- To raise this progressively to a level consistent with the fullest physical and mental development of young people;
- Guarantee that the **minimum age of entry to any type of employment** or work, which is likely to compromise health, safety or morals of young persons **shall not be less than 18 years.**

Our Stand:

(i) India has not ratified ILO Convention No. 138 fixing minimum age of employment as 18 years. Presently, as per Child Labour (Prohibition & Regulation) Act, 1986, **children below the age of 14 years** are prohibited for employment in hazardous occupations/processes specified in the Act.

(ii) As of now, keeping the socio-economic conditions in the country in view a Sequential approach is being followed in India for elimination of child labour in a comprehensive, holistic and integrated manner with the initial focus on hazardous occupations and processes which is secured through legislation

Government of India follows the policy of ratifying the ILO Convention only when the existing laws and practices are in full conformity with the provision of said convention.

Convention No. 182 on Worst Forms of Child Labour

ILO Convention No. 182 and the accompanying Recommendation No. 190 concerning Worst Forms of Child Labour was adopted by the International Labour Conference in its 87th Session at Geneva in June, 1999. Convention No. 182 is one of the 8 core Conventions of the ILO being referred to as fundamental or basic human rights Conventions.

Main provisions of Convention Number 182

- For the purpose of this Convention, the term **child shall apply to all persons under the age of 18.**
- For the purpose of this Convention, the term worst forms of child labour comprises:

  a) All forms of slavery or practices similar to slavery, such as the sale and trafficking of children (debt bondage and serfdom and forced or compulsory labour), including forced or compulsory recruitment of children for use in armed conflict.
  b) The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances.
  c) The use, procuring or offering of a child for illicit activities, in particular of the production and trafficking of drugs as defined in the relevant international treaties.
  d) Work, which by its nature or the circumstances in which it is carried out is likely to harm the health, safety or morals of children.

Our Stand:

Most Indian laws including the Child Labour (Prohibition & Regulation) Act, 1986 define 'Child' as a person below 14 years of age. On ratification of the Convention Number 182, the Government would have to amend all these Acts wherein child is defined as someone who is less than 14 years of age within 12 months of its ratification.

The Global Child Labour Conference was held in the Hague in Netherlands in May, 2010 to discuss the commitment for a world free from worst forms of child labour by 2016 and a road map for achieving the elimination of the worst forms of child labour by 2016 was adopted in this Conference. The key suggested steps for getting the 2016 targets mentioned in the Report includes engaging all countries for ratification of Convention 182 (WFCL) by the end of 2010. Out of total of 183 members State of ILO 172 countries have already ratified the ILO Convention 182.

In the context of child labour free world by 2016, we feel that the process of elimination of child labour goes beyond ratifications it is more a question of adequate socio-economic responses and deep political engagement keeping in view the national conditions. The ILO can play an important role towards advocacy and mobilization.

However, worst form of child labour is already prohibited under various Acts such as Bonded Labour System (Abolition) Act, 1976, Suppression of Immoral Traffic in Women and Girl Act - 1956, The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substance Act, 1988 and Child Labour (Prohibition & Regulation) Act, etc.

The implementation of policies and programmes on labour is based on principles of tripartism where Government, employers and workers work in close collaboration. The representatives of Trade Unions have been seeking early ratification of ILO Conventions on child labour in various fora like Committee on Conventions to stop exploitation of children and in keeping with India's role and responsibility in the international labour scenario.

Though we are in agreement with the principles of the Convention, we have not ratified it so far because this Convention requires fixing minimum age of 18 years for prohibiting employment of children in specified hazardous occupations whereas under the Child Labour (Prohibition and Regulation) Act, 1986, the minimum specified age for employment in hazardous occupations is 14 years.

Out of the above four categories of work covered under article 3 of the Convention C-182, the first three categories are already banned in India. Slavery, debt bondage and forced or compulsory labour which are other form of Bonded labour is banned through Bonded Labour System (Abolition) Act, 1976. Procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances and procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs has been banned through Indian penal code (IPC), Immoral Trafficking Prevention Act, 1956 and the Narcotic Drugs and Psychotropic Substances Act, 1985. Though use of child labour in hazardous occupation is prohibited under the Child Labour (Prohibition and Regulation) Act, 1986, the provision extends to the children below the age of 14 years.

The main problem preventing Government of India from ratifying this Convention is that this Convention provides prohibition of employment of children below 18 years in hazardous occupations, whereas, in India as per Child Labour (Prohibition & Regulation) Act, this age is 14 years. However, children below the age of 18 years in India are already prohibited to work in any Mines or part thereof under the Mines Act, 1952. Similarly, children below the age of 18 are already prohibited to work in explosive industry under the Explosive Act, 1984.

The issue of working out the modalities for Ratifying the ILO Convention 182 in line with our Constitutional Provisions is under consideration.

Vitas, Bogdan - ILAB

From: Rigby, Rachel - ILAB
Sent: Friday, May 20, 2011 3:37 PM
To: Wolkomir, Elizabeth D - ILAB
Subject: FW: Comments - India
Attachments: Comments Child Labor May 2011.pdf; letter Labou comments.pdf

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From: McCarter, Tina - ILAB
Sent: Friday, May 20, 2011 2:04 PM
To: Vitas, Bogdan - ILAB
Cc: Peltzer, Angela - ILAB; Rigby, Rachel - ILAB
Subject: FW: Comments - India

Bogdan please save on the O in the India folder under "ministry of labor" thanks.

From: Minister Commerce E/I Washington [mailto:mincom@indiagov.org]
Sent: Friday, May 20, 2011 1:42 PM
To: Eugenio, Marcia - ILAB
Cc: McCarter, Tina - ILAB
Subject: Comments - India

Vinay Kwatra
Minister (Commerce)
Phone: 202 939 9826
Fax: 202 797 4693
Email:-mincom@indiagov.org

May 20, 2011

Dear Ms.Eugenio,

Subject: (1) Re: Your letter dated April 11, 2011 addressed to Ambassador requesting information and/or comment on reports issued by Bureau of International Labor Affairs (ILAB), U.S. Department of Labor, regarding child labor and forced labor in foreign countries.

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This has reference to Bureau of International Labor Affair's (ILAB) Federal Register Notice dated April 25, 2011 and U.S Department of Labor's letter dated April 11, 2011, seeking information or comments on reports issued by the U.S. Department of labor to update findings and suggestions. More

Specifically, comments/ information has been sought with regard to:

a) U.S. DOL's 2009 findings on worst form of child labor (TDA Report).
b) 2010 List of goods produced from Child Labor or Forced Labor(TVPRA List).
c) Current Executive Order 13126 List of products requiring Federal Contractor Certification as to forced or indentured child labor(EO13126 list).

In this regard, we have the pleasure to forward a response from Ministry of Labour & Employment of Government of India on several aspects raised in this report. The response also details key policy approaches and development efforts undertaken by the Government and private sector, stakeholders in India aimed at not only eliminating the child labor but also in addressing related issues in a comprehensive manner.

We would request a line in confirmation of receipt of this communication.

Best regards,

Yours sincerely

Signed

(Vinay Kwatra)

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Enclosures:

Annexure-1 : Comments by Ministry of Labour And Employment Government of India
Annexure-2: Comments or information to update the findings and suggestions for government action for countries reviewed in the TDA report on the USDOL Report.
Annexure-3: Note on Child Labour.