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Response to the US Department of Labour

Chairman

Sent: 10 December 2009 14:31
To: GlobalKids@dol.gov
Attachments: APEDA response.doc (39 KB)

India Rice

Dear Sir,

On 11th September, 2009, the US Department of Labour has published two lists of goods produced by Child Labour or Forced Labour. From India, Rice is one of the goods included in the list.

Agricultural and Processed Food Products Export Development Authority (APEDA) is mandated with development and promotion of export of select agro products from India which include Rice. APEDA would like to offer its response as contained in the attached note and to convey our views that inclusion of Rice in the list is inappropriate.

Regards

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**Agricultural and Processed Food Products
Export Development Authority (APEDA), New Delhi**

**Response to the US Department of Labour in respect of inclusion of
Rice from India in the list of goods produced by
Child Labour or Force Labour**

Legal Provisions in India:

Historically, removal of employment of child labour and forced labour has been a national priority in India. The first legal response in fact came as early as 1933 when the Children (Pledging of Labor) Act, 1933 was passed. This was followed by **the Employment of Children Act, 1938. With Independence in 1947**, the objective of eradication of child labor and child welfare found a constitutional mandate with certain provisions of the **Constitution of India** giving the matter due attention, for example :

Article 39(e) of the Directive Principles of the Constitution provides that: "The State shall in particular direct its policy towards securing That the health and strength of workers, men and women and the tender age of children are not forced by economic necessity to enter vocations unsuited to their age or strength

Article 24 specifically provides for prohibition of child labor when it states that : "**No child below the age of 14 years shall be employed to work in any factory or mine or employed in any hazardous employment**".

Article 21A which provides for the right to education states : " 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 determine".

The above constitutional provisions have been implemented by the Indian Government through the passage of various laws [such as **The Factories Act, 1948**, **the Mines Act, 1952** which prohibit and /or regulate the employment of children in **hazardous** activities/mines].

In the past few years, however, the statutory response has been **more direct** with the enactment and coming into effect of the following laws dealing specifically with child labor including forced child labor. The following two legislations are noteworthy.

1) **Child Labor (Prohibition and Regulation) Act, 1986**, which has an all India application is the major legislation that deals with the above problem.

Section 2(ii) defines the "child" as a person below **14 years**.

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Section 3 thereof prohibits their employment in 13 occupations and 57 processes contained in Part A and B of the **Schedule** to the Act.

Section 14 of the Act provides that any Violation of Section 3 thereof will make one liable for punishment by imprisonment for a term of three months to 12 months or with fine between Rs.10,000/- to 20,000/- or both.

A **Technical Advisory Committee** has also been constituted whose job is to do a continuous review of the situation and recommend inclusion of further occupations and processes in the said Schedule.

The said Committee has certainly been proactive as will be evident from the fact that about **five years back** , while the scheduled 'occupations' and 'processes' were 7 and 18 respectively ,this has since gone up to 13 and 57 respectively indicating thereby that the problem is being monitored, and the Act is accordingly being reviewed and implemented)

Agriculture cultivation per se does not fall within the category of the scheduled 13 prohibited "occupations" under the Act ; however, item 43 of the Schedule relating to prohibited "processes" covers the following processes involved in farming "processes in agriculture where tractors ,threshing and harvesting machines are used and chaff cutting".

Accordingly, while a child as defined can engage in agricultural cultivation, he/she is prohibited from engaging in the aforesaid prohibited processes involving agriculture. However, here also the effect of the **Proviso to Section 3 ("with the aid of his family")** is that if these "processes" are carried on by a child in the context of family farming person ,it will be permissible to engage in these activities too. This provision takes into cognizance the reality that children engaged in agriculture are essentially working in their family farming operations and not for outside parties.

2) The Bonded Labor System (Abolition) Act, 1976 abolished the bonded labor system in the country .

Section 2(g) defines the 'bonded labor system" broadly to cover both bondage due to debt incurred or due to "customary or social obligation" i.e. social structure or caste reasons.

By **section 4(2)(B)** ,the Act provides that no person can be compelled by any person "to render any bonded labor or other form of forced labor" and by Section 16 thereof any breach of section 4 is punishable with imprisonment up to three years AND a fine up to Rs.2000/-

Part III thereof even goes to the extent of extinguishing the liability to repay the bonded debt.

Apart from the enactment of laws ,the Indian Government has been engaged in continuously examining the problem through the adoption of National Policy

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on Children 1974 , adoption of the National Plan of Action for Children, the National Child Labor Policy 1987 affirming its commitment to the objective by being a signatory to international Conventions on Child Rights, constituting the Central Advisory Boards on Child Labor , initiating the National Child Labor Projects to rehabilitate child labor ; allocating funds to districts identified by surveys as having pervasive child labor in its industries, and funding child welfare projects etc.

Monitoring by Government of India and the States

Government of India and various State Governments are **continuously reviewing the situation** and trying to address the problem. The **National Commission for the Protection of Child Rights** is actively engaged in the task in conjunction with the Planning Commission and various **Monitoring Committees at State levels** .

At **State level**, one important step being taken by State Governments is to implement the mandate of providing free **and compulsory education** to the children under **various Government schemes** and to reduce the drop out rate of children from schools due to economic reasons. It is relevant to state here that more than 14 Indian States and 4 Union Territories have enacted laws -the **Compulsory Education Acts** -

As per a recent report received from the Labour Commissioner in the State of Punjab, the child labour service is conducted in the state in all the establishments including agriculture and rice shellers. No case of child labour has been reported. The state has also constituted District Level Task Forces and the Monitoring Committees.