



## BACKGROUND DOCUMENT

### Child Labour

This document has been produced to provide background material to complement the Nestlé Commitment on Child Labour, and to guide Nestlé staff and consultants hired by Nestlé in its interpretation and implementation. This document and the Commitment may be shared with suppliers and stakeholders.

This document is composed of the following Annexes:

- Annex 1: Summary of Child Labour
- Annex 2: Commodities of High Risk for Child Labour
- Annex 3: Child Labour, Light Work and ILO Convention 138
- Annex 4: ILO Convention 182 on Worst Forms of Child Labour and Hazardous Work
- Annex 5: Global Compact Principle Five: What is Child Labour
- Annex 6: UN Convention on the Rights of the Child
- Annex 7: Organisations that can provide Technical Assistance & Guidance

**ANNEX 1: Summary**

The term “child labour” is defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development.

In 2008, it was estimated that there were 215 Mn child labourers of which 115Mn were engaged in hazardous work. 60% of these were in agriculture of whom only 20% were paid, the majority serving as unpaid family workers. In agriculture, the use of pesticides, carrying heavy loads, and using dangerous tools and machinery are all activities that are considered to be indicative of the “worst forms of child labour”.

The definition of the “worst forms of child labour” covers all forms of slavery or practices similar to slavery, the sale or trafficking of children, debt bondage or serfdom; the forcible recruitment of children for use in armed conflict; the commercial sexual exploitation of children; the involvement of children in drug trafficking; and work that is likely to harm children’s health, safety or morals.

“Hazardous work” is that which is likely to jeopardise the health, safety or morals of young persons. This is particularly problematic in countries that do not have “the capacities to maintain effective national occupation safety and health systems”.

An important definition is of “light work” which is “not harmful to health or development” and does “not prejudice attendance at school or vocational training”. Under international labour standards light work is allowed for children who are 13-15 years old (or 12-14 if the countries have a developing country exception under ILO).

The ILO states that not all work done by children should be classified as child labour that is to be targeted for elimination. Children’s or adolescents’ participation in work that does not affect their health and personal development or interfere with their primary education, is generally regarded as being something positive. This includes activities such as helping their parents around the home, assisting in a family business or earning pocket money outside school hours and during school holidays. ILO states that these kinds of activities contribute to children’s development and to the welfare of their families; they provide them with skills and experience, and help to prepare them to be productive members of society during their adult life.

**ANNEX 2: Commodities of High Risk for Child Labour**

The US Department of Labor Report: 2010 Findings on the Worst Forms of Child Labour. (Published December 2011) highlighted the following commodities and countries where child labour has been identified. It should be noted that this list changes from year to year, with some countries such as Ghana, Tanzania, Thailand changing status frequently. Child labour in Madagascan vanilla production was listed in the 2009 report, but not in 2010. Some care is therefore needed in interpreting this list.

**Coffee:** Brazil, Cameroon, Colombia, Cote d'Ivoire, Dominion Republic, El Salvador, Guatemala, Guinea, Honduras, Kenya, Mexico, Nicaragua, Panama, Tanzania, Uganda

**Cocoa:** Cameroon, Cote d'Ivoire, Ghana, Guinea, Nigeria

**Sugarcane:** Belize, Bolivia, Brazil, Burma, Colombia, Dominion Republic, El Salvador, Guatemala, Kenya, Mexico, Pakistan, Panama, Philippines, Thailand, Uganda

**Rice:** Brazil, Burma, Colombia, Dominion Republic, India, Kenya, Mali, Philippines, Uganda

**Livestock:** Bolivia, Brazil, Chad, Ethiopia, Lesotho, Mauritania, Namibia, Paraguay, Uganda, Zambia

**Fishing:** Bangladesh, Burma, Cambodia, El Salvador, Ghana, Honduras, Nicaragua, Tanzania, Thailand

**Vanilla:** Uganda

**Fruit:** Argentina, Belize, Brazil, Ecuador, Honduras, Mexico, Nicaragua, Philippines, Turkey

**Nuts:** Bolivia, Brazil, Guinea, Turkey

**Cassava:** Brazil, Cambodia, Nigeria

**Vegetables & Spices:** Argentina, Bolivia, Burma, Chile, Dominion Republic, Guatemala, Mexico, Philippines, Turkey

**Oil Palm:** Indonesia, Malaysia

**Tea:** Kenya, Malawi, Rwanda, Tanzania, Uganda

Nestlé has identified the following commodities (as at October 2011) as priorities for its work:

**Cocoa, Hazelnuts, and Vanilla**

## **ANNEX 3: Child Labour, Light Work and Minimum Age for Admission to Employment**

### **Child Labour**

The term “child labour” is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development.

It refers to work that:

- is mentally, physically, socially or morally dangerous and harmful to children; and
- interferes with their primary schooling by:
- depriving them of the opportunity to attend school;
- obliging them to leave school prematurely; or
- requiring them to attempt to combine school attendance with excessively long and heavy work.

In its most extreme forms, child labour involves children being enslaved, separated from their families, exposed to serious hazards and illnesses and/or left to fend for themselves on the streets of large cities – often at a very early age. Whether or not particular forms of “work” can be called “child labour” depends on the child’s age, the type and hours of work performed, the conditions under which it is performed and the objectives pursued by individual countries. The answer varies from country to country, as well as among sectors within countries.

Not all work done by children should be classified as child labour that is to be targeted for elimination. Children’s or adolescents’ participation in work that does not affect their health and personal development or interfere with their schooling is generally regarded as being something positive. This includes activities such as helping their parents around the home, assisting in a family business or earning pocket money outside school hours and during school holidays. These kinds of activities contribute to children’s development and to the welfare of their families; they provide them with skills and experience, and help to prepare them to be productive members of society during their adult life.

### **Light Work (ILO Convention 138)**

National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is -

- (a) not likely to be harmful to their health or development; and
- (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

National laws or regulations may also permit the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work which meets the requirements (detailed in the Convention).

The competent authority shall determine the activities in which employment or work may be permitted and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.

### **Minimum Age for Admission to Employment (ILO Convention 138)**

In general the ILO establishes a minimum age of 15 years, provided 15 is not less than the age of completion of compulsory schooling (or 14 years where established by national laws in accordance with the ILO developed countries exception).

Workers below the age of 18 should not be engaged in hazardous work. Minimum age for entry into full-time employment should be no younger than 15 or 14 if the country is subject to an exception. Depending on the country of operation, children aged 13, or 12 if the country is subject to an exception, may perform light work as defined by the ILO Minimum Age Convention as work for a few hours per day, not interfering with the health or development of the child, and which does not interfere with the child's compulsory education.

The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years.

"The types of employment or work to which paragraph 1 of this Article applies shall be determined by national laws or regulations or by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist.

Notwithstanding the provisions of paragraph 1 of this Article, national laws or regulations or the competent authority may, after consultation with the organisations of employers and workers concerned, where such exist, authorise employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.

A Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years. The following link provides information on the countries that have ratified the convention and the minimum age:

<http://www.ilo.org/ilolex/cgi-lex/ratifce.pl?C138>

Each Member which has specified a minimum age of 14 years in pursuance of the provisions of the preceding paragraph shall include in its reports on the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation a statement:

- (a) that its reason for doing so subsists; or
- (b) that it renounces its right to avail itself of the provisions in question as from a stated date.

National laws or regulations may permit the employment or work of persons 13 to 15 years of age on **light work** which is:

- (a) not likely to be harmful to their health or development; and
- (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

National laws or regulations may also permit the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work which meets the requirements (detailed in the Convention).

The competent authority shall determine the activities in which employment or work may be permitted and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken. “

#### **ANNEX 4: ILO Convention 182 on Worst Forms of Child Labour and Hazardous Work**

This convention complements the Convention and the Recommendation concerning Minimum Age for Admission to Employment

The Convention highlights the importance of free basic education and the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families

Child labour is to a great extent caused by poverty and that the long-term solution lies in sustained economic growth leading to social progress, in particular poverty alleviation and universal education Some of the worst forms of child labour are covered by other international instruments, in particular the Forced Labour Convention, 1930, and the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956

For the purposes of this Convention, the term child shall apply to all persons under the age of 18 Article 3: For the purposes of this Convention, the term the 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 for 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.

The types of work referred to under Article 3(d) shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.

Labour that jeopardises the physical, mental or moral well-being of a child, either because of its nature or because of the conditions in which it is carried out, is known as "hazardous work".

Guidance for governments on some hazardous child labour activities which should be prohibited is given in the accompanying Recommendation 190 Concerning the Prohibition and Immediate Action for the Elimination Worst Forms of Child Labour 1999:

3. In determining the types of work referred to under Article 3(d) of the Convention, and in identifying where they exist, consideration should be given, inter alia, to:

- (a) work which exposes children to physical, psychological or sexual abuse;
- (b) work underground, under water, at dangerous heights or in confined spaces;
- (c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;
- (d) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;

(e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

*In addition the following excerpts are taken from "A Discussion of Hazardous Child Labour" Parker, DL, & Overby, M, Association of Schools of Public Health 2005*

The ILO has established a series of Hazard Datasheets for different occupations, including "field crop work". These detail the hazards to which field crop workers may be exposed in the course of their normal work. Hazardous employment is work that was "likely to jeopardize the health, safety or morals of young persons". Hazardous work could not be performed by those younger than 18 years of age. States are permitted to lower the minimum age to 16 "on condition that health, safety and morals of the young person concerned [were] fully protected and that the young persons [had] received adequate specific instruction or vocational training in the relevant branch of activity".

Minimum age requirements are relaxed to 14 years of age for those Member States that proved economic hardship.

The convention and recommendations on the Worst Forms of Child Labour, convention No.182 and Recommendation No 190, are the most contemporary examples of what defines hazardous and dangerous working conditions for child labourers.

## **ANNEX 5: Global Compact Principle Five**

**"Businesses should uphold the effective abolition of child labour."**

### **What is Child Labour?**

The term "child labour" should not be confused with "youth employment" or "student work." Child labour is a form of exploitation that is a violation of a human right, and it is recognized and defined by international instruments. It is the declared policy of the international community and of almost all governments to abolish child labour.

While the term "child" covers all girls and boys under 18 years of age, not all under-18's must be removed from work: the basic rules under international standards distinguish what constitutes acceptable or unacceptable work for children at different ages and stages of their development. ILO conventions (Minimum Age Convention No. 138 and the Worst Forms of Child Labour Convention No. 182) provide the framework for national law to prescribe a minimum age for admission to employment or work that must not be less than the age for completing compulsory schooling, and in any case not less than 15 years. Lower ages are permitted for transitional periods – in countries where economic and educational facilities are less well-developed the minimum age for regular work generally is 14 years, and 12 years for "light work". The minimum age for hazardous work is higher, at 18 years for all countries.

### **Minimum Age for Admission to Employment or Work**

<b>Developed countries</b>		<b>Developing countries</b>	
Light Work	13 Years	Light Work	12 Years
Regular Work	15 Years	Regular Work	14 Years
Hazardous Work	18 Years	Hazardous Work	18 Years

ILO Convention No. 182 requires governments to give priority to eliminating the worst forms of child labour undertaken by all children under the age of 18 years. They are defined as:

- **All forms of slavery** — including the trafficking of children, debt bondage, forced and compulsory labour, and the use of children in armed conflict.
- The use, procuring or offering of a child for **prostitution**, for the production of **pornography** or for **pornographic purposes**.
- The use, procuring or offering of a child for **illicit activities**, in particular the **production and trafficking of drugs**.
- Work which is likely to **harm the health, safety or morals** of the child as a consequence of its nature or the circumstances under which it is carried out.

Convention 182 is explicitly complementary to Convention 138 and must not be used to justify other forms of child labour.

## **Why should companies be concerned about Child Labour?**

Child labour is damaging to a child's physical, social, mental, psychological and spiritual development because it is work performed at too early an age. Child labour deprives children of their childhood and their dignity. They are deprived of an education and may be separated from their families.

Children who do not complete their primary education are likely to remain illiterate and never acquire the skills needed to get a job and contribute to the development of a modern economy. Consequently, child labour results in under-skilled, unqualified workers and jeopardizes future improvements of skills in the workforce.

Children have the same human rights as adults. But by virtue of their age and the fact that they are still growing and gaining knowledge and experience, they have some distinct rights as children. These rights include protection from economic exploitation and work that may be dangerous to their health, safety or morals and that may hinder their development or impede their access to education. The complexity of the issue of child labour means that companies need to address the issue sensitively, and must not take action which may force working children into more exploitative forms of work. Nevertheless, as Principle 5 states, the goal of all companies should be the abolition of child labour within their sphere of influence.

Association with child labour will likely damage a company's reputation. This is especially true in the case of transnational companies who have extensive supply and service chains, where the economic exploitation of children, even by a business partner, can damage a brand image and have strong repercussions on profit and stock value.

## **Strategies for Business**

Developing an awareness and understanding of the causes and consequences of child labour is the first step that a company can take toward action against child labour. This means identifying the issues and determining whether or not child labour is a problem within the business. Companies sourcing in specific industry sectors with geographically distant supply chains need to be particularly vigilant. However, child labour also exists less visibly in developed, industrialized countries where it occurs, for example, in some immigrant communities.

Discovering if child labour is being used can be difficult, for example in the case where documents or records are absent, and companies may consider using local non-governmental organizations, development organizations or UN agencies to assist in this process.

If an occurrence of child labour is identified, the children need to be removed from the workplace and provided with viable alternatives. These measures often include enrolling the children in schools and offering income-generating alternatives for the parents or above-working age members of the family. Companies need to be aware that, without support, children may be forced into worse circumstances such as prostitution, and that, in some instances where children are the sole providers of income, their immediate removal from work may exacerbate rather than relieve the hardship.

## **What companies can do:**

### **In the workplace**

- Be aware of countries, regions, sectors, economic activities where there is a greater likelihood of child labour and respond accordingly with policies and procedures.
- Adhere to minimum age provisions of national labour laws and regulations and, where national law is insufficient, take account of international standards.
- Use adequate and verifiable mechanisms for age verification in recruitment procedures.
- When children below the legal working age are found in the workplace, take measures to remove them from work.
- Help to seek viable alternatives and access to adequate services for the children and their families.
- Exercise influence on subcontractors, suppliers and other business affiliates to combat child labour.
- Develop and implement mechanisms to detect child labour.
- Where wages are not determined collectively or by minimum wage regulation, take measures to ensure that wages paid to adults take into account the needs of both them and their families.

### **In the community of operation**

- Work in partnership with other companies, sectoral associations and employers' organizations to develop an industry-wide approach to address the issue, and build bridges with trade unions, law enforcement authorities, labour inspectorates and others.
- Establish or participate in a task force or committee on child labour in your representative employers' organization at the local, state or national level.
- Support and help design educational/ vocational training, and counselling programmes for working children, and skills training for parents of working children.
- Encourage and assist in launching supplementary health and nutrition programmes for children removed from dangerous work, and provide medical care to cure children of occupational diseases and malnutrition.

*(Last updated: 14 August 2009)*

#### **ANNEX 6: UN Convention on the Rights of the Child**

There are 54 articles under this convention. Article 32 is specific on child labour:

1. Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
  - (a) Provide for a minimum age or minimum ages for admission to employment;
  - (b) Provide for appropriate regulation of the hours and conditions of employment;
  - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

In addition other articles are relevant, particularly Article 3 (Best interests of the child), Article 12 (Respect for the views of the child), Article 28 (Right to education), Article 29 (Goals of education), Article 35 (Abduction, sale and trafficking), and Article 36 (Other forms of exploitation).

**ANNEX 7: Organisations that can provide Technical Assistance & Guidance**

The following organisations can provide technical assistance:

Fair Labor Association. Mapping supply chains, identifying use of child labour and recommending courses of action

The Danish Institute for Human Rights. Policy formulation, and auditing.

Websites for more help.....

ILO Database

<http://www.ilo.org/ilolex/>

Countries ratifying ILO 138 and information on minimum age

<http://www.ilo.org/ilolex/cgi-lex/ratifce.pl?C138>