



(COP 17) CHILD LABOUR

A *Definitions and applicability*

Child Labour is defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to their social, physical and mental development. It refers to work that is mentally, physically, socially or morally dangerous and harmful to children, and interferes with their 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.

A **Child** is anyone under the age of 18 years. 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.

Whilst Child Labour takes many different forms, a priority is to eliminate without delay the **Worst Forms of Child Labour** (WFCL) as defined by Article 3 of ILO Convention No. 182:

- 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. Hazardous Child Labour which includes 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.

No child under 18 years old should be engaged in Hazardous Child Labour or other Worst Forms of Child Labour.

Source:

- *International Labour Organisation (ILO) – What is Child Labour?*
www.ilo.org/ipec/facts/lang--en/index.htm
- *International Labour Organisation (ILO) Convention 138 - Minimum Age (1976)*
www.ilo.org/ilolex/cgi-lex/convde.pl?C138
- *International Labour Organisation (ILO) Recommendation 146 - Minimum Age (1976)*
www.ilo.org/ilolex/cgi-lex/convde.pl?R146
- *International Labour Organisation (ILO) Convention 182 - Worst Forms of Child Labour (1999)*
www.ilo.org/ilolex/cgi-lex/convde.pl?C182
- *International Labour Organisation (ILO) Recommendation 190 – Worst Forms of Child Labour (1999)*
www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312528:NO

The **Child Labour** section of the COP is applicable to all Members. See also the Guidance for [Human Rights](#) and [Sourcing from Artisanal and Small-Scale Mining](#).

B *Issue background*

Child Labour is one of the most high profile and widely-condemned social performance issues.

The use of Child Labour is still widespread in many parts of the world. The ILO's most recent Global Report on Child Labour found that some 215 million children (aged 5-17) across the world are still trapped in Child Labour, with 115 million in its worst forms¹.

Child Labour refers to work that interferes with children's schooling. It may deprive children of the opportunity to attend school, oblige them to leave school prematurely, or require them to combine school attendance with demanding work. Whether or not particular forms of 'work' are prohibited as 'Child Labour' depends on a number of factors. These can include the child's age, the type and hours of work performed, the conditions under which it is performed and the legal framework of individual countries and sectors.

It is important to understand the context in which Child Labour occurs and the impacts it can have. There are various reasons why children are employed, but the main reason is one of economic necessity. Families in marginal economic circumstances may depend on children earning incomes. However, Child Labour ultimately impedes economic growth and development. It deprives children of the opportunity to be educated for productive and decent work, often consigning them to low-paying and unskilled jobs in adulthood at best. Child Labour can also have a negative effect on adult working conditions, creating a downward pressure on wage levels and leading to increased adult unemployment rates. This in turn reinforces the problems of poverty and lack of development that drive Child Labour in the first place. As a result, addressing Child Labour is a complex issue and unfortunately not always simply a matter of removing children from the workforce. It must be approached with an understanding of its economic drivers and sensitivity to the alternatives.

Under the UN Guiding Principles on Business and Human Rights, business enterprises have a responsibility to respect human rights, which includes the right to be free from Child Labour. Companies should avoid causing or contributing to Child Labour through their own activities and, where human rights abuses occur, provide for or cooperate in their remediation. Furthermore, they should seek to prevent or mitigate Child Labour that is directly linked to their operations, products or services by their business relationships, such as suppliers.

C *Key regulations*

On 20 November 1989, the United Nations General Assembly unanimously adopted the Convention on the Rights of the Child (CRC). The Convention spells out the basic human rights to which children everywhere are entitled, such as the right to survival and the right to the development of their full physical and mental potential. The CRC defines a 'child' as anyone up to the age of 18 years.

INTERNATIONAL CONVENTIONS

The International Labour Organisation (ILO), a tripartite United Nations agency, has passed two major conventions on Child Labour. These are the Minimum Age Convention 138 (1973) and the Worst Forms of Child Labour Convention 182 (1999).

ILO Convention 138 sets the minimum working age at 15 years, or statutory school-leaving age, whichever is higher. Under certain conditions, a member country whose economy and educational facilities are insufficiently developed may initially specify a minimum age of 14 years. However the RJC Code of Practices requires that a basic minimum working age of 15 years should be achieved by the end of the Member's first Certification Period.

There are two main exceptions to the minimum age of 15 as set in ILO Convention 138:

- A higher minimum age of 18 for Hazardous Work.
- A lower age minimum of 13 for Light Work. Factors to consider in determining whether a particular job constitutes Light Work for a young person are: hours of work, school attendance and performance, and the working environment. 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.

1 ILO: Accelerating action against Child Labour. ILO Global report on Child Labour 2010. Geneva, 2010. Available at: www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_126752.pdf.

C Key regulations (cont)

ILO Convention 138 does not apply to work done by children and young persons in schools for general, vocational or technical education or in other training institutions, or to work done by persons at least 14 years of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, and is an integral part of:

- a. a course of education or training for which a school or training institution is primarily responsible;
- b. a programme of training mainly or entirely in an undertaking, which programme has been approved by the competent authority; or
- c. a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.

ILO Convention 182 calls on member States to prohibit and eliminate the Worst Forms of Child Labour, and applies to all children under 18. ILO Convention 182 is accompanied by Recommendation 190 which gives guidance on whether work can be considered as 'hazardous'.

- **Hazardous Work:** work which puts at risk children's physical or psychological well-being, due to the nature of the work, or because of the conditions under which it is carried out. ILO Recommendation 190 notes the following should be considered when determining whether work is **Hazardous Work**:
 - work which exposes children to physical, psychological or sexual abuse;
 - work underground, under water, at dangerous heights or in confined spaces;
 - work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;
 - 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;
 - 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.

WHAT SECTORS AND/OR ACTIVITIES ARE CONSIDERED AS 'HAZARDOUS'?

The definition of hazardous work is country specific. Many countries have now established lists of hazardous work for children, but many need to update their lists, and others have yet to establish lists.

ILO Recommendation 190 notes that national laws or regulations or the competent authority could, after consultation with the workers' and employers' organizations concerned, authorize employment or work as from the age of 16 on condition that the health, safety and morals of the children concerned are fully protected, and that the children have received adequate specific instruction or vocational training in the relevant branch of activity.

- **Worst Forms of Child Labour:** ILO Convention 182 calls for the immediate elimination of 'unconditional worst forms of Child Labour' and defines a child as anyone under 18. 'Worst forms of Child Labour' are defined as slavery, trafficking and other forms of forced labour, forced recruitment for use in armed conflict, prostitution, pornography and other unlawful activities.

Conventions 138 and 182 are classified by the ILO as 'core conventions'. Additionally, effective abolition of Child Labour is also included in the ILO 1998 Declaration of Fundamental Principles and Rights at Work. All ILO member countries are bound to promote and respect the principle of the Declaration, regardless of whether they have ratified the core conventions.

C Key regulations (cont)

NATIONAL LAW

Most countries have national legislation dealing with minimum ages for working, often with particular provisions for different sectors. RJC Members should follow the requirement of national law where this sets a tougher standard than the ILO.

THE CHILD & ADOLESCENT LABOUR (PROHIBITION AND REGULATION ACT) INDIA

On the 28th of August 2012, the Union Cabinet of India approved amendments to the Child & Adolescent Labour (Prohibition and Regulation) Act, 1986. The act, if implemented, would ensure that all forms of Child Labour under the age of 14 will be banned, making the employment of children below 14 years a criminal offence, and the employment of children (referred to as adolescents in the Act) aged 14-18 in hazardous work will be prohibited.

Under the 2012 Amendment Bill, what is considered as 'hazardous work' includes the following 'occupations' that can be relevant to RJC Members: any occupation connected with mines (underground and underwater) and collieries; gem cutting and polishing, and the following 'processes': using toxic metals and substances such as lead, mercury, manganese, chromium, cadmium, benzene, pesticides and asbestos. No person under the age of 18 is allowed to work in these sectors.

To read the Child Labour (Prohibition and Regulation) Amended Bill (2012), visit: www.prsindia.org/uploads/media/Child%20Labour/Child%20Labour%20%28Prohibition%20and%20Regulation%29%20%28A%29%20Bill,%202012.pdf

D Suggested implementation approach

The Suggested implementation approach provides general guidance for implementing the mandatory requirements of the Code of Practices. The guidance is not normative and should be seen as a starting point for information and support.

COP 17.1: A BASIC MINIMUM WORKING AGE OF 15 YEARS:

Members shall not engage in or support Child Labour, as defined in ILO Convention 138 and Recommendation 146, which sets the following minimum ages for work:

- a. A basic minimum working age of 15 years, to enable Children to complete compulsory schooling.
- b. Members operating in developing countries where compulsory schooling ends earlier than 15 years, may initially permit a minimum working age of 14 subject to Applicable Law, but should achieve a minimum working age in Facilities of 15 years by the end of the Member's first Certification Period.

COP 17.2: WORST FORMS OF CHILD LABOUR:

Members shall not engage in or support Worst Forms of Child Labour, as defined in ILO Convention 182 and Recommendation 190, which includes:

- a. Hazardous Child Labour, which by its nature or circumstances is likely to jeopardise the Health, Safety or morals of persons younger than 18 years. Where allowed by Applicable Law and supported by assessment of Risks and implementation of controls under Health and Safety, a minimum age of 16 is permitted on condition that the health, safety and morals of the Children concerned are fully protected, and that the children have received adequate specific instruction or vocational training in the relevant branch of activity.
- b. All forms of child slavery and practices similar to slavery, including debt bondage, the trafficking of children, forced Child Labour and the use of children in armed conflict.

D Suggested implementation approach (cont)

Points to consider for 17.1 and 17.2:

- A risk assessment appropriate to the business' circumstances can be used to assess where there may be a risk of Child Labour. See the RJC Risk Assessment Toolkit for a general risk assessment template that can be used, particularly for small to medium enterprises. The Human Rights Due Diligence toolkit can also be used to assess direct and indirect Child Labour risks. Alternatively Members may use their own risk assessment process. Issues to assess may include:
 - Areas of hazardous labour, mapping current worker ages against tasks. Confirm that no worker under 18 is involved in hazardous work.
 - Contractors working at the Member's facilities.
 - Migrant workers and availability of personal identity information.
 - Relationships with suppliers/sub-contractors as a potential supply chain risk (see also guidance for [Human Rights](#)).
 - Any artisanal mining sourcing relationships (see also guidance for [Sourcing from Artisanal and Small-Scale Mining](#)).
- Confirm that awareness of and responsibility for Child Labour issues is part of a senior management function, such as human resources.
- Develop policies and procedures against Child Labour. This should include effective procedures for verifying age prior to recruitment and for not accepting into employment any person who lacks proper identification with proof of age and appears to be under 18. Where there are on-site contractors, ensure that they comply with your Child Labour policy.
- Members must not engage in dismissals of under-age workers in advance of the RJC audit.
- Record keeping: Maintain copies of documentary evidence of worker ages (or equivalent, for example start dates of long-term employees) on file. Investigate any potential discrepancies. For any worker under 18, records should include a description of the worker's role or duties, so as to confirm there is no involvement in hazardous work or the Worst Forms of Child Labour.
- Note: Under ILO Convention 182 and Recommendation 190, Light Work is permitted for Children between the ages of 13 and 15 years old, as long as it does not threaten their health and safety, or hinder their education or vocational orientation and training.

COP 17.3: WHERE CHILD LABOUR IS FOUND AT A FACILITY:

Notwithstanding 17.1, where Child Labour is found at a Facility, Members shall develop documented Child Labour Remediation processes that include steps for the continued welfare of the Child and consider the financial situation of the Child's family. Remediation shall include:

- a. Immediately withdrawing any Children engaged in Child Labour.**
- b. For a Child not still subject to compulsory education laws or attending school, finding alternative income generation and/or vocational training opportunities which can include decent and permissible employment.**
- c. For a Child still subject to compulsory education laws or attending school, offering adequate support to enable the Child to attend and remain in school until the completion of compulsory education.**
- d. A systemic review of the Member's approach to avoiding Child Labour, to identify root causes of non-conformances and implement controls to avoid any recurrence.**

D Suggested implementation approach (cont)

Points to consider:

- Remember that instances of Child Labour require considered responses that take account of local circumstances and applicable law.
- Develop appropriate remediation strategies to deal with instances of non-conformance with the ILO conventions and/or applicable state laws.
 - If children are found to be performing hazardous tasks, they must be removed from these functions immediately. Worst Forms of Child Labour situations may be a crime that needs to be reported to relevant authorities.
 - If not engaged in hazardous work, children should be supported adequate alternative sources of support for their families are available. The key is for children to have access to good quality education with real prospects of meaningful employment when they leave school. This is especially important where there is the risk that those children, if simply withdrawn from employment, may work for other organisations with uncontrolled working conditions.
 - Where a Child not engaged in Worst Forms of Child Labour remains in partial employment during the Remediation process, it is important to ensure that they are not employed during school hours, that combined hours of daily transportation to and from work and school, time at school and work does not exceed 10 hours a day; there is a minimum period of night time rest of 12 hours and customary weekly rest days; fair payment for the Child's work; and prohibition of overtime. The feasibility of achieving this outcome in practice must be carefully evaluated.
 - Under the RJC system, remediation of Child Labour through the above will not be considered a situation of Critical Breach. However the business must immediately develop procedures to prevent any additional children being employed.
- Ensure that any Light Work undertaken by children does not interfere with schooling. A structured formal education program should be supported for young people found to be in employment.
- Consider supporting community development programs aimed at eradicating the root causes of Child Labour. These can usually only be implemented in co-operation with other agencies such as national or local government, international institutions such as the International Labour Organisation (ILO), trade unions, NGOs and community groups. Companies could consider programs and projects that aim to 1) improve access to education, and 2) withdraw larger groups of children from Child Labour and enrol them in school or vocational training.

AFRICAN HIV/AIDS ORPHANS

In Africa, some children must seek work because they are HIV/AIDS orphans. In some countries, these children may end up in ASM operations. The decision to either refuse a subsistence opportunity or consciously accept Child Labour can present a serious dilemma for ASM communities. The Alliance for Responsible Mining has considered these issues in the development of the Fairmined Standard, which mirrors the approach of the RJC Code of Practices.

If children, who are living in child headed households and/or outside family or guardian care, are detected in child labor in the ASM mining area, the guiding principles of the UNCRC must be used to ensure well-being and safety for the impacted children. If older children (15-18) are detected in the worst forms of child labor, they must be immediately withdrawn and safe alternative income generation opportunities must be found, including flexible schooling if they are below the age of 15 years (or higher as determined by national legislation). Where Members identify the presence of Child Labour in ASM in or around their concessions, but which are not under their Control, they should provide support for programs aimed at withdrawing Child Labour from mining, as part of COP 33; and similarly where Members are in a sourcing relationship under COP 7, as part of the remediation process.

CHECK:

- Is awareness of and responsibility for Child Labour issues part of a senior management function, such as human resources?
- Can you show the auditor a written policy commitment against Child Labour?
- Have you identified areas of Hazardous labour and checked to ensure no workers under 18 are involved?
- Do you have procedures in place to verify age and maintain records?
- If any Children are found in employment, is a proper remediation program in place in accordance with Provision 17.3?

E Further information

The following websites have further information on Child Labour issues:

- Child Labour Platform - Report 2010-2011. Business practices and lessons learned on addressing Child Labour (2011)
www.gcnetherlands.nl/docs/child_labour_platform_report_2010-2011.pdf
- Human Rights Watch - A Poisonous Mix. Child Labor, Mercury, and Artisanal Gold Mining in Mali (2011)
www.hrw.org/sites/default/files/reports/mali1211_forinsertWebUpload_0.pdf
- International Labour Organisation (ILO) – What is Child Labour?
www.ilo.org/ipec/facts/lang--en/index.htm
- International Labour Organisation (ILO) Convention 138 - Minimum Age (1976)
www.ilo.org/ilolex/cgi-lex/convde.pl?C138
- International Labour Organisation (ILO) Recommendation 146 - Minimum Age (1976)
www.ilo.org/ilolex/cgi-lex/convde.pl?R146
- International Labour Organisation (ILO) Convention 182 - Worst Forms of Child Labour (1999)
www.ilo.org/ilolex/cgi-lex/convde.pl?C182
- International Labour Organisation (ILO) Recommendation 190 – Worst Forms of Child Labour (1999)
www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312528:NO
- International Labour Organisation (ILO) - Employers' and Workers' Handbook on Hazardous Child Labour (2011)
www.ilo.org/public/english/dialogue/actemp/downloads/projects/cl_handbook.pdf
- International Labour Organisation (ILO) - Accelerating action against Child Labour. ILO Global report on Child Labour (2010)
www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_126752.pdf
- International Programme on the Elimination of Child Labour (IPEC)
www.ilo.org/ipec/index.htm
- International Programme on the Elimination of Child Labour (IPEC) – Children in Hazardous Work (2011)
www.ilo.org/public/english/dialogue/actemp/downloads/projects/cl_handbook.pdf
- ILO/IPEC - Tackling Child Labour: From commitment to action (2012)
www.ilo.org/ipec/Informationresources/WCMS_181875/lang--en/index.htm
- Social Accountability International (SAI) – Social Accountability SA 8000 International Standard (2008)
www.sa-intl.org/_data/n_0001/resources/live/2008StdEnglishFinal.pdf
- Social Accountability International (SAI) - SA® 8000 Abridged Guidance: 2008 Standard
www.sa-intl.org/_data/n_0001/resources/live/SAI_AbridgedGuidance_SA8000_2008.pdf
- UNICEF - Child Labour Resource Guide
www.unicef.org.uk/campaigns/publications/clrg/index.asp
- UNICEF/UN Global Compact/Save the Children - Children's Rights and Business Principles (2012)
www.unglobalcompact.org/docs/issues_doc/human_rights/CRBP/Childrens_Rights_and_Business_Principles.pdf
- United Nations Global Compact – Principle 5 on Child Labour
www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/principle5.html
- United Nations Guiding Principles on Business and Human Rights
http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf