Information provided by the Azerbaijani authorities with regard to the US Department of Labor Questionnaire on Child Labor and Forced Labor

/February, 2013/

Section I: Worst Forms of Child Labor

Laws and Regulations on the Worst Forms of Child Labor

In addition to other existing legislations, the protection of the child rights has been strengthened through amendments to the Family Code, which were approved by the Law 924-IIIQD, dated December 4, 2009. Thus, under amended Article 51.6 of the Family Code, official persons and other citizens have to report to the custody and protection bodies of the executive authorities of respective localities about any case of children being involved to activities harmful to their life, health or morality and as well as all violations of their rights and legal interests. The custody and protection bodies of local executive authorities that received above-mentioned information have to take actions necessary for protection of the rights and the legal interests of children. In accordance to Article 51.7 of the Family Code, the following public authorities monitor the realization of the rights of children in their relevant fields of activities, as defined by the legislation:

- State Committee for Family, Women and Children's Issues (SCFWCI);
- Ministry of Internal Affairs (MIA);
- Ministry of Education;
- Ministry of Health;
- Ministry of Labor and Social Protection of Population (MLSPP);
- Ministry of Youth and Sport;
- Commissions on affairs of juveniles and protection of their rights;
- Custody and protection bodies within local executive authorities;

In order to coordinate the work of theses authorities, "the Rules on State control on realization of child rights" was approved by the Decree No. 626 of the President of the Republic of Azerbaijan, dated May 8, 2012.

Furthermore, Article 12, I part, paragraph "g" of the Labor Code defines as one of the main duties of employees to not involve children to any labor activities that might be harmful to their life, health or morality. According to the second part of the same article, employees are liable for involving children to labor activities harmful to their life, health or morality. Article 44, I part provides that labor contract is done in written form and under Article 46, IV part labor contracts are concluded with persons reached the age 15. Any labor contract concluded with people under the age 15 is considerer invalid

and employees who concluded such contact bear administrative liability under Article 312 of the Labor Code. Article 249, part I of the Labor Code determines the age 15 as minimum age for employment. In the context of the implementation of ILO Convention 138 on Minimum Age Limit a new draft law was elaborated with the technical support of the ILO and has been submitted to the Milli Majlis (National Parliament). This draft law is aimed at the improvement of Article 249 and extension of coverage field of the ILO Convention 138. It foresees that while maintaining the age 15 as minimum age for employment, working conditions for children will be alleviated and working hours will be shorten, in line with the provisions of Article 7 of the ILO Convention 138.

The conclusion of labor contracts with people between 15 and 18 years old requires the written consent of one of the parents or persons having their guardianship or persons legally replacing them.

Protection of children from all forms of exploitation and employment in hard, hazardous and dangerous labor activities is provided in Article 28 of the Law on Child Rights of Azerbaijan. Articles 53.9, 53.10, 307.1 and 307.2 of the Code of Administrative Offences foresee penalties or administrative detentions for the relevant violations. Article 53.9 of the Code of Administrative Offences provides that in cases of employment of people under the age of 15, the respective person in office is fined from 1000 to 1500 AZN (1 USD/ 0.78 AZN) and the relevant legal person is fined from 10000 to 13000 AZN. Under Article 53.10, in cases of involvement of children to activities that might be harmful to their life, health or their morality, the respective person in office is fined from 3000 to 4000 AZN and the relevant legal person is fined from 10000 to 13000 AZN.

By virtue of the Law 408-IVQD, dated 29 June, 2012, a new Article 171-1 was added to the Criminal Code of the Republic of Azerbaijan. The text of this Article is the following:

Article 171-1. Circulation of child pornography

171-1.1. Distribution, advertisement, sale, offering to others, sending, proposing, creation of conditions for acquiring or preparation, acquiring or keeping with the intention of distribution or advertisement of the child pornography are liable to penalty from 8000 to 10000 AZN or deprivation of liberty up to 5 years;

171-1.2. the same acts:

171-1.2.1. committed repeatedly;

171-1.2.2. committed by a group of people agreed in advance, organized group or criminal organization;

171-1.2.3. committed with making considerable amount of gain;

171-1.2.4. committed by the parents of juveniles or persons legally assigned to educate juveniles or teaching or other staff of educational, medical or other institutions implementing control duties on juveniles;

171-1.2.5. committed against a person who is clearly under age 14 for the accused person;

are liable to from 5 to 8 years deprivation of liberty with prohibition to hold a position or engage in certain activities;

(**Note:** *1. For the purposes of Article 171-1 "child pornography" means illustration of real or simulated participation of a minor or a person giving impression of a minor in explicitly sexual actions, or objects or materials reflecting sexual organs of minors, including realistic pictures illustrating minors participating explicitly in sexual acts. 2. "considerable amount" referred to in Article 171-1.2.3. should be understood as more than 1000 AZN).*

Government Task Force or Commissions on Child Labor

In accordance with provisions of "the Rules on State control on realization of child rights" was approved by the Decree No. 626 of the President of the Republic of Azerbaijan, dated May 8, 2012, a coordination mechanism of activities of all central authorities involved to the protection of child rights was set up and norms and rules for conducting monitoring with respect to rights of children as determined in the legislation were developed.

Implementing paragraph 2.2.3.12 of the 2011-2015 Action Plan for the realization of "the State Program on Reduction of Poverty and Sustainable Development in the Republic of Azerbaijan for 2008-2015", a monitoring group in charge of supervision of cases of school absentees and children involved to labor activities was set up. The monitoring group comprises representatives of the SCFWC, the Ministry of Education, the Ministry of Health, the MLSPP, local executive authorities and NGOs. It was planned to start monitoring in Baku city and respectively cover the whole country. Since October 2012, monitoring was conducted throughout the districts of Khazar, Binagadi and Sabunchu of the city of Baku in schools, internet clubs and enterprises mainly providing different kind of services. As a result of monitoring, the situation regarding involvement of children to labor and school attendance will be analyzed in order to develop relevant mechanisms to fill in existing gaps

Institutions and Mechanisms for Enforcement of Labor Laws Regarding Child Labor and Hazardous Child Labor

The State Labor Inspection Service under the MLSPP has provided strengthening the monitoring on illegal use of child labor throughout the country. This monitoring is especially focused on identification of following cases:

- any paid labor activities carried out by children under the legal age required for employment;

- labor activities harmful to the physical, intellectual and moral wellbeing of children due to labor conditions and labor functions;

- worst forms of child labor and forced labor;

During 2011 and 11 months of 2012 the State Labor Inspection Service of the MLSPP carried out 13864 inspections to enterprises to monitor fulfillment by employees of the requirements of the labor legislation.

During these inspections, it was determined that rights of 12 persons under age 18, as provided by the Labor Code and other legislative acts, were not respected by employees in the retail and service sectors. The State Labor Inspection Service took necessary measures to eliminate these irregularities. Besides that 3 entrepreneurs were fined to 1000 AZN for involvement of persons under age 15 to labor activities, on the basis of Article 53.9 of the Code of Administrative Offences.

As a result of inspections realized in coordination with police services, the payment of delayed wages with a total amount 305.880 AZN to respective employers, reimbursement of 27.722 AZN for financial damages and as well as payment of 22.155 AZN for social allocations were provided. In addition, these inspections allowed to 10.845 people working in the construction sector to conclude relevant labor contracts.

Actions aimed at combating cases of involvement or coercion of children to labor activities prohibited by the legislation are also among the priorities of public security services of the police and those actions are implemented in accordance with legal regulations of the police, adopted on the basis of domestic legislation and international standards and in full compliance with the protection of the best interest of children and juveniles.

In particular, the police services implement preventive actions with respect to children exposed to street life, vagabondage or begging and while carrying out these actions, the police officers follow special instructions and orders elaborated in this regard.

The police services engaged in external supervision detect through regular raids and inspections children involved in illegal street works and vagabondage and in addition to application of sanctions, having determined their identities, residence places and parents, the police services register them in a data base, with a view to implementing better and more effective preventive actions.

In 2012, the police carried out with participation of representatives of other relevant public authorities and as well as non-governmental organizations more than 200 raids and inspections, which resulted in identification of 455 juveniles (80-85% being under the preschool age) involved in street activities. Consequently, parents of 106 juveniles were identified, 99 cases were sent to courts, more than 200 cases were referred to respective commissions within the executive authorities dealing with children, 106 parents got official warning through the courts, 11 people got administrative arrests.

In 2012 the State Migration Service realized monitoring in 484 enterprises were it found that the rules for employment of foreign workers were violated and subsequently necessary measures, as defined by the legislation were taken against 235 physical and legal persons who infringed the relevant rules.

Throughout the year, all requests and inquiries regarding forced labor were duly addressed by the Azerbaijani authorities. In 2012, they received reports about coercion to forced labor of nationals of Turkey, Turkmenistan and Uzbekistan, but ensuing investigation determined that complaints were mainly stemming from delayed wages, partial payment of wages or other labor disputes and they were settled in compliance with requirements of the relevant legislations. In the same way, on the basis of reports on involvement of Azerbaijani citizens and foreign workers to forced labor in agricultural fields, monitoring missions were conducted in the districts of Shamkir, Kurdamir, Guba, Shaki, Gabala, Ismayilli, Zagatala, Salyan, Barda and Bilasuvar. However no victim of forced labor was identified in these missions.

During the past year, in the framework of the project of the ILO and the European Union Twinning program trainings on regulation of child labor and prevention of forced labor were organized for officials of the State Labor Inspection Service and regular awareness raising activities were held among the population.

The National Trilateral Social Council on Safe and Healthy Labor Conditions, set up jointly by the MLSPP, the Confederation of Trade Unions and the National Confederation of Entrepreneurs' Organizations (employees) on January 27, 2012, has been also taken relevant steps, with involvement of social partners, to raise awareness among employees on child labor.

Institutional Mechanisms for Effective Enforcement of Criminal Laws on Child Forced Labor / Trafficking, Commercial Sexual Exploitation and Use of Children in Illicit Activities

During 10 months of 2012, as a result of operational and preventive activities 85 facts of human trafficking were found out, subsequently 2 organized and 6 criminal groups were neutralized. For such criminal activities 20 people were arrested and 10 of them were sentenced to prison terms from 5 to 10 years. 3 accused persons were put on Interpol wanted list and later they were detained and transferred to the investigation bodies. Another 22 persons are still wanted. In the same period 53 victims of human trafficking were identified. Out of them 19 were taken to Turkey, 12 to Iran, 2 to the UAE, 14 to the Russian Federation and 6 were subjected to trafficking within the country. 43 victims were put to safe asylum center and necessary assistance was provided for them. 35 victims received one-time financial assistance, 18 victims received assistance from the Victims' Fund. Besides that 2 criminal cases related to forced labor were registered in 2012.

In the framework of preventive activities against the trafficking in persons, 115 cases against public morality were identified and 85 people were considered liable for such acts. At the same time, with regard to these violations individual correctional talks were conducted with 450 women, on the basis of relevant indicators and none of them was revealed to be a victim of trafficking. Besides that during the raids 267 people were identified as being exposed to trafficking and 89 people out of them were referred to the Help Center for victims of human trafficking, the Ministry of Education, the Ministry of Health and the Ministry of Justice. 67 potential victims received medical aid, 151 persons legal aid, 112 psychological aid and 50 persons were provided with jobs.

In 2012 the specialized Hot Line service for victims of trafficking received 13000 calls, which were mainly related to trafficking, immoral activities, employment abroad, education, problems stemming from the marriage with foreigners and this service provided necessary clarifications on those requests.

During the year, trainings were organized for representatives of the MLSPP, the State Migration Service, the State Border Service, 15 tourism agencies based in the city of Baku and NGOs engaged in activities related to the trafficking in persons, with a view to improving their professionalism and ability to identify victims of human trafficking and forced labor. Besides that in March 2012, seminars dedicated to investigation of human trafficking crimes were held in 28 police agencies of the country with participation of members of the Milli Majlis (National Parliament), representatives of the US Department of Justice, the Azerbaijan office of the American Bar Association and the Confederation of Azerbaijani Lawyers.

Government Policies on Child Labor

In accordance with the State Program on Social-Economic Development of Regions of the Republic of Azerbaijan for 2008-2015, specialized institutions for abandoned children are planned to be opened in Baku, the city of Ganja and the districts of Aghjabedi, Masalli, Tovuz and Shaki.

On June 14, 2012 the MLSPP and SCFWCI organized a round table on “Child labor: implementation of legislation, addressing its social impact and consequences, prevention of involvement of young people to hazardous labor, building safe future for young people” and according to the agreement reached between two bodies, a draft Action Plan was development with involvement of international experts with a view to coordinating activities related to child labor problems. This Action Plan foresees that the SCFWCI will implement awareness raising and educational measures on prevention of child labor, while the MLSPP will further strengthen its monitoring activities on the use of child labor.

Social Programs to Eliminate or Prevent Child Labor

The analyses indicate that one of the main reasons of involvement of children to labor is related to internal family problems, lack of care of parents or their negligence. As another way to contribute to the solution of social problems impacting child labor the MLSPP supports, jointly with UNICEF, activities of organizations specialized in the field of protection of child rights. In this framework, the projects like “Center for Social Rehabilitation of Children and Young People”, “Child Rights Clinics” and “Azerbaijan Child Hotline Service”, which are implemented for the first time in the country, are specialized in prevention of the neglect of juveniles, legal assistance to families, social rehabilitation of juveniles committed violations of law and legal-psychological assistance to children. It should be noted that according to data collected from afore-mentioned centers, they registered 357 children and majority of those children were subjected to different degree of labor exploitation.

Community based project “Child Police Rooms”, created in the districts of Narimanov, Nizami and Khatai of the city of Baku, registered 27 juveniles and provided them with legal assistance. 19

juveniles considered to be potential victims of human trafficking were provided with identity documents.

Section II: Child Labor and Forced Labor in the Production of Goods

The reports that stand on the basis of inclusion of the Azerbaijani cotton to the list of good produced with use of the child labor date back 2005 and since that year the Azerbaijani economy, including agriculture sector underwent significant changes. The official figures of the State Statistics Committee indicate that in comparison with 2005, in 2011 the GDP registered tremendous growth, while part of agriculture in the GDP declined from 8.6% to 5.5% and the number of people involved in agriculture declined to 3%. Thus, it should be noted that during last several years the size of cotton fields has shrunk significantly. More precisely, the size of cotton grown fields was reduced from 112 400 ha (*277746 ac*) in 2005 to 42 829 ha (*105832 ac*) in 2011. Only, from 2011 to 2012 total cotton field in Azerbaijan was reduced from 42829 ha (*105832 ac*) to 28218 ha (69728 ac), which represented 31,78% reduction in one year. In 2005-2011, the production of cotton dropped from 196 600 ton to 64 400 ton. Besides that, all those farmers cultivating cotton have been more and more using progressive technologies, tools and equipments in the cotton fields and consequently, the general use of manual labor has been reduced to a minimal degree. In these conditions there is not even need for child labor for production of cotton. In May 2012 the representative of the US Department of Labor Ms. Elisabeth Wolkomir visited cotton fields in the districts Barda, Bilasuvar and Aghjabedi and during these visits no case of involvement of children to labor was observed.

Respectively, it would be fair to take out the Azerbaijani cotton from the list of goods produced by child labor.