

## **VIET NAM'S EFFORTS ON PREVENTION AGAINST AND ELIMINATION OF CHILD LABOR AND FORCED LABOR**

The State of Viet Nam has been paying special attention to prevention against and elimination of forced labor and child labor through efforts to improve the legal system and policies, law enforcement as well as inspection and handling of related violations and to provide protection, supports for community reintegration for victims.

### **I. LEGAL AND POLICY SYSTEM**

#### **1. Viet Nam is an active member of International Conventions on the prevention against and elimination of forced labor and child labor**

- Viet Nam is the first country in Asia and the country in the world to ratify the UN Convention on the Rights of the Child in 1990.

- Viet Nam has joined and taken seriously the members' responsibility to the International Labor Organization (ILO) 's relevant conventions, and has ratified 19 ILO Conventions, including: Convention No. 29 on Forced Labor; Convention No. 138 on the minimum working age; Convention No. 182 on the Worst Forms of Child Labor. Currently, Viet Nam is considering ratification of the Convention No. 105 on Abolition of Forced Labor.

- At the regional level, Viet Nam together with other ASEAN countries is building the framework and planning related activities, with special focus on protecting the rights of the child and of the workers.

#### **2. Consolidation of national policies and laws on prevention against and elimination of forced labor and child labor**

##### *2.1. Constitutions*

The Constitution 1946 indicated the direction and viewpoints of protecting the legitimate rights and interests of workers, protection, care and education for children, prevention against forced labor and child labor. The new Constitution adopted on November 11, 2013 states that: "The State protects the rights and legitimate interests of the employees, the employers, and facilitates the building of sound and stable industrial relations" (Article 57), "The State shall protect marriage and the family, the rights of the mother and child" (Article 36), "The children are protected, cared and educated by the State, families and the society". All acts of abusing, maltreating, neglecting, labor exploitation and other acts violating child rights are strictly prohibited" (Article 37), "The State, the society and family have responsibilities of protecting maternal health of the mother and health of children and implementing family planning" (Article 58).

##### *2.2. Labor Code 2012*

The revised Labor Code in 2012 stipulates many provisions that strictly prohibit exploitation of child labor and forced labor. Article 3 gives a clear definition of an employee who is at least 15 years of age, has the ability to work, works under an employment contract, is paid and is managed and controlled by the employer. Article 8 specifies prohibited acts that include: extracting forced labor and illegal use of minor labor. Chapter X stipulates on minor workers including the types of jobs which allow minor labor, and related working conditions as well as the jobs that prohibit the use of minor workers.

### *2.3. Law on Child Protection, Care and Education 2004*

Law on Child Protection, Care and Education in 1991 and its revision 2004 stipulates provisions on prohibiting child labor abuse as well as and defining the responsibilities of the People's Committees at all levels for timely detection and settlement of cases where children have to work in dangerous and hazardous conditions.

### *2.4. Law on Employment 2013*

The Law on Employment 2013 specifies the age of Vietnamese worker (from at least 15 years of age, capable of working and desire to work), the principles of employment, prohibited acts including the illegal recruitment and use of employed workers...

*2.5. Law on Prevention and Protection of Human Trafficking 2011* regulates the prohibited acts including human trafficking for sexual exploitation, forced labor, the principles and measures for prevention against and protection of trafficked victims.

2.6. The protection of the rights and interests of workers as well as the child protection and care are also revised and amended in other several important laws of Viet Nam such as the revised Civil Code 2005, the Penal Code supplemented and revised in 2009 etc.

2.7. Viet Nam also issued series of documents guiding the implementation of the above-mentioned law including decrees, circulars and directives... Followings are some newly-adopted guiding documents:

- The Directive No. 1408/CT-TTg in 2010 issued by the Prime Minister clearly stipulates that the provincial People's Committee must be responsible for the occurrence of child abuse and child labor in its province.

- The Decree No.144/2013/ND-CP dated 29<sup>th</sup> October, 2013 stipulates administrative sanctions to the violation in protection, social assistance and caring of the children. The Section 2 of this Decree stipulates the administrative sanctions on violations to child protection, care and education with many new regulations on different forms of sanctions to the acts of preventing the rights to education for children, seducing, enticing and coercing children, abusing street children, using children to illegally buy, sell and transport goods, counterfeit goods, money...

- The Circular No.10/2013/TT-BLĐTBXH dated 6th October, 2013 issued by the Ministry of Labour, Invalids and Social Affairs (MOLISA) on the list of jobs and work which are prohibited from using minor workers.

- The Circular No.11/2013/TT-BLDTBXH dated 6th November 2013 issued by the MOLISA on the list of light work which are allowed to use workers under the age of 15.

- The Official Note no. 110/TTr-TEXH dated 20 March 2013 issued by the MOLISA on strengthening the inspection, handling of violations related to child labor and forced labor.

- The Document no. 1971/LĐTBXH-TTr dated 5 June 2013 issued by the MOLISA on reporting the inspection, handling of violations of child labor and forced labor.

### *2.8. The system of penalties for forced labor and child labor abuse*

Under Vietnamese laws, forced labor and use of child labor which adversely affects a child's personality is an illegal act. The abuser of child labor and forced labor may be subject to civil remedies, administrative and criminal penalties.

- Civil remedies: Article 604 of the Civil Code stipulates that: "Any person who intentionally or unintentionally infringe upon the life, health, honor, dignity, reputation, assets, rights, legitimate interests of individuals, violating the honor, reputation or property of the legal person or other entity causing damages will have to pay for compensation."

- Administrative remedies: the Labor Code stipulates prohibiting mistreatment of workers, forced labor in any forms as well as the provisions on State inspection on labor and sanctions for violations of labor laws, including the administrative and disciplinary sanctions.

- Criminal sanctions: the revised Penal Code 2009 stipulates the application of criminal sanctions for some cases of forced labor if there are signs of illegal detention, forced prostitution, trafficking in women, children, infringe upon the life, body, honor and dignity of others... (Articles no. 104 to 110, 119, 120, 121). Article 228 of the Penal Code regulates that "the one who use child labor in hazardous occupations listed by the State that lead to serious consequences, or recommit the acts after administratively sanctioned shall be subject to a fine of VND 5 million to 50 millions, non-custodial rehabilitation for up to two years or a prison term of three months to two years".

### **3. The Government of Viet Nam also issues a number of specific action programs to combat child labor and forced labor**

- Program on prevention against and elimination of street children, children working in hazardous occupations 2004 - 2010 (Decision No. 19/2004/QĐ-TTg dated 12/02/2004 issued by the Prime Minister);

- National Action Plans for Children in Viet Nam 1991-2000, 2001 -2010 and the period 2010 – 2020. The National Action Plan for Children in Viet Nam 2012-2020 assign the Ministry of Labor, Invalids and Social Affairs to develop a Program on Elimination of the Worst Forms of Child Labor for submission to the Prime Minister (Decision No. 1555/QĐ-TTg issued by the Prime Minister dated 17<sup>th</sup> October, 2012);

- The National Program on Child Protection 2011-2015 (Decision No. 267/QĐ-TTg dated 22/02/2011 by the Prime Minister) with focus on minimizing and supporting the children in special conditions, including child labor;

- The Education Development Strategy (2011-2020) comes up with measures for educational development, including the assistance in development of education sector in specially disadvantaged localities and ethnic minorities areas in order to enable the children to go to school and prevent them from early working.

- The Vocational Training Strategy sets targets to meet labor market demands and increase the proportion of trained workers to 40% or 23.5 million workers in 2015 and to 55%, equivalent 33.4 million workers in 2020.

## **II. ACHIEVEMENTS OF LAW ENFORCEMENT AND POLICY IMPLEMENTATION ON COMBATING CHILD LABOR AND FORCED LABOR**

### **1. Results of national programs and technical cooperation projects with international partners**

#### *1.1. Enhancement of public awareness and self-protection skills for children*

- The efforts of legislation dissemination have contributed to awareness raising and actions of the society on child protection as well as to preventing and reducing the number of street children, children working in hazardous conditions and creating conditions for these children to be protected, educated, cared for and developed in the most comprehensive way and for a better life.

- The localities through out the country have organized hundreds of training courses on community reintegration skills, skills for children to protect themselves from being abused and exploited, participation skills in social activities for street children, children working in hazardous conditions and children of toxic exposure and high risk groups. A lot of community and family counseling services have been conducted to encourage street children to return home. There has been much assistance in improving the family livelihood, supporting for the children in accessing education and health services, helping drop out children returning to school. The labor and social affairs agencies in collaboration with relevant agencies, local and international non-governmental organizations have organized job orientations and vocational training classes for children in need; helping them to find jobs or to self-employment for those at working age and also providing them with other social benefits. There have also been a lot of activities to support enterprises and employers to recruit these children when they are at working age. Psychological and physical rehabilitation activities have been conducted for street children, children working in dangerous and hazardous conditions and are of exposure to toxic substances. For the sexually abused children, the labor and social affairs agencies would provide them with other supporting services, including cases of children being separated from their blood parents for alternative families.

#### *1.2. Improving the capacity of state management on prevention of forced labor and child labor*

The MOLISA and other ministries, social organizations and non-governmental organizations have provided many training courses for staffs working on child protection and care, drug-addicted prevention as well as the inspectors. On the other hand, the system of collaborators at grassroot level has been set up to provide the prevention and interventions for the children at risk or are working in prohibited works.

### *1.3. Intervention models*

- The project on Supporting the development and implementation of programs for elimination of worst forms of child labor from 2009-2012 has been implemented in five pilot provinces/cities, including Ha Noi, Ninh Binh, Lao Cai, Quang Nam and Dong Nai. A lot of pilot interventions were deployed in each province, including interventions to improve teaching and learning conditions in normal schools, boarding schools for students in remote areas, supporting the tuition fees for students in difficulties or early working children, to enhance the vocational training for those at risk, to provide trainings in occupational safety for small businesses and households as well as to set up specific strategies for tourism industry. About 1,300 children have been provided with vocational training and education supporting activities, including: (i) supporting education for the children of vulnerable groups in mountainous areas in Sapa, Lao Cai and in some communes in Quang Nam province; (ii) enhancing the vocational training opportunities for minor children (from 15 to 17 years old) who are vulnerable to child labor; (iii) introducing jobs for children at working age and providing them with vocational training courses (38 children were trained in courses on working in restaurants and got the jobs); (iv) support the livelihood for targeted families so that children would be prevented from early working (961 targeted families got the project support in: Ninh Binh, Quang Nam, Ha Noi and Dong Nai; (v) support small credits for immigrant families with children in Ha Noi for business establishment, generating incomes and providing children with access to educational services.

The project also helps in improving sanitation safety at local businesses. This is an important activity of the project, taking into account that many minor employees and children at working age have to work in condition without sanitation safety and are at the risk of occupational diseases. In provinces with tourism (such as Lao Cai and Ninh Binh provinces) where many drop out children or children at risk of drop out to earn living, the project also works closely with local tourism agencies to conduct advocacy and communication campaigns on combating child labor in order to reduce the child labor.

### *1.4. Coordinate with international organizations (ILO, UNICEF, etc.), the ASEAN countries and other partners (including United States) for addressing child labor.*

- Annually, the MOLISA and the Department of Labor of United States (USDOL) organize the Labor Dialogue, during which prevention and reduction of child labor is one of the topics to be discussed.

- MOLISA coordinates with the Spanish Development Cooperation Agency and the ILO to implement the project "Support for the development and implementation of the program on the Elimination of worst forms of child labor in

Viet Nam" from 2010 - 2014 in five provinces and cities of Hanoi, Lao Cai, Ninh Binh, Quang Nam and Dong Nai.

- The MOLISA worked closely with the USDOL in the project « Supporting the implementation of labor laws and promoting the sound industrial relations in Viet Nam » in the period from September 2009 to March 2011. The project has strengthened the efficiency of the implementation of labor legislation through enhancing the capacity of labor inspection, promoting the advocacy on labor laws and promoting the capacity of legal advisory services for the employers and employees; enhancing the capacity of relevant social partners in developing the models and best practices on social dialogues, collective bargaining and resolution of labor dispute. Currently, the MOLISA is continuing to collaborate with the USDOL in the project « Supporting the implementation of labor laws and promotion of sustainable inspection system in Viet Nam » from 2013-2014, which aims at enhancing capacity of labor law enforcement systems and promotion of sound industrial relations.

- UNICEF has actively participated in improving welfares for children through supporting for the health and education-related initiatives and promotion of the rights of children, piloting the child protection system in some localities. With the successful outcomes of these models, the Government of Viet Nam plans to extend throughout the country.

- Viet Nam and other ASEAN countries are finalizing the ASEAN Framework on Elimination of the worst forms of child labor and developing the Regional Guidelines on elimination of worst forms of child labor.

- The first National Survey on child labor was conducted in 2012 in collaboration with the USDOL and ILO. The survey report is tentatively released at the first quarter of 2014.

1.5. The prevention and elimination of child labor and forced labor has been mainstreaming with other national programs such as National Program on Employment, National Program on Vocational Training, National Program on Poverty Reduction etc.

## **2. Inspection, investigation and handling of cases related to child labor and forced labor**

Inspections, investigations, periodic monitoring of the law enforcement and thematic inspections has been carrying out regularly. From 2006 to 2010, MOLISA Inspectorate inspected 278 enterprises and manufacturing facilities on using minor employee (from full 15 to under 18 years old). The results showed that: (i) there were no child labor in the state-owned enterprises; (ii) only a small number (0.15% in 2010) of the workers in the inspected private enterprises are children under 16 years of age); (iii) there were no children working in the hazardous conditions; (iv) the situation of child labor in private enterprises is not popular.

In 2013, the labor inspection has been implemented seriously. The MOLISA Inspectorate inspected the implementation of labor laws in 121 enterprises in 17 provinces/cities and took unscheduled inspections on labour law implementation relating to minor employees in 28 enterprises in 4 provinces (Long An, Tay Ninh, Khanh Hoa and Ca Mau). The provincial inspectors conducted 3,827 visits on the

labour law implementation in general and 96 visits on the implementation of child-related policies at enterprises, including garment enterprises and brick manufacturing businesses.

The Departments of Labor, Invalids and Social Affairs (DOLISA) at 63 provinces and cities throughout the country also coordinate with the relevant authorities to carry out regular communication and dissemination on relevant legislation as well as conducting inspections to prevent child labor. For example, the inspectors of DOLISA in Ho Chi Minh City in July 2008 sanctioned 17 private enterprises for violations of relevant legislation with the total fine of 115 million VND. In 2013, the inspectors of DOLISA in Can Tho province issued 8 decisions on administrative sanction, including violations on using minor employees, with the total fine of 29 million VND. The inspectors of DOLISA in Hai Duong province introduced 40 recommendations asking enterprises to seriously implement the legal regulations on minor employee. The common violations from these enterprises include the abuse of minor employees (from full 15 to under 18 years old) to work more than seven hours per day without social insurance and health check...The cases on child labor shared by mass media were addressed properly by the authorities and the victims were supported with rehabilitation for community reintegration.

When detecting the illegal using of child labor, minor employee, the inspectors at MOLISA and DOLISA have provided the advocacy on related laws and policies as well as timely sanctioned the intentional violations through faked vocational trainings; recommended and requested the employers not to hire children to work in hazardous or dangerous conditions.

The MOLISA also requested inspectors at provincial DOLISA to inspect enterprises in order to find out the abuse of child labor, minor employees and to promptly handle violations as well as request the provincial DOLISA to closely monitor the number of working children, regularly report to MOLISA's Inspectorate and to support the children for the rehabilitation and community reintegration.

### **3. Efforts of relevant industries and organizations**

#### **3.1. Viet Nam Textile Apparel Association (VITAS)**

VITAS is an organization of over 800 member companies, employing over 1 million workers and accounting for some 75 percent of the total exports of Viet Nam textile and apparel industry. Since its establishment in 1999, VITAS and member companies have always attached great importance to the strict implementation of labor laws and building of sound industrial relations, considering them a vital issue to the existence and success of our member companies. Within the structure of VITAS, labor policy divisions are organized at both national and regional level to do research, outreach, education and training projects to help member companies implement corporate social responsibility commitments. VITAS has been encouraging member companies to study, adopt and implement CRS commitments under SA8000. As a result, several of the member companies have been certified to SA8000 while others have been adopting SA8000 standards in their policies for global integration and sustainable development. Many of member companies have

been honored with Corporate Social Responsibility Awards by Action Aid and Viet Nam Chamber of Commerce and Industry (VCCI) over recent years.

International buyers from the US, EU, Japan, etc., before and during the course of sourcing textiles and apparel from Viet Nam, have directly or indirectly, via third party service providers, assessed the social accountability compliance of related companies. Only complying companies get the orders. The billions-of-dollars export revenues to the US, EU and Japan markets every year speak volumes of the social accountability compliance of related companies. In 2010, VITAS and the Viet Nam Textile and Apparel Trade Union (representing workers) signed Viet Nam's first-ever industry-wide Collective Labor Agreement (CLA). This historic Agreement incorporates labor standards higher than those required by the Labor Code of Viet Nam. VITAS confirms that VITAS member companies comply with VITAS Charter, the industry-wide Collective Labor Agreement, and Viet Nam's labor laws and regulations. None of the member companies involves in the use of forced labor and/or child labor.

### 3.2. Viet Nam Chamber of Commerce and Industry

Every year, the Bureau for Employers (VCCI) conducts advocacy activities in general and labor laws in particular in order to raise awareness for employers on compliance with labor laws, improvement of working conditions, occupational safety and health at workplaces and prevention of child labor.

In the last two years, these activities have been promoted. From October 2011 to the end of December 2013, the Bureau for Employers VCCI has implemented the cooperation agreement between VCCI and ILO/IPEC, to conduct a number of pilot activities to prevent the worst forms of child labor with the following specific activities:

- Conducting 4 training courses (3 days/ course) for 118 employers in 4 provinces/cities (Hanoi, Ninh Binh, Quang Nam and Dong Nai) in order to raise awareness about child labor and laws related to child labor.

- Providing direct support at enterprises for the employers who had participated in the training courses to identify the measures to improve working conditions at enterprises and mobilized them to sign commitments not to use child labor. All the employers who had participated in the training voluntarily signed commitments on not to use child labor.

- Inspecting, monitored and made evaluations on the changes of employers after trainings and after signing the commitments. 100% of the employers have complied with commitments and had good performance, there is no child labor at those enterprises and many enterprises improved their working conditions (ventilation, lighting, dust, noise ...).

- Consulting employers in 4 provinces/cities to pilot the Code of Conduct of all employers in the prevention and elimination of the worst forms of child labor in leather and garments, seafood processing, timber processing and handicraft (bamboo, rattan, sedge and embroidery).

- Advocacy and widely introducing the code of conduct on the prevention and elimination of the worst forms of child labor forms the worst to other provinces. In October and November 2013, the Bureau in collaboration with the business

association and provincial VCCI branches organized 05 workshops to disseminate information and replicate the implementation of the employers' codes of conduct in 05 new provinces/cities, i. e: Hung Yen, Ho Chi Minh City, Can Tho, Da Nang and Hanoi. A total of 351 employers have attended those workshops, and 100% of employers participating in the workshops were signatories to the commitments.

***Thus, continually in recent years, especially from 2008 to present, Viet Nam has made strong efforts and taken series of measures to minimize child labor and move forward to eliminate the worst forms of child labor as well as forced labor. Child labor has been comprehensively reduced, from 40% of children participating in income-generating activities in 1993 to 15% in 2012 (this is the rough data from the national survey on child labor in 2012).***

### **III. ORIENTATIONS**

- To improve the legal system for protections of working children: the amendments to the Law on Child Protection, Care and Education is expected to be submitted to the National Assembly in 2014 with consistent definitions of "working children", raising the age of children to 18, creating favorable conditions for the law enforcement. To consider adding a list of harmful occupations and working conditions which prohibits the use of child labor.

- The MOLISA shall submit to the Prime Minister for approval of the Program on Elimination of the worst forms of child labor in the period 2016 – 2020 with the objectives of prevention and elimination of the worst forms of child labor, moving towards the implementation of international commitments on the elimination of the worst forms of children; minimizing child labor and the number of children participating in economic activities by the year 2020.

- To enhance the examination and inspection of law enforcement related to children working in hard, dangerous or hazardous conditions. To closely collaborate with line ministries, agencies, provinces, trade unions, employers in the prevention of child labor and forced labor. To provide guidelines and direct the inspectors of Department of Labor, Invalids and Social Affairs at province and commune level to develop a list of regularly checked enterprises and establishments which are potential to use child labor and forced labor, especially those in the areas of garment and bricks, reporting to the local authorities for timely solutions.

- To enhance law dissemination activities in different forms; working with local authorities, unions, associations in communicating labor regulations in general and those specially for child labor in particular to business owners, workers in various businesses, and handicraft villages

- To cooperate with the U.SDOL to implement the project on supporting implementation of labor laws and promotion of sound labor inspection system in Viet Nam. To cooperate with the ILO to develop materials on capacity building and strengthening law enforcement of the labor inspection system in the prevention and protection of children and minors from other forms of child labor and hard, hazardous and dangerous working conditions.

- To continue the dissemination and promotion of the implementation of employers' codes of conduct on the prevention and elimination of the worst forms of child labor forms for all the employers in provinces/cities, especially those from the Association of handicraft villages;

- The Viet Nam Chamber of Commerce and Industry will supplement criteria of no child labor in the grading toolkits for those enterprises that well implements corporate social responsibility of VCCI.

**V. APPENDIX: List of Vietnamese legal documents relating to forced labor and child labor:**

1. The revised Constitution 2013
2. The Law on Protection, Care and Education of children in 2004
3. The Penal Code 2009
4. The Law on Prevention and Protection of Human Trafficking 2011
5. The Labor Code 2012
6. The Law on Employment 2013
7. Decree No. 71/2011/ND-CP dated 22/8/2011 of the Government detailing and guiding a number of articles of the Law on Protection, Care and Education of children specified acts violations of children's rights
8. Circular No. 09/1995/TTLT-BLDTBXH-BYT dated 13/04/1995 stipulating on harmful working conditions and occupations prohibiting the use of juvenile labor.
9. Decree No. 147/2010/ND-CP specifies the sanctioning of violations of labor laws related to child labor.
10. Decree No. 91/2011/ND-CP of the Government on administrative sanctions regulations on the protection, care and education of children.