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signed by Mr Jordi AYET PUIGARNAU, Director

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to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European  
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**COMMISSION STAFF WORKING DOCUMENT**

**Trade and Worst Forms of Child Labour**

# COMMISSION STAFF WORKING DOCUMENT

## Trade and Worst Forms of Child Labour

### 1. INTRODUCTION

The International Labour Organisation conventions identify the age of the child when determining what constitutes child labour<sup>1</sup> with the minimum age for admission to hazardous work at 18 years.

The EU is committed to eradicating the worst forms of child labour at a global level. This emanates from the projection of our values, which include the prohibition of child labour<sup>2</sup>, in our external action as enshrined in Article 21 of the Treaty on European Union.

The Commission's 2010 Staff Working Document "Combating Child Labour"<sup>3</sup> provided a global and comprehensive picture of the phenomenon and of EU action - including a general overview of trade aspects. As a result of the discussions that ensued, the Council invited the Commission to study and report on the worst forms of child labour and trade, taking into account international experience and the views of competent international organizations<sup>4</sup>.

This staff working document responds to that request by the Council. It builds on the 2010 document, providing additional detail of the trade dimension of the phenomenon in view of international experience, paying particular emphasis to the link between trade<sup>5</sup> and child labour and its worst forms, and to the rationale of EU policies in this respect.

The emphasis in this document is on a description based on the best available evidence and experience, which provides the framework for understanding the issue.

The document takes into account discussions during a seminar<sup>6</sup> held with international institutions, academia, and US Department of Labour representatives, as well as input from civil society received in the context of DG TRADE's civil society dialogue.

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<sup>1</sup> ILO Convention 138 (1973), replaces earlier sector specific minimum age conventions for its contracting parties and requires contracting parties to declare a minimum age for work within their territory. Article 2(3) sets the general minimum age at 15 years. Article 3 of Convention 138 places the minimum age for admission to hazardous work at no less than 18 years, although an exception can be made for 16 and 17 year-olds in certain circumstances. Many ILO members have taken the approach that a child is ready for work when compulsory education has been completed. Article 3 of Convention 182 (1999) - dealing with the worst forms of child labour - distinguishes between what have subsequently been defined as *unconditional worst forms of child labour* and *hazardous work*. Since it primarily is for ILO member states to determine and periodically review – in both cases following tripartite consultation – which types of work are considered hazardous (article 4) there is no uniform "master list" that can be consulted to determine which activities are hazardous and which are not. Also, the UN Convention on the Rights of the Child recognises 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. See further Annex 2.

<sup>2</sup> Article 32 of the Charter of the Fundamental Rights of the European Union, binding on all EU institutions, specifically prohibits child labour and provides for protection of young people at work. Moreover, all Member States have ratified the UN Convention on the Rights of the Child, which also contains a provision prohibiting child labour.

<sup>3</sup> SEC(2010)37 final, 14 January 2010. See also Annex 2.

<sup>4</sup> Council Conclusions of 14 June 2010.

<sup>5</sup> 'Trade' refers to 'international trade' throughout this document.

<sup>6</sup> See Annex 1 for details.

**"Worst forms of child labour" (WFCL) contain multiple dimensions, as can be seen by the categorisation made by ILO Convention concerning the prohibition and immediate action for the elimination of the worst forms of child labour (C 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. 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."***<sup>7</sup>. (d. being the so called "hazardous work")

For the purposes of the analysis of the trade dimension, we will generally focus on *hazardous work* under (d) because first, hazardous work accounts for the overwhelming majority (at least 90%) of documented worst forms<sup>8</sup>, so it helps us capture the vast majority of WFCL. Second, hazardous work has the strongest theoretical connection to production and thus to trade. Third, hazardous work overlaps with other WFCL (e.g. some children in other forms of child labour could also be involved in hazardous work).

In contrast, categories (a), (b) and (c) (known as the *unconditional worst forms of child labour* because the convention categorically condemns them without qualification), are not linked to normal commercial practices, but rather to unlawful or criminal behaviour, typically falling outside of the realm trade policy. Non-trade policies (e.g. criminal law punishing trafficking in human beings or drugs, prostitution) tackle these practices. While the objective of this document is to focus on trade-related aspects, we will also briefly describe non-trade policy avenues as regards unconditional forms of child labour under part 4. This will help provide a complete picture of the issue.

However, most studies and reports referred to in this report, make no distinction regarding child labour as a whole and WFCL. Studies on WFCL and trade specifically seem non-existing. Given that WFCL accounts for the majority of child labour (around 55%<sup>9</sup>, see Annex

<sup>7</sup> ILO Convention 182, Article 3(d)

<sup>8</sup> The figure of '90 per cent' was derived by the ILO's International Programme for the Elimination of Child Labour (IPEC) in 2002 as it prepared global estimates for children in the worst forms of child labour. Available statistics pointed to the overwhelming majority of children in the worst forms of child labour being involved in hazardous work. The broad accuracy of this estimate as confirmed by a later study [http://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms\\_126752.pdf](http://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_126752.pdf) by ILO in 2004 on forced labour.

<sup>9</sup> ILO Accelerating Actions against Child Labour, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, 2010

3) the conclusions drawn for child labour as a whole are considered as generally representative for WFCL.

## **2. EXAMINING WFCL & TRADE**

### **2.1. Some methodological limitations**

The use of "children in hazardous work" is not free of methodological problems. In fact, what defines hazardous work and which type of employment falls within this category is left by ILO conventions to national laws and regulations (see Annex 2 for Conventions and EU legislation and Annex 3 for more details and estimates). Consequently, there is no single standard for measuring hazardous work which is valid across all countries.

While many signatories to ILO C182 have established a list of hazardous work for children, many need to update these lists while others still need to establish them.<sup>10</sup> The ILO is assisting Member States in developing or revising their hazardous child labour list. Up-dating of lists is needed and the EU has in its Action Plan on Human Rights of 8 June 2012 set itself an objective to encourage ILO Members to do so.

Evidently different countries draw up different lists. What is on a list in one country is not necessarily on a list in a neighbouring country. This fact makes it difficult to draw uniform conclusions regarding the size and trends of the problem - and also underlines the risk of discrimination if policy actions are based on uneven available facts.

#### **Hazardous work: same sector, different approaches.**

**Ghana and Ivory Coast are neighbouring countries and the main producers of cocoa globally, a sector traditionally associated with child labour. What is the importance of the “hazardous work” in both countries? How do they compare?**

- **Ghana lists what constitutes “hazardous work” in a comprehensive piece of legislation including sectors like seamanship, mining and quarrying and activities like carrying heavy loads. Ghana also lists manufacturing industries of chemicals whether manufactured or used and other work places 'where machines are used', bars, hotels and places of entertainment (prostitution). A specific Child Labour Framework for cocoa exists where the use of machete/long cuts for weeding is prohibited for children under 18 years.**
- **Ivory Coast has adopted a detailed list with direct references to the ILO Conventions and national legislation applicable. Ivory Coast is listing as hazardous for the agricultural and forestry sectors: cutting of trees; burning of fields; handling of and pesticides; hunting; produce of charcoal; use of harnessed equipment (animal/carriage).**

<sup>10</sup>

According to the ILO out of 173 signatories to C182, 105 have completed lists, 33 do not have a list but are commencing the process of drafting one, 32 have no lists but a general prohibition, while 3 have no list.

## 2.2. Worst Forms of Child Labour – general trends

Since the 2010 Staff Working Paper was published, up-dated statistics from the ILO have confirmed that both child labour and WFCL continues to decline<sup>11</sup>. Since 2004, and until the economic crisis set in, absolute numbers in all forms of child labour dropped by over 3% from 222 million to 215 million. The corresponding figures for hazardous work shows a drop from 128 million to 115 million or 11%. From a geographical perspective, the absolute numbers of children engaged in hazardous work are thought to have fallen in all regions except in sub-Saharan Africa, where poverty is most acute. Further details in terms of trends and age groups are provided in Annex 3.

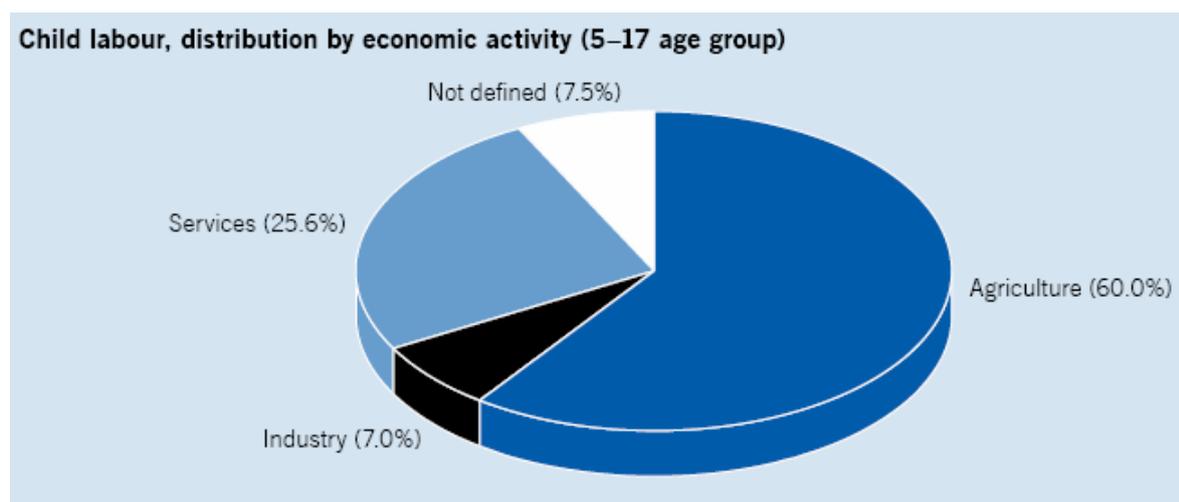
While this is clearly a positive trend, it should not be a cause for complacency, for two reasons. The first is that the drop is too slow to reach the ILO's target of 2016 for the elimination of WFCL, and the second is that, given the link between poverty and WFCL (see below), the recent economic slowdown may slow down or even reverse the trend. The *Understanding Children Work* platform will release updated figures in 2013, providing an updated factual basis in this regard.<sup>12</sup>

## 2.3. What proportion of WFCL is related to trade?

The very nature of the phenomenon and the fact that it takes place primarily in developing countries makes it difficult to obtain disaggregated data that can be used in detailed product-by-product, industry-by-industry, or country-by-country analysis. However, the best information available from international organisations points to the following facts<sup>13</sup>.

The vast majority of children work in the agriculture (60%) and service sectors (26%) (see Chart 1).

**Chart 1. Distribution of child labour, by activity**



<sup>11</sup> ILO 2010: *Accelerating Action against child labour: Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work*. Available at: [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms\\_126752.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_126752.pdf)

<sup>12</sup> ILO general survey on the fundamental Conventions 2012 for ILC stated WFCL had dropped in some countries while increased in others. No new estimates were given.

<sup>13</sup> ILO/IPEC Children in Hazardous Work, What we know, What we need to do, 2011.

Source: ILO Accelerating Actions against Child Labour, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, 2010, page 11.

Most of this work takes place in subsistence agriculture and in domestic and small retail services - in other words, non-traded sectors. Industrial activity including manufacturing takes up only 7% of the total, and here again there is a heavy emphasis on non-traded goods. International estimates place about 5% of WFCL being associated to trade - and in particular trade in goods<sup>14</sup>. The fact that WFCL is predominantly linked to non-trade sectors was also confirmed by the experts participating in the seminar mentioned in the introduction.

Experience from the U.S. underlines the difficulties of more detailed quantification. Under the Trafficking Victims Protection Reauthorization Act of 2005, the Department of Labor (USDOL)<sup>15</sup> publishes a list of goods that it has "reason to believe are produced by forced or child labour in violation of international standards." The first list was published already in September 2009. The 2012 list identifies 134 goods from 74 countries that the USDOL believes are produced with child labour or forced labour (see Annex 4). The list does not distinguish between child labour and its worst forms, or between forced labour carried out by adults and that carried out by children. Notably, it does not quantify the amount of child labour used in the production of goods for export.

USDOL highlights methodological limitations in the report, including:

- The level of detail of the information that is provided in the report. For a given product, the information provided is not precise enough to distinguish between producers who make use or not of child labour/forced labour in a given country. In addition, one is not able to distinguish between goods produced for domestic consumption versus those produced for export.
- The lack of information about 'upstream' goods. Inclusion on the list is principally based on observations at the level of production. USDOL acknowledges that it is difficult to trace goods 'upstream' and identify the form in which they enter international trade and are subsequently recorded in import/export statistics.
- The 'age' of the data used. In the 2009 and 2010 reports, USDOL generally used sources that were not more than 7 years old at the time of the research, and since 2011, USDOL generally has used sources that are not more than 5 years old at the time of the research. However, in cases in which data was scarce, survey data that was up to 10 years old was used. While child labour is a relatively slow changing phenomenon, the extent to which the report paints an accurate picture of the current situation in the countries concerned can be questioned.

These inherent difficulties limiting a more targeted quantification, lead USDOL to emphasise that the list is qualitative in nature, "a public awareness tool" and "not punitive." i.e. the list does not serve as a basis for trade restrictive actions.

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<sup>14</sup> See Staff Working Document on Child Labour 2010, SEC(2010)37.

<sup>15</sup> This complex work requires a significant amount of resources. The USDOL has a full dedicated department to deal with this matter.

The Commission services attempted to use this list as a departure point for collecting more detailed quantitative information regarding child labour for the specific products and countries identified by the U.S., using our Delegations in the aforesaid countries. Given the dearth of information at hand, it proved unfeasible to draw up any quantification which would allow for a sector and country analysis.

What becomes apparent from an analysis of available statistics is that in the vast majority of cases, the countries listed have other significant outlets for their products outside the EU (see Annex 5). This underlines the limitations of restrictive trade policy responses by the EU alone.

#### **2.4. The link between WFCL and trade (1): root causes of WFCL according to international organisations**

The vast majority of WFCL is not linked to traded goods (and even less to services). But is trade mentioned as a root cause of WFCL by the competent international organisations?

This is not the case. The root causes of WFCL are complex and involve both supply side factors (which influence households to make children enter the job market) and demand side factors (which make employers use children in their workforce). The interplay of such factors depends on the specific local circumstances, but a number of general conclusions can be drawn. There is a large emphasis on the importance of three factors.

The most prominent is poverty. This is the core driving force behind household decisions to supply children in the labour market - in most cases, an unavoidable coping strategy. The second is insufficient access to an effective, affordable education system. The third is the lack of enforcement of labour standards - whether this emanates from an inadequate legal framework or improper verification and sanction systems. Countries with a well-educated work force, effective social policies and low levels of poverty tend to have lower prevalence of child labour. Countries with the highest proportion of working children tend to be the least developed countries.

This is a mix of challenges typically faced by developing countries, and which are fuelled by underlying factors linked to demography (e.g., fertility rates, migration, health epidemics), deeply rooted patterns of social behaviour and political culture, lack of insurance and credit markets which allow for investment in education and cushioning of price fluctuations of goods, lack of a deep and broad labour market offering opportunities for skilled labour due to insufficient economic diversification...

This explains the consistent emphasis paid by international organisations - ILO, IPEC, UNICEF, UCW) (1) to address poverty, education and standard enforcement as the key to fight WFCL; and (2) to do so in a holistic way which takes into account all social and cultural factors and ensures ownership by the local government. Both the seminar with international organisations and the input from civil society stressed this conclusion. Fighting WFCL is effective only if it tackles the root causes in a multi-dimensional way.

#### **2.5. The link between WFCL and trade (2): a review of economic literature**

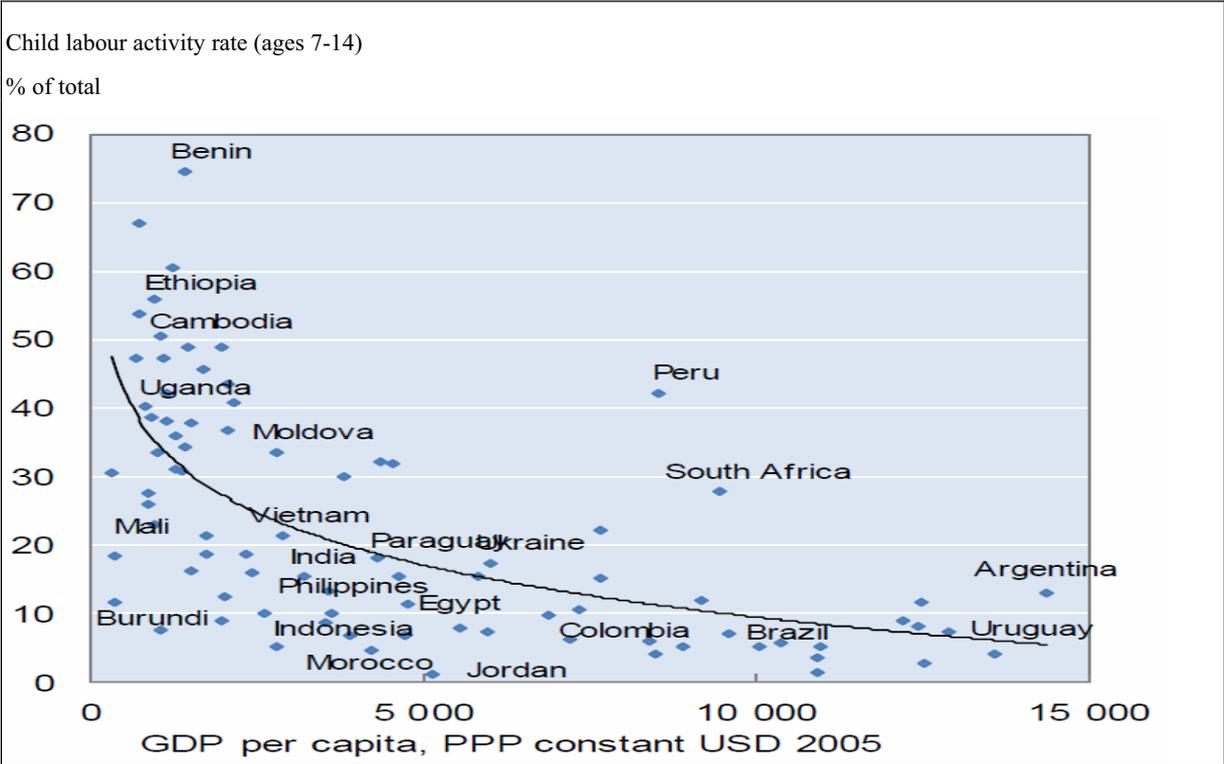
In this section we review the latest figures available concerning the phenomenon, and on the body of evidence generated by economic literature over more than a decade of research.

The review is of course subject to a number of limitations, the first of which is the difficulties in gathering data mentioned above - this is why most studies focus on trade and child labour as a whole. The second is the complexity of the subject, which makes it difficult sometimes to disentangle causes from effects. The third is the variety of variables and methodologies used, a challenge for cross-country comparisons. In sum, any such review will need to make generalisations, and where there are generalisations, there will also be exceptions. Nonetheless, a few guiding conclusions can be drawn.

The first is that, as explained above, only a small fraction of WFCL is linked to trade, essentially in goods. Thus, trade does not seem to be a noticeable driving force behind this phenomenon.

This is further confirmed by a review of the literature, which overwhelmingly quotes factors other than trade when it examines the root causes of the phenomenon. In fact, there is wide agreement that the central cause of the phenomenon is poverty. Children tend to work out of necessity, and families tend to withdraw their children from such conditions when their absolute income rises sufficiently. There is an inverse relationship between income and child labour, as detailed in Chart 2. This highlights that the reduction in child labour is particularly powerful when less advanced countries increase their income.

**Chart 2. Child labour declines as countries climb out of poverty**



*Newfarmer and Sztajerowska: Trade and Employment in a Fast Changing World, OECD Policy Priorities for International Trade and Jobs (ICITE), 2012*

Seen in this light, it is not surprising that the figures of WFCL have been decreasing in the past 20 years, a period where income has grown significantly in many countries in the world, and in particular in certain developing countries. Trade has played an important role in fostering such growth.

Poverty interacts closely with other causes which are routinely mentioned by the literature. The lack of an affordable education system which provides training of a sufficient quality is perhaps the most salient. Also, the lack of credit for parents to borrow against future higher income from educated children stands out. Another powerful root cause is the lack of adequate enforcement of labour standards, which is typically associated with insufficient government capacity, and sometimes to cultural issues.

Against this background, the general thrust of studies finds no *direct* link between trade and WFCL. Rather, WFCL will decrease as poverty decreases; as education becomes a viable, effective alternative; as functioning credit markets emerge; as governments enforce labour standards.

At the same time, there is a strong case for an *indirect* relationship between trade and WFCL. The past three decades have shown the capacity of trade to propel economic growth. Income increases due to this growth and to the productivity gains that openness typically brings. This is illustrated in Chart 3.

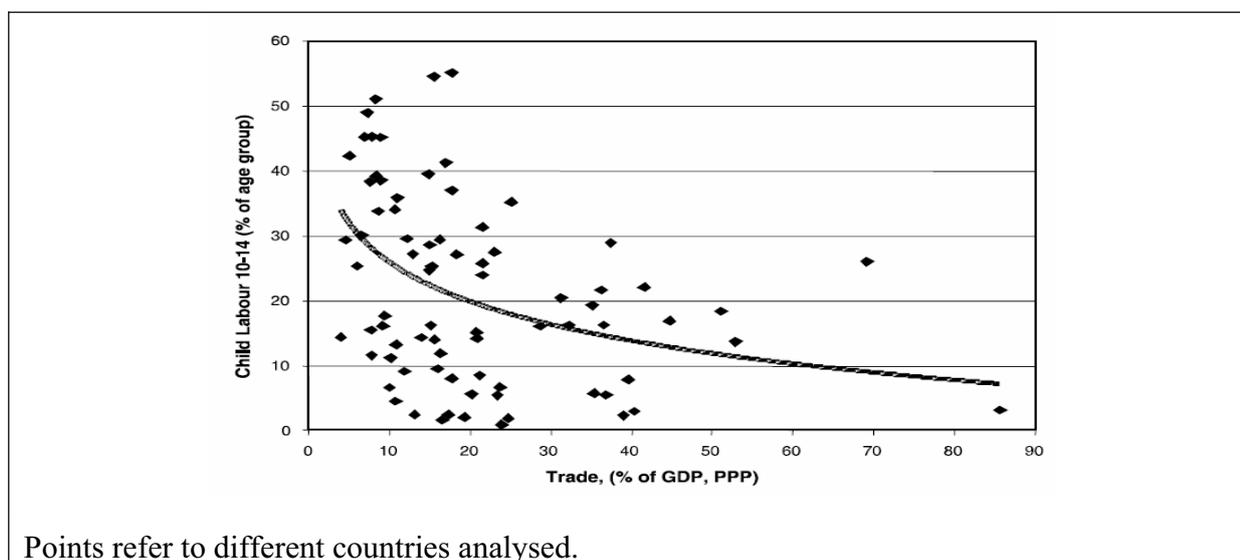
**Chart 3. Regardless of the measure of trade openness, econometric studies show a positive impact of trade on growth.**

Table 1.A1.1. Trade and growth: main econometric studies since 2000				
Measures of trade openness	Number of countries	Time Period	Impact on growth	Source
<b>I. Trade shares</b>				
Trade share (within country regression)	~100	1980s-90s	Positive	Dollar and Kraay (2001)
Trade share in GDP	23 to 62	1913-90	Positive	Irwin and Tervis (2002)
Export share	>100	1970-97	Positive	Yanikkaya (2003)
Import penetration	>100	1970-97	Positive	Yanikkaya (2003)
Trade shares in GDP	>100	1970-97	Positive	Yanikkaya (2003)
Changes in trade share in GDP	~100	1980s-90s	Positive	Dollar and Kraay (2004)
Trade shares in GDP	~100	1961-2000	Positive	Lee, Ricci and Rigobon (2004)
Trade share in GDP	>100	2000	Positive (negative for heavily regulated economies)	Bolaky and Freund (2004)
Trade share in GDP	82	1960-2000	Positive if complementary reforms are undertaken	Chang <i>et al.</i> (2009)
Trade (geography instrument)	97	1985	Positive (1% increase in the trade share of GDP leads to about a 1% increase in income per capita)	Noguer and Siscart (2005)
Trade (bilateral trade instrument)	101-62	1960-1995	Positive (differences in trade growth explain ~17% of cross-country variation in income growth)	Feyrer (2009)
Trade openness (residual variation that is not due to GDP growth)	41 Sub-Saharan countries	1979-2009	Positive - trade openness causes economic growth (a 1 percentage point increase in trade openness leads to a ~0.5% short-term increase in growth per year and ~0.8% after ten years)	Brückner & Lederman (2012)

*Newfarmer and Sztajerowska: Trade and Employment in a Fast Changing World, OECD Policy Priorities for International Trade and Jobs (ICITE), 2012*

Through increases in income, trade provides countries with a powerful tool to fight poverty - and thus child labour. This is why academic studies find that countries which trade tend to display a lower incidence of child labour. This is illustrated in Chart 4 on the basis of findings by Cigno, Rosati and Guarcello.

**Chart 4. Inverse relationship between trade and child labour.**



*Cigno, Rosati, Guarcello: Does Globalization increase Child Labor? World Development Vol 30, No 9, pp 1579-1589, 2002*

Put another way, increases in openness to trade lead to decreases in child labour. One example is the finding by Edmonds and Pavcnik that a 10 percentage points increase in openness to trade by *lower-income economies* with *high-income partners* is associated with a 3.8 percentage points decrease in child labour.<sup>16</sup>

Trade will always be an indirect tool, in the sense that it will necessitate domestic policies to ensure growth is inclusive. This underlines the importance of the role of local governments, which must prioritise the policies which ensure an effective distribution of that income.

Other studies find that trade restrictions are ill-suited to remedy the phenomenon and, in fact, may well increase its incidence. Trade restrictions, whether on specific products or across the board, do not address the root causes of WFCL and aim at decreasing WFCL only in determined export sectors - which account for a small fraction of total WFCL. It is questionable whether they will indeed achieve their purpose - as exporters may decide to sell to markets other than that of the country imposing sanctions. But, even assuming that sanctions will achieve their purpose, they do not tend to fix the root cause of the problem. Needy families in countries lacking proper education, credit markets, and enforcement of labour standards may well be forced to send their children to perform work in non-traded areas of the economy - where in any event the vast majority of WFCL takes place. It is unlikely that work in non-traded areas will offer equal or better working conditions - or pay. Also, the loss of export earnings may well depress income level, and thus make it necessary that children work more - or that more children of the family are forced to undertake WFCL. This is particularly serious, as the literature also highlights a multi-generational trap whereby child labour begets more child labour. This happens as children who work will normally not improve their level of education (and thus of income) as they become parents. Continued

<sup>16</sup> International trade and child labor: Cross-country evidence, *Journal of Int'l Economics* 68 2006, pp 115-140

poverty could lead them to require the work of their own children to ensure the survival of the family.

Given that the problem is only marginally associated with trade, trade restrictions will, by definition, be of only limited effect. What is needed is comprehensive action to tackle root causes WFCL. If at all, trade restrictions should be used sparingly, in a carefully targeted manner and as a complement to a comprehensive set of other policy instruments targeted at alleviating poverty and other root causes. Any such restrictions are more likely to be effective when a thorough and careful analysis of local conditions assures that they will genuinely improve the problem - not simply shift it to areas of the economy unseen by trade partners, or even worsen it. This conclusion was underscored by the aforementioned seminar and by civil society input.

### **3. TRADE POLICY INSTRUMENTS**

#### **3.1. EU trade policy and the fight against WFCL: general thrust**

The international experience and the facts described above are the basis of the EU's policy stance. The approach is to maximise trade policy's contribution to combatting WFCL in a realistic and efficient manner.

This is done in a framework of respect of WTO rules, including the core principle of non-discrimination between countries/products where the same conditions prevail and the requirement of necessity or reasonableness of the trade measures.

The first and most powerful way in which trade policy can help is by generating more economic growth via enhanced trade flows. This is the very purpose of our support of a wide multilateral negotiation agenda and of our ambitious bilateral trade agenda - including investment agreements. The additional resources generated by trade are a *condition sine qua non* to fight poverty - the core root cause of WFCL.

The flipside of this core contribution is to avoid wherever possible restrictive trade policies (whether product-specific or across the board) which, via the reduction of trade, may possibly cause an increase in poverty and, as a corollary, an increase in WFCL.

In addition to this general framework, the EU uses specific policy tools to provide carefully designed incentives for combating WFCL. This includes sustainable development clauses in trade and/or investment agreements and enhanced autonomous preferences under the Generalised Scheme of Preferences. We also provide indirect support to action (such as "fair trade initiatives"), which can under certain circumstances help fight WFCL.

#### **3.2. The multilateral agenda**

The conclusion of the current round of multilateral negotiations would be particularly beneficial to Least Developed Countries (LDCs) and other poor economies - exactly the countries which face the largest challenges on WFCL. The economic growth generated by an expansion of trade and Foreign Direct Investment would provide additional resources to fight poverty for countries most in need.

The EU has spared no effort to maximise the impact of the current round on LDCs and other poor economies. As detailed in the 2012 *Trade, Growth and Development Communication*, this remains an important priority for the EU.

A strong multilateral trading system is vital to developing countries' long-term interests both because of its rulebook and the access it guarantees in all key markets, including in emerging economies where both the growth potential and the barriers are the highest. It is essential that LDCs and other poor economies particularly affected by WFCL tap into this key source of export and income growth.

The EU continues to pursue endeavours to obtain agreements on trade facilitation and dispute settlement, all of which have a significant development dimension and would help those countries which are most affected by WFCL. Equally, the EU continues to seek concrete results that benefit LDCs, including efforts to persuade other WTO members to implement existing decisions on Duty Free Quota Free access, which are essential to create new, secure trade opportunities for LDCs.<sup>17</sup>

Apart from the Doha negotiations, and to allow as many countries as possible to benefit from the multilateral trade system, the EU supports and facilitates the accession of LDCs to the WTO and actively contributes to the revision of accession guidelines.

WTO law allows members to adopt trade restrictions to achieve legitimate objectives such as those listed under the general exceptions of Article XX of GATT and XIV GATS, inter alia the protection of public morals, human life, or health. Similar legitimate objectives may be pursued with respect to technical regulations, standards and conformity assessment procedures under the TBT Agreement. The elimination of WFCL could be such a legitimate objective - so trade restrictions would be legally possible.

However, in practice their potential application is fraught with difficulties. To start with, trade will in general contribute towards eradication of WFCL - so restrictions would not appear to be the appropriate tool to achieve the elimination of WFCL. This should also be seen against the backdrop of the agreement by WTO Members that labour standards should not be used for protectionist purposes.<sup>18</sup>

Even if trade restrictions were to be considered, they would have to be implemented in such a way as to respect the core WTO principle of **non-discrimination** between countries where the same conditions prevail. This would require inter alia comprehensive traceability mechanisms (see below, point 3.5). Another important requirement is that the measure is **necessary or reasonable**, meaning that there is not a less trade restrictive alternative measure which may provide an equivalent contribution towards the achievement of the same objective.

### 3.3. The bilateral agenda

The EU's bilateral trade agenda includes some LDCs and other poor economies, principally when region-to-region free trade agreements (FTAs) are envisaged: Conclusion or

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<sup>17</sup> In a related topic building on the EU's recent reform of rules of origin, we are undertaking initiatives to achieve greater coherence in preferential rules of origin for LDCs, including greater transparency, simplicity and improved market access.

<sup>18</sup> Ministerial Declaration done at Singapore on 13 December 1996, WT/MIN(96)/DEC, para. 4.

implementation of bilateral agreements with the remaining interested African, Caribbean and Pacific (ACP) countries in the context of Economic Partnership Agreements, a rapid implementation of agreements with Latin American partners (particularly in Central America) as well as the conclusion of agreements with Asian developing countries such as India and certain ASEAN partners should generate significant extra growth and resources in the countries that most need it to fight poverty and thus WFCL.

Bilateral agreements contribute to the combat against WFCL mainly via trade growth - but may also allow the EU to introduce additional tools to help achieve this goal. In particular, in the new generation of FTAs, the EU negotiates trade and sustainable development chapters, securing commitment to and effective implementation in domestic legislation and in practice of the ILO core labour standards, including the two ILO fundamental conventions on child labour (C138 and C182). These chapters are horizontal and apply to trade and investment relations between the Parties.

The EU also seeks to create a framework for cooperation, transparency and dialogue with partners involving civil society including social partners (trade unions and employers organisations) as an effective means of promoting these standards. This bottom-up approach helps shine the spotlight on shortcomings which can be subsequently addressed at government-to-government level. This is a positive approach which generates momentum for change with the help of the incentives that an FTA provides, rather than using sanctions which risk setting the clock back as regards WFCL.

Recent examples of this approach are the trade agreements with Colombia/Peru and with Central America and the Economic Partnership Agreement with the Caribbean region.

The Lisbon Treaty has added investment as an EU exclusive competence under the common commercial policy. In addition to negotiating on investment as part of its FTAs, the EU will also negotiate bilateral investment agreements. In these negotiations the EU will aim at also addressing sustainable development issues of specific relevance for investment.

***How impacts on labour issues (including child labour) are factored into our bilateral agreements process: the impact assessment cycle***

**Social impacts such as that on child labour are considered in the design, negotiation, and ex post monitoring of our bilateral agreements. This 360° approach is encapsulated in our evaluations throughout the trade policy cycle.**

**The Communication on Trade, Growth and World Affairs (doc. COM(2010)612) commits the European Commission to carry out impact assessments on all new trade initiatives with a potentially significant economic, social or environmental impact on the EU and its trade partners, including developing countries.**

**The Commission ensures that evaluations are carried out:**

- **before a negotiation begins (Impact Assessments – ex ante),**
- **while an agreement is being negotiated (Sustainability Impact Assessments), or**
- **after the agreement is implemented (ex-post analysis).**

**Impact Assessments address all significant economic, social, human rights and environmental impacts (including child labour whenever relevant), and build upon a wide consultation of relevant stakeholders. European Commission services have developed specific guidance to ensure human rights impacts are adequately analysed in the impact assessments, which is now routinely done for new FTAs and investment agreements.**

**The Sustainability Impact Assessments conducted during the negotiations allow, in particular, for an even further detailed social and employment impact analysis - including child labour whenever relevant. Dialogues with the civil society are formally part of the assessment and a key source of information.**

**Evaluating the effectiveness of our trade agreements is an essential factor of trade policy. The Commission has reinforced ex-post evaluations of economic, social and environment impacts, with the endeavour to make them more systematic, as highlighted in Commission communications on trade from 2010 and 2012 (*Trade, Growth and World Affairs* and *Trade, Growth and Development*).**

### **3.4. Generalised Scheme of Preferences (GSP)**

The EU's GSP has been a core tool to generate additional exports and income growth by developing countries, thereby generating resources needed for combatting poverty and, as a result, WFCL. This is done via generous tariff reductions adapted to the different needs of different developing partners. LDCs receive the widest preferences possible: duty-free, quota-free access for all products except arms ('Everything But Arms' initiative). Other developing countries receive tariff reductions for 66% of tariff lines.

Within the boundaries of WTO rules, the EU has introduced additional, carefully designed levers to support the fight against child labour. EU GSP foresees that in extreme cases where serious and systematic violations of ILO core labour conventions exist, GSP preferences may be withdrawn. The consequences of a potential loss of the generous export incentives thus should act as a deterrent for the worst practices. This approach should however be carefully calibrated. As it takes time to eradicate poverty, LDCs and other poor economies may well face problems as regards WFCL. Therefore, unless these problems are extreme, incentives (rather than sanctions) will be the best agent for positive change in the fight against poverty.

***Children participate in the picking of cotton in Uzbekistan. Should this lead to the exclusion of Uzbekistan from GSP preferences?***

**Children have long been involved in cotton harvests in Uzbekistan. To date, the International Labour Conference has not taken the position that serious and continued failures to implement the relevant WFCL convention have taken place regarding this issue. At this stage, GSP preferences should thus not be withdrawn.**

**But this does not detract from the fact that a problem exists. The EU has invested in an in-depth dialogue with the Uzbek authorities stating our serious concerns and the importance of full co-operation with the ILO, including on-spot missions, which have as yet not been allowed by Uzbekistan. We have underlined that if the matter is not tackled and the International Labour Conference finds serious and systematic violations, in**

**particular of ILO fundamental conventions C182 and C138, the Commission will not hesitate to activate withdrawal procedures.**

**GSP preferences provide incentives for the exporting countries to pay attention to the issue of WFCL - and open a channel for the EU to be a positive lever for change. Without GSP preferences, this channel of communication and dialogue would not exist. This should also be seen against the background of the potential negative effects of withdrawal on exports, income, poverty and thus WFCL. An approach based on sanctions may not target the root causes of child labour, and may well lead to a worsening of the problem.**

Moreover, the GSP scheme offers a set of enhanced tariff reductions for countries which adhere to and effectively implement 27 international conventions, including ILO child labour conventions. The EU regularly monitors the beneficiary countries' behaviour, and can withdraw preferences where there is lack of sufficient progress in the implementation of conventions. This so-called "GSP+" regime is another example of a carefully designed, incentive-based approach which generates momentum for positive change.

The redesigned GSP scheme published on 31 October 2012 strengthens the combat against child labour mainly in two ways. First, it concentrates preferences on LDCs and other low-income economies. This will allow for additional export opportunities, more growth, and a more effective fight against poverty. Second, it expands the opportunity for more countries to obtain GSP+, and strengthens the EU powers to monitor and (if necessary) withdraw countries from the scheme if ILO fundamental conventions on child labour are not effectively implemented.

### **3.5. Initiatives on fair/ethical trade**

Fair/ethical trade initiatives empower consumers by providing them information about the way products are produced - including child labour issues. Therefore, they can be a useful lever in the fight against WFCL and have earned EU support since the late 90's.

Their key benefit is the very fact that they are private and flexible, so that they can develop along with societal and consumer awareness and demands. Therefore, the European Commission does not rank or regulate the criteria related to such schemes or their relevance in relation to sustainable development objectives, as this would limit a dynamic element of private initiatives in this field and could stand in the way of their further development.

The recent Communication on "Trade, Growth and Development" recognises the role that private actors can play in promoting production, trade, and consumption of sustainable products. It also puts forward proposals for specific actions by public authorities to support an enabling policy environment for fair trade:

- Initiatives to promote trade for small operators in developing countries, e.g. by providing tailored information on market opportunities;

- Further mobilisation of the EU cooperation instruments in order to strengthen the participation of developing countries in fair trade and other schemes based on sustainability criteria;
- Continued efforts to encourage EU partner countries to promote fair and ethical trade in order to support the uptake of such initiatives and enhance their market potential for developing countries; and
- Further facilitation of fair and ethical purchasing choices by public authorities in Europe in the context of the upcoming review of public procurement directives.

**The issue of traceability.**

- **Traceability through certification (and monitoring) is applied by the "Kimberley Process" for rough diamonds, which is a voluntary scheme involving countries producing diamonds or representing key export or import markets. To implement a top-down measure, the EU would need to respect WTO rules on non-discrimination. This means that a traceability system related to WFCL would need to apply to all countries in the world which produce (or could produce) the product.**
- **Traceability works most effectively in cases of very simple supply chains and with very few economic operators involved. Equally, the product must be simple (e.g. with no or very few components) and must be distinguished easily depending on its origin. The market for the product must be totally transparent and the information on the origin of products must be fully available.**
- **In addition, all countries which buy the product (or could do so) in significant quantities should participate in the scheme — otherwise trade flows would simply shift away from countries requiring traceability to others that do not.**
- **Finally, there is a cost factor to bear in mind. Certification and control systems would need to be exhaustive—and would be most challenging in the countries where WFCL is most present: LDCs and other poor economies. Because of the difficulty in quantifying WFCL (*See Section 2*), the establishment of an effective traceability mechanism is likely to remain an elusive undertaking.**
- **Some examples. It is common that tobacco grown in developing countries is traded at auction—meaning that all tobacco is mixed and traceability lost. The same goes for tracing cocoa from sustainable farmers when productions are bought by bigger companies and traded in large quantities to EU and other chocolate producers. Fair trade is normally managed via direct purchase from small producers where monitoring is possible.**

#### **4. OTHER INSTRUMENTS**

To provide a comprehensive review of the issue, it is useful to complete our analysis in three ways.

First, the link between trade and WFCL other than hazardous work (i.e., the so-called unconditional WFCL) is tenuous at best. However tenuous the link, EU actions in this field will serve to combat those cases where unconditional WFCL and trade intersect, so a description of such actions is worthwhile.

Second, there are a number of horizontal actions by the EU which target child labour as a whole, and which also serve to mitigate the problem of WFCL - including the few cases where this is linked to trade. These were described in the 2010 Staff Working Document, so we will concentrate on salient updates.

Third, no review would be complete without a look also at voluntary business schemes. Again, these were described in the 2010 Staff Working Document, so we will focus on new developments.

#### **4.1. Tools to tackle unconditional WFCL**

The EU's political commitment to addressing **child trafficking** is reflected in the large number of initiatives, measures and funding programmes available in the area both within the EU and third countries as early as in the 1990s.

A number of different EU instruments pertaining to various policy areas have covered aspects of trafficking in human beings. EU legislation on the right of victims of human trafficking to reside in the EU, on sexual exploitation of children, and on sanctions against employers who knowingly employ illegally staying third country workers complement the Directive on trafficking in human beings. The **EU Internal Security Strategy in Action**, whose objective is to dismantle serious and organised crime networks further addresses trafficking in human beings.

The overarching framework of the EU external migration policy - **the Global Approach to Migration and Mobility** - reiterates the importance of cooperation with third countries of origin, transit and destination and identifies preventing and reducing irregular migration and trafficking in human beings as one of its four pillars. This line is also followed in the **2009 Action Oriented Paper on the External Dimension on trafficking in human beings**.

The year 2011 saw two milestones. On the one hand, an EU Anti-trafficking Coordinator was appointed by the European Commission. On the other, **Directive 2011/36/EU**<sup>19</sup> was introduced as the overarching EU legal framework. It is underpinned by the best interests of the child principle, and acknowledges that children are particularly vulnerable to victimisation and re-trafficking. More specifically, when children are victims of trafficking in human beings, the Directive stipulates that the offence of trafficking in human beings shall be punishable even if none of the means of the definition, e.g. threat, abduction, use of force, has been used. In addition to specific provisions to support and protect victims of human trafficking, such victims are also covered under the horizontal Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime. The Victims Directive takes a clear child sensitive approach and provides a wide range of rights of crime victims in criminal proceedings.

Additionally, the new and integrated **EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016** identifies child labour as a root cause of trafficking in human beings. A series of measures for protecting the child victims are foreseen in both the Directive and the Strategy, including focusing on development and enhancement of multiagency child protection systems.

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<sup>19</sup> OJ L101/11, 15.4.2011

The EU accords a high priority to helping **children associated with armed conflicts**. The EU Guidelines on Children Affected by Armed Conflicts (CAAC) were adopted in 2003 and revised in 2008<sup>20</sup>. They commit the EU to address the impact of armed conflicts on children in a comprehensive manner. This is done through monitoring and reporting by its Heads of Mission, and special representatives; diplomatic initiatives; political dialogue; multilateral cooperation; assistance and crisis management. In addition, in 2006 the EU prepared the Checklist for integrating the issue of children affected by armed conflicts into the European Security and Defence Policy (ESDP) operations. The Checklist was revised and updated in 2008. The EU has been consistently supportive of the UNSG's mechanisms in this field, in particular the UN Special Representative for Children Affected by Armed Conflicts, the Security Council's Working Group, and the so-called 1612 mechanism. In the period 2008-2012, the EU and its Member States spent almost 300 million Euro in support of children affected by armed conflict around the world, which included demobilisation of child soldiers and their socio-economic reintegration, education activities etc. Moreover, as the recipient of the Nobel Peace Prize, the EU launched in 2012 a new funding line (2m€) to support children affected by conflict through humanitarian assistance providing access to education in emergencies.

In April 2006, the EU issued an extensive strategy for implementing the Guidelines, giving directions on monitoring and reporting, cooperation with the UN, effective incorporation of gender issues into all policy areas and lobbying. The EU focuses the implementation of the Guidelines in the priority countries designated by the Secretary General in his annual report to the UN Security Council. In December 2010, the EU updated the EU Implementation Strategy on Children in Armed Conflicts. The EU Strategic Framework on human rights and democratisation, which was adopted by the Council on 25 June 2012, foresees the stepping up of efforts to implement this revised strategy, in particular by enhancing cooperation with the UNSGs Special Representative.

No review of our action in this context should forget the EU's lobbying in support of ratification of 2 Optional Protocols to the Convention on the rights of the child (on involvement of children in armed conflict and on the **sale of children, child prostitution and child pornography**) and the ILO Convention on the worst forms of child labour.

#### **4.2. Horizontal actions (1): EU aid**

EU is the main donor globally. While bilateral aid to countries and regional organisations dominate in the form of budgetary support or, to a lesser degree via projects, the EU is also supporting the fight against child labour and related issues on a thematic basis.

In countries where **budgetary support** is geared towards education and/or health as sector support, the child labour issue is addressed. In the programming exercise there is also room for dialogues on strategies concerning children extending to child labour.

Many projects and programmes financed by EU are of direct or indirect relevance to child labour and the Worst Forms of Child Labour, also from wider perspective. **Thematic programmes** under the **Development Co-operation Instrument (DCI)** cover many strands.

*Thematic programmes under DCI and child labour examples of a multi-strand approach.*

<sup>20</sup> ["http://register.consilium.europa.eu/pdf/en/03/st15/st15634.en03.pdf"](http://register.consilium.europa.eu/pdf/en/03/st15/st15634.en03.pdf) \l "page=2" \o [EU Guidelines on Children Affected by Armed Conflicts](#).

**Investing in People strand: "Fighting Child labour"** with the objectives to contribute to the eradication of child labour; to promote effective policy dialogue aimed at eradicating child labour, bringing victims of child labour, trafficking or violence into full-time education and re-integrating them into society; to support partnership and networking between key stakeholders, in particular non-State actors and the private sector, by promoting corporate social responsibility in the area of child labour. One of the indicators for monitoring child labour in this programme is the percentage of children engaged in hazardous work, hazardous work being used as a proxy for the worst forms of child labour. Examples: Projects in Tanzania, Kenya, Sierra Leone, Nicaragua, Peru, Ecuador, Fiji and India aim at withdrawing children engaged in labour (craft, sexual exploitation, agriculture, mining, waste collection).

**Migration and Asylum strand: Protecting Migrant Children from Trafficking and Exploitation in the Mekong Sub-region** with objectives: 1) Policies and programmes on trafficking, migration, and child protection at regional, national, and local levels are better able to prevent human trafficking and other forms of exploitation of children, and are able to serve the interest of victims, with better information coming from direct field experience of children, civil society, and local authorities; 2) Civil society actors and children, together with relevant government departments, are able to carry out interventions that directly protect children, particularly migrant children, from human trafficking and other forms of abuse and exploitation. *Combat Child trafficking in Uganda* with objectives: increase public awareness, training of community leaders and key national actors on legal issues related to child trafficking.

**Non state actors strand: Sustainable Multi-Actor Solutions to Migration Related Child Poverty in the Greater Mekong Sub-region** with objectives: National Child Protection Systems serve as real mechanisms to reduce child poverty levels.

Bilateral programmes under DCI also support the combat against child labour.

*Bilateral programmes under DCI and child labour, examples:*

- **Support to Urban Slum Children (normally worst forms due to high number of working hours) to Access Inclusive non-formal education.** Objectives: To increase equal access to quality basic education in a safe learning environment for hardest to reach children in urban slums of Dhaka and Chittagong and mainstream students into the formal education system or into other educational alternatives. *Save the Children* is the organisation implementing the project. This project has been allocated to non-formal education for children which are not reached by the government schools (the programme is called SHARE).
- **Better Work and Standards Programme.** Objectives: The project is dealing with the child labour issue particularly in the ready-made garments and shrimp sectors (where WFCL has been prevalent) in Bangladesh by raising awareness among stakeholders under the overall social compliance aspect.
- **Social Initiatives in the Small Mining Sector in Bolivia.** Objectives: Improvement of labour conditions for women and therefore child mining labour prevention and eradication.

The **European Development Fund** also provides support, for example in its programmes against human trafficking with the ambition to contribute to the protection of people (especially children and women) from the harmful effects of trafficking. The most prominent programme has been TACKLE - an example of support to the work of ILO/IPEC.

**TACKLE – 'Tackling Child Labour through Education' is carried out by ILO/IPEC in Kenya, Zambia, Sudan, Madagascar, Mali, Angola, Jamaica, Papua New Guinea, Fiji, Guyana and Sierra Leone. EU is financing through the European Development Fund and the basis is the elimination of worst forms of child labour as undertaken with ACP partners in the Cotonou Agreement. TACKLE focuses on mainstreaming child labour elimination within the national education systems by engaging both Labour and Education Ministries in respective countries. Training on child labour for the government institutions, teachers, social workers, community leaders and labour inspectors is part of TACKLE. The project also strengthens national legal frameworks to promote children's right to education. Kenya, Mali, Madagascar and Zambia have made significant improvements of school facilities and programmes thereby attracting more children and keeping them in school away from labour.**

Equally, children rights have been prioritized in the Strategy Paper for 2011-2013 for the **European Instrument for Democracy and Human Rights**.

The European Commission supports children affected by conflict through its **humanitarian assistance** programmes, including prevention of recruitment and demobilisation/reintegration of children associated with armed forces.

#### **4.3. Horizontal actions (2): dialogues**

The EU is raising its concerns related to child labour or discussing cooperation on elimination of child labour during bilateral **human rights dialogues and other political dialogues** at different levels. Human rights dialogues are currently performed with approximately 40 countries from all continents (e.g. Uzbekistan, Republic of Moldova, Brazil or South Africa). Concretely, the EU has discussed different forms of child labour with third countries, including trafficking in human beings, child pornography and other forms of sexual exploitation of children, compulsory labour and recruitment of children in armed conflict.

Political dialogue on human rights is complemented by locally defined EU human rights priorities. The EU Heads of missions in more than 60 countries prioritised the promotion and protection of children rights among areas of cooperation with third countries, focusing on themes such as child labour, trafficking, and sexual exploitation or child soldiers.

**Policy dialogues on employment and social issues are conducted with candidate/neighbourhood countries, and strategic partners.** These dialogues allow us to monitor child labour and to assist partners in addressing child labour. As an example, under the EU-Morocco Association Agreement, child labour is regularly discussed, notably as regards the effective implementation of the fundamental ILO Conventions in this area. Within the framework of the European Neighbourhood Policy (ENP), a new ENP Action Plan was concluded in 2012 reaffirming the joint commitment to reinforce the mechanisms for the effective application of Morocco's labour legislation, which prohibits work of children below the age of 15.

An example of our activity with strategic partners is the case of India. The cooperation with India is based on a Memorandum of Understanding and a Joint Action Plan, which mentions cooperation in the field of decent work, including child labour. The action plan is carried out thorough seminars and a tripartite exchange programme (visits of tripartite delegations i.e. representatives of governments and social partners: trade unions and employers' organisations in, respectively, the EU and India). The up-to-date seminars have focused on social security and social protection, skills, training and employment policy, as well as occupational health and safety.

The EU pursues regular dialogues with ACP countries on political issues under the **Cotonou Agreement Article 8** where labour issues including child labour arise as the case may be. In some countries child labour is a recurrent issue.

#### **4.4. Horizontal actions (3): supporting the action of international organisations**

In 2012, the EU joined the global UN **campaign to support ratification of two Optional Protocols to the Convention on the rights of the child and the ILO Convention 182 on the worst forms of child labour**. The EU lobbied locally with national authorities in more than 50 countries in order to promote the ratification and the implementation of the mentioned instruments. Several countries deposited their ratification instruments since the beginning of the campaign, including Grenada, Indonesia, Ivory Coast, Malaysia, Micronesia, Myanmar, Niger, Nigeria, Surinam, Swaziland and Zimbabwe.

The EU has been promoting actively international standards related to child labour such as those enshrined in the ILO Conventions 138 and 182 in **multilateral fora**. In particular, the EU worked closely with the Group of Latin American countries in order to include progressive language on the elimination of child labour in annual resolutions on the rights of the child at the UN General Assembly. Within the ILO, the EU raised concerns over the implementation of child right standards in countries such as Uzbekistan or Myanmar at the annual ILO General Conference.<sup>21</sup>

The promotion and the protection of children rights, including child labour related aspects, have been identified as a **local EU priority** by more than half of the EU Heads of missions in around 60 countries. Close cooperation with UNICEF in those countries is particularly important.

**Child labour in the cotton sector in Uzbekistan is since long a standing issue in dialogues performed by the EU and other organisations including the UN. Some of Uzbekistan's local governments appear to have supported the participation of child labour in the cotton harvest, i.e. by closing schools during the harvest period.**

**In the discussions with the Uzbek government, the EU supports the work of international organisations, such as the ILO and UNICEF. The ILO, formally**

<sup>21</sup> ILO - European Commission High-Level-Meeting, December 2012 decided to cooperate in the following fields in 2013: continue their working level exchanges on the issues of "Trade and the Worst Forms of Child Labour" and lists of hazardous works; cooperate in preparing for the 2013 Global Conference on the Worst Forms of Child Labour; cooperate on the elimination of child labour in the context of the EU Human Rights strategy, including the promotion of ratification and application of child labour Conventions; explore the possibility to cooperate on statistical analysis of children working in supply chains in the context of trade; and continue their cooperation on child labour elimination, in particular in Myanmar and Uzbekistan.

**empowered to monitor implementation of ILO convention C182, has not yet received invitations to perform on-spot missions in the country. The EU will continue its efforts to support ILO access to Uzbekistan.**

#### **4.5. Corporate Social Responsibility**

There are three particularly salient developments in the area of Corporate Social Responsibility:

Firstly, the **UN Guiding Principles on Business and Human Rights** (UNGPs) were endorsed by the UN Human Rights Council in June 2011. These provide for the first time a global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity. The UNGPs are based on three pillars: the state duty to protect human rights, including with regard to business activity; the corporate responsibility to respect human rights; and the need for access to effective remedy when negative human rights impacts occur. The EU Strategic Framework on Human Rights and Democracy adopted in June 2012 makes explicit reference to human rights and business and calls for the encouragement, contribution and implementation of the UNGPs. It includes a commitment from EU Member States to develop their own national action plans for the implementation of the UNGPs. The European Commission is currently developing human rights guidance for 3 business sectors (employment and recruitment agencies, ICT, and oil and gas), and also for small and medium-sized enterprises. Such guidance will address the issue of child labour where it is relevant to do so.

Secondly, the **OECD revised its Guidelines for Multinational Enterprises**, adding a new human rights chapter aligned to the UNGPs, adopting risk-based due diligence as the baseline responsibility of enterprises, introducing important changes in many specialised chapters, such as employment and industrial relations and strengthening the implementation mechanism of National Contact Points (NCPs). The 44 Governments that currently adhere to the Guidelines (34 OECD members plus Argentina, Brazil, Chile, Colombia, Egypt, Latvia, Lithuania, Morocco, Slovenia and Tunisia) established NCPs to support knowledge and observance of the OECD Guidelines by enterprises. They also provide a mediation/conciliation platform to deal with cases of alleged non-observance of the OECD recommendations.

##### ***The OECD's National Contact Points process and child labour***

**Governments adhering to the OECD Guidelines tackled child labour in late 2010 when complaints were made to the British, French, German and Swiss NCPs concerning the purchase by individual companies of Uzbek cotton picked with the participation of children. After initial assessment, NCPs good offices were offered and accepted by all parties (NGOs and enterprises). In the July 2011 to September 2012 period, public statements and reports were released by all NCPs. As a result of the mediation/conciliation process, one company will voluntarily implement the Code of Conduct for the Textile and Fashion Industry drawn up by the Textile and Fashion Confederation and make trading partners aware of that fact (e.g. when concluding contracts) as well as provide internal training on supply management risks. In other cases, parties agreed on possible steps to be taken to address specific labour issues, and to meet regularly or to exchange information in the following 12 months.**

Thirdly, the Commission released a **renewed EU CSR strategy for 2011-14**. A cluster of actions define an agenda which includes enhancing the visibility of CSR and disseminating good practice, improving and tracking levels of trust in business, improving self- and co-regulation processes, enhancing market reward for CSR, improving company disclosure of social and environmental regulation, integrating CSR into education, training and research, and better aligning EU and global approaches to CSR - including the UNGPs and OECD Guidelines. In seeking to promote CSR generally, this ambitious agenda should also support to the combat against child labour and the elimination of WFCL.

**In 2012 the UN Global Compact, UNICEF and Save the Children published the Children's Rights and Business Principles.** One principle directly addresses the elimination of child labour. The Principles are means to provide further practical guidance for enterprises in this field. Several countries – including Belgium, the Netherlands, Sweden, Norway, Kenya – have launched national networks for private enterprises to join. Enterprises signed up to the UN Global Compact have a higher degree of awareness and apply policies towards respect of human rights including child labour in their respective businesses.

**In 2012, ILO-IPEC supported the launch of the Child Labour Platform (CLP).** The CLP fosters the exchange of experience and dialogue between companies of all sizes and industries on tackling child labour in supply chains. Through its forums, the CLP identifies obstacles to tackling child labour, advises on ways of overcoming these and catalyses collective action. It also unites companies, as well as employers and workers organisations and civil society under the auspices of the UN Global Compact Labour Working Group. The platform was initiated at The Hague Conference, with the support of the government of the Netherlands.

**Many industries are creating their own initiatives** to eliminate child labour, particularly within the consumer goods sector as consumers tend to request more information about origin and production processes.

## 5. CONCLUSION

Though much still has to be done globally by governments, the private sector and other agents of development, the fight against child labour is yielding results. The EU continues to actively promote a wide range of instruments to improve access of children to fair opportunities in developing countries.

Tackling worst forms of child labour in a decisive manner requires incentives or disincentives that directly nurture or target the interests of families where child labour is today a necessity. While trade is not a primary vector of the worst forms of child labour, trade needs liberty to grow in a way that continues to promote sustainable development across the world. The EU's trade policy is geared towards promoting free and fair openness to trade in the global market place. Where helpful and in combination with other more direct instruments, EU trade policy can be part of the solution to curbing child labour, particularly in its worst forms.

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## ANNEX 1

### Seminar with Experts on Child Labour held in Brussels on the 3 October, 2012

Experts from international organisations and academia:

- 'Understanding Children's Work' (WB, ILO, UNICEF)
- University of Florence
- Department of Labor, US
- IPEC
- UNICEF
- OECD

The following topics were discussed:

1. Child Labour and Worst Forms of Child Labour - definitions and quantification. The challenges of defining and quantifying the issue. Trends and current situation. What generates CL/WFCL?
2. Child Labour/Worst Forms of Child Labour in relation to trade - A closer look at the role of trade on the basis of academic studies
3. International experience in addressing the Worst Forms of Child Labour - different policy tools and approaches in practice: the US approach; the ILO's approach; UNICEF's approach
4. The role of Corporate Social Responsibility: the OECD's approach

The outcome of the discussions in brief:

- The most prominent root causes for child labour are poverty, poor social services including lack of education, culture and traditions, demographic issues. An integrated policy response is necessary, always targeted to the local conditions.
- Policies and tools to address child labour have to be applied in a holistic way to have sustainable effect; access to schooling and social protection and services to go hand-in-hand with decent work opportunities and socio-cultural awareness and dialogue. Cash transfers to families and communities have proven efficient.
- Most child labourers are found in the agricultural sector and in particular subsistence agriculture where trade connection is low. Geographically, Africa and in particular Least Developed Countries host the highest number of child labourers in relation to their population. Growth and development brings down the figures.
- Political will and ownership is essential in the fight against child labour. Brazil is a prime example.
- In a long term perspective proper implementation and enforcement of labour laws and regulation is key. ILO/IPECs role here important. Also the US is focussing on labour

standards implementation through bilateral and regional trade agreements and through projects in a number of countries.

- Parental investment in children's education and training raises the 'skills premium' but the cost can be unacceptable. Trade liberalisation permits specialisation and creates comparative advantages which in large (macro perspective) generates income. Lack of access to funding for education is an issue.
- The USDols List of Products produced by Forced or Child Labor contains 134 products produced in 74 countries. USDOLs 2011 Findings on the Worst Forms of Child Labour reports on 144 US trade beneficiary countries' efforts to eliminate WFCL, implement laws etc. Governments are assessed on actions to eliminate WFCL, which increases incentives. U.S. focuses on global problems as all countries face labour abuses.
- The 2010 Child Labour Conference Roadmap to be taken forward through better integration and linkages of child labour in country programmes and capacity building for workers and employers. Focus on thematic areas incl. education, informal sector, agriculture, trafficking. Community based approach is called for in all technical co-operation. Future focus to include youth's transition from school to work.
- There is a direct correlation between state poverty and commodity prices falling. Therefore economic crises impacts on poverty which drives up Child Labour. Over 100 million 5-14 year old children are unpaid family workers. Programming involving Ministries of Agriculture, Finance and Trade is therefore important.
- Private business' initiatives through corporate Codes of Conduct where business takes responsibility for children is growing in importance as agents of social change and best practice. OECD's Guidelines for Multinational Enterprises are government backed and developed in consultation with business, trade unions and NGOs to gain maximum credibility and accompanied with a pro-active implementation agenda to assist enterprises to deal with emerging RBC issues. The due diligence approach to identify and prevent, as well as the redress mechanism put in place by NCPs to mitigate adverse impact on Human Rights, including WFCL, may play a key role if correctly applied.

### **Meeting with Civil Society in Brussels**

**Date:** 10 October 2012

### **Panel Presentation**

The Commission opened the meeting by expressing appreciation for the exchange with civil society, presenting the portfolio of the Unit and introducing the Official in charge of Human and Labour Rights Policy within the Trade and Sustainable Development unit.

The Commission described the on-going exercise. Following 2010 discussions on a Commission staff working document on child labour, the Council asked the Commission to study and report on worst forms of child labour and trade on the basis of the experience of competent international organisations. The Commission is thus working on a staff working document (SWD) to be released by the end of 2012 (target date). The SWD shall be descriptive in nature and confined to the task assigned to the Commission by the Council. The SWD shall be based on evidence and experience, with a view to providing a framework of the facts rather than developing new policy initiatives. The SWD, therefore, shall look at the relevant academic literature and studies and the experience of the International Organizations active in the field (such as ILO/IPEC, UNICEF, WB, UCW, OECD).

The document shall address a number of questions:

#### I. Quantification of WFCL

1. What are the challenges in defining and quantifying WFCL?
2. What are the best available estimations of WFCL by country, sector, age segment, type of WFCL etc.?
3. What are the best estimations of longer-term trends, including latest figures? Is it possible to discern the impact of the economic crisis?

#### II. Relationship between WFCL and Trade

4. What are the root causes of WFCL? How are they best addressed? Results? Sustainability?
5. To what extent and how does trade affect WFCL?
6. What conclusions can be drawn from experience and evidence as to successful experience in combatting WFCL, including trade policy?

#### III. Description of EU Policy

7. Formal EU trade policy tools (unilateral, bilateral, multilateral; incentives vs. sanctions)
8. Other “non-trade” tools (aid support, diplomacy, business voluntary approaches, and corporate social responsibility).

As far as the process for the preparation of the SWD is concerned, the Commission invited the participants to contribute to the collection of relevant evidence-based material by October 31<sup>st</sup>, 2012.

#### Discussion Highlights / Questions and Replies

**EUROPEAN TELECOMMUNICATIONS NETWORK OPERATORS' ASSOCIATION ("ETNOA")** informed that since seven years it runs a programme, with a network of organizations, to tackle the root causes of child labour within almost all South American countries. According to the figures it has collected in such countries, 14 million children work and the 10% of them are involved in WFCL. The important contribution to inclusive growth by EU investment sets it apart from investment by other partners, and is an important asset for the recipients of such investment.

**INTERNATIONAL COCOA INITIATIVE ("ICI")** informed that it carries out research on WFCL in the cocoa sector, as well as in other sectors, within Africa (especially Ivory Coast and Ghana). **ICI** collaborates with local authorities and with OECD for the development of guidelines/best practices. **ICI** expressed the opinion that a holistic approach in this field is necessary, concentrating on the root causes of child labour (poverty, inadequate education systems and cultural aspects) and ensuring proper participation of the local stakeholders.

**OXFAM-WERELDWINKELS VZW ("OXFAM")** informed that it undertook a case study with cooperatives in the cocoa sector. In order to gain a better understanding of the problem, before starting a new project, OXFAM asks to the members of the cooperatives about their children. This helps raise awareness of existing problems, and the identification of such problems. The important results of the studies started in 2008 are already available for two of the cooperatives.

**EUROPEAN COFFEE FEDERATION** and **EUROPEAN COCOA FOUNDATION ("ECF")** informed that it works on sustainability at the farmers' level, which also reduces child labour. It is important to address WFCL's root causes, which are linked to illiteracy, lack of awareness, lack of infrastructure and low levels of resources—in short, child labour is a development issue. In addition, ECF supported the holistic approach and suggested to pay attention to cultural components as well. ECF also called for a comprehensive policy for "soft" commodity sectors, and also for policy consistency.

**FOREIGN TRADE ASSOCIATION ("FTA")** informed about its Business Social Compliance Initiative, which features i.e. external audits, third-party complaint mechanisms, and round tables local NGOs and governments. FTA expressed the view it is possible to take children out of work only if there are alternatives in terms of income and education.

**EUROPEAN COCOA ASSOCIATION ("ECA")** stressed that child labour was linked to poverty, education and other development issues. It further underlined the importance of government to government dialogue, of coordination of development aid, of involvement of local governments, and of the efficient reinvestment of taxation. It advised against a sanction-based approach, focusing rather on incentives. A multi-sectorial dialogue should be encouraged.

**CONFEDERATION OF EUROPEAN CIGARETTE MANUFACTURERS** informed that it has members involved in CSR and projects in place, besides funding research on matters of WFCL.

**COABISCO** informed of EU's imports from Turkey, in light of which government-to-government discussions on trade relations and their link with child labour were undertaken. A number of specific programs are also in place.

**BUSINESSEUROPE** applauded a holistic approach, underlining that trade is among the factors which can decrease WFCL.

In their different interventions, the Commission took note of the different aspects highlighted by the speakers, such as the need to fight root causes of the problem (poverty, lack of education, cultural issues) in a holistic way, the importance of awareness rising and of ownership by the local governments. They agreed with the importance of consistency, as shown by the recent Commission's Trade and Development for Growth and the Agenda for Change initiatives. Also, the overlap with other policies (e.g. enlargement) was noted. They thanked for the interventions and welcomed evidence-based contributions by October 31<sup>st</sup> 2012. Contributions are posted in DG TRADE's website under <http://trade.ec.europa.eu/civilsoc/meetdetails.cfm?pastyear=2012&meet=11395>.

## ANNEX 2

### Legal context relevant to child labour including EU legislation

#### ILO

International labour laws surrounding child labour initially focused on the age of the child<sup>22</sup>. Article 2 of ILO Convention 138 (1973), which replaces earlier sector specific minimum age Conventions for its contracting parties, requires contracting parties to declare a minimum age for work within their territory. Article 3 of C138 places the minimum age for admission to hazardous work at no less than 18 years, although an exception can be made for 16 and 17 year-olds in certain circumstances<sup>23</sup>. There is some flexibility for contracting parties to exclude certain sectors and/or types of employment from the scope of application of the Convention, provided that this is done following full tripartite consultation<sup>24</sup>. With reference to hazardous work, C138 leaves its definition to national law (article 3.3).

Article 3 of Convention 182 (1999) - dealing with the worst forms of child labour - distinguishes between what have subsequently been defined as *unconditional worst forms of child labour*<sup>25</sup> and *hazardous work*<sup>26</sup>. Since it primarily is for ILO Member states contracting parties to determine and periodically review – in both cases following tripartite consultation – which types of work are considered hazardous (article 4) there is no uniform "master list" that can be consulted to determine which activities are hazardous and which are not. However, certain work is almost universally considered hazardous:

- Mining
- Construction
- Work with heavy machinery
- Work with exposure to pesticides

The related ILO Recommendation 190 (1999) provides some guidance as to what types of work could be considered hazardous and is based in part on earlier Conventions and Recommendations<sup>27</sup>. Article 2 - Hazardous Work - states that in determining hazardous types of work, “*consideration should be given, inter alia, to work featuring the following conditions:*

- (a) *work which exposes children to physical, psychological or sexual abuse;*

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<sup>22</sup> For example, ILO Conventions 5 and 7 (1919), 10 and 15 (1921), 33(1933), 58 (1936), 59 and 60 (1937), 112 (1959) and 123 (1965). These Conventions were replaced by Convention 138 for those countries that have ratified the latter Convention.

<sup>23</sup> Article 3.3: “...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”

<sup>24</sup> See, for example, Article 5 (special provisions for certain developing countries), 6 (education and training, including government approved apprenticeships), 7 (light work), 8 (artistic performances).

<sup>25</sup> Art. 3 (a) all forms of slavery and practices similar to slavery, such as the sale and trafficking of children, forced or compulsory labour, debt bondage and serfdom; (b) the use, procurement or offering of a child for prostitution, production of pornography or pornographic performances; (c) the use, procurement or offering of a child for illicit activities, in particular for the production and trafficking of drugs;

<sup>26</sup> Art. 3 (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.

<sup>27</sup> Such as those on Night Work Conventions (C6, C79, C90, R14, R80).

- (b) *work underground, under water, at dangerous heights or in confined spaces;*
- (c) *work with dangerous machinery, equipment 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, agent 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.”*

Both C138 and C182 are part of the ILO core conventions on labour standards to which EU Member States are parties.

### **EU legal context**

The **UN Convention on the Rights of the Child (CRC)** is signed by all EU Member States (and most UN Members) and is binding international law. Article 3 states that "*...in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration*". Child Labour is addressed in Article 32:

*“1. States 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. States 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.”*

The **Charter of Fundamental Rights of the European Union** confirms that "*...the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law.*" Article 5 of the Charter states that "*1. No one shall be held in slavery or servitude. 2. No one shall be required to perform forced labour or compulsory labour. 3. Trafficking in human beings is prohibited.*" The Charter specifically addresses the children's situation in Article 24 – Rights of the Child, and Article 32: "*The employment of children is prohibited. The minimum age of admission to employment may not be lower than the minimum school-leaving age, without prejudice to such rules as may be more favourable to young people and except for limited derogations. Young people admitted to work must have working conditions appropriate to their age and be protected against economic exploitation and work likely to harm their safety, health or*

*physical, mental, moral or social development or to interfere with their education."* Further, the right to education and access to vocational training is recognised in the Charter.

Article 6 of the **Treaty of the European Union (TEU)** recognises the rights, freedoms and principles set out in Charter. Article 21(1) of the TEU further says that "*The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity and respect for the principles of the UN Charter and international law.*"

Article 207(1) of the **Treaty on the Functioning of the European Union (TFEU)** confirms that the EU's trade relations and agreements form part of this framework: "... *The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action*".

### **Council Directive 94/33/EC on the protection of young people at work**

The main objectives of **Directive 94/33/EC** on the protection of young people at work are to prohibit work by children, safeguarding at the same time their schooling obligations, and to protect young people against economic exploitation and against any work likely to harm their safety, health and physical, mental, moral or social development or to jeopardise their education. It is applicable to any person under 18 years of age who has an employment contract/relationship.

In accordance with article 7 paragraph 1, EU Member States shall ensure that young people are protected from any specific risks to their safety, health and development which are a consequence of their lack of experience, of absence of awareness of existing or potential risks or of the fact that young people have not yet fully matured. EU Member States shall to this end prohibit the employment of young people for:

- (a) work which is objectively beyond their physical or psychological capacity;
- (b) work involving harmful exposure to agents which are toxic, carcinogenic, cause heritable genetic damage, or harm to the unborn child or which in any other way chronically affect human health;
- (c) work involving harmful exposure to radiation;
- (d) work involving the risk of accidents which it may be assumed cannot be recognized or avoided by young persons owing to their insufficient attention to safety or lack of experience or training; or
- (e) work in which there is a risk to health from extreme cold or heat, or from noise or vibration.

Work which is likely to entail specific risks for young people within the meaning of Article 7 paragraph 1 includes:

- Work involving harmful exposure to the physical, biological and chemical agents referred to in point I of the Annex to the Directive, and

– Processes and work referred to in point II of the Annex to the Directive.

The Directive lays down only minimum requirements. This gives the EU Member States considerable latitude in implementing its provisions. Hence, the EU Member States may maintain or introduce more stringent protective measures than required as a minimum for the EU by the Directive.

There is a general view that the Directive has played a positive role in helping to improve the legal protection afforded to young people in the EU as compared with the situation before the transposition of the Directive.

As regards its impact, there is reason to believe that the Directive has had a positive effect on the health and safety of young people at work. It is generally believed that young people might be at greater risk of suffering work accidents than older workers, and that without the special protection afforded by the Directive, the incidence rate for young workers below the age of 18 would be far higher in the EU.

## ANNEX 3

### Available statistics on Child Labour and Worst Forms of Child Labour

In the statistical analysis that follows, we concentrate on child labour and hazardous work. Child labour is made up of two categories: WFCL and employment below minimum age. In turn, WFCL is made up of hazardous work (90% of all WFCL) and other WFCL which are more difficult to measure. The core trends are in the following tables, which emanate from the ILO.

#### Estimates of various forms of children's work, 2004 and 2008

	Total children (‘000)	Child labour		Hazardous work	
		(‘000)	%	(‘000)	%
<b>World</b>					
2004	1,566,300	222,294	14.2	128,381	8.2
2008	1,586,288	215,269	13.6	115,314	7.3
<b>Boys</b>					
2004	804,000	119,575	14.9	74,414	9.3
2008	819,891	127,761	15.6	74,019	9.0
<b>Girls</b>					
2004	762,300	102,720	13.5	53,966	7.1
2008	766,397	87,508	11.4	41,296	5.4
<b>5-14 years</b>					
2004	1,206,500	170,383	14.1	76,470	6.3
2008	1,216,854	152,850	12.6	52,895	4.3
<b>15-17 years</b>					
2004	359,800	51,911	14.4	51,911	14.4
2008	369,433	62,419	16.9	62,419	16.9

#### Regional estimates of child labour (2008), ages 5-17

Region	Total children (‘000)	Child labour		Hazardous work	
		(‘000)	%	(‘000)	%
World	1,586,288	215,269	13.6	115,314	7.3
Asia and the Pacific	853,895	113,607	13.3	48,164	5.6
Latin America and the Caribbean	141,043	14,125	10.0	9,436	6.7
Sub-Saharan Africa	257,108	65,064	25.3	38,736	15.1
Other regions	334,242	22,473	6.7	18,978	5.7

#### Child labour

The overall number of children aged 5-17 years in child labour decreased by 3% from 222 to 215 million. The incidence of child labour (number of children in child labour divided by the total number of children) also decreased from 14.2% to 13.6%. Most of the observed decline in child labour is in the number of girls and in the age group 5-14 years old. However, the number of boys and their incidence grew over the period—as did the 15-17 age group.

The regional distribution of child labour places the Asia and the Pacific at the top of the list with almost 114 million children—or 53% of the total. Sub-Saharan Africa accounts for 30% of the total and Latin America and the Caribbean for 7%. In terms of incidence of child labour per region, one figure stands out: in Sub-Saharan Africa, one out of four children engage in child labour—almost double the average incidence across the world. This underlines the link between child labour and poverty.

### **Hazardous work**

The number of children in this worst form of child labour accounts for more than half of all child labourers (115 million). The number of children in hazardous work declined by 13 million, or 11%. The incidence of hazardous work (number of children in hazardous work divided by the total number of children) also decreased from 8.2% to 7.3%. The decrease took place for girls, boys and for the 5 to 14- year-old age cohort. However, there was an increase for adolescents 15-17 years old, both in absolute terms and in terms of incidence.

The regional distribution of hazardous work places, again, the Asia and the Pacific at the top of the list with 48 million children, but this is proportionally less (42% of the total) than for child labour as a whole. This is because Sub-Saharan Africa accounts for proportionally many more children in hazardous work: 34% of the total. Latin America and the Caribbean account for 8%. In terms of incidence of child labour per region, the same figure as for child labour as a whole stands out: in Sub-Saharan Africa, the incidence (15.1%) is twice the world average (7.3%). This underlines the link between WFCL and poverty.

### **Other WFCL**

The best available figures relating to **other WFCL** are rather general and comprise almost 10 million children, broken down as follows:

- *All forms of slavery, trafficking in human beings, forced labour, debt bondage, and children in armed conflict: around 7.5 million.* 1.2 million children affected by trafficking (boys mostly for labour exploitation and girls mostly for sexual exploitation and domestic service), around 6 million children in forced and bonded labour (mostly in Asia and the Pacific), and around 300,000 children (mostly boys) involved at any given time in armed conflicts.
- *Child prostitution and pornography.* A rough 1.8 million children are estimated to be affected by **commercial sexual exploitation**, mostly girls. Also prevalent in developed economies.

- *Children working in illicit activities, particularly in the drugs trade. About 600,000 children are engaged in **illicit activities**, predominantly drugs, all over the world including developed countries.*

#### ANNEX 4 USDOL Lists of Goods

Good	Country	Child Labor	Forced Labor
Artificial Flowers	China		X
Baked Goods	Dominican Republic	X	
Bamboo	Burma	X	X
Bananas	Belize	X	
Bananas	Ecuador	X	
Bananas	Nicaragua	X	
Bananas	Philippines	X	
Beans (green beans)	Mexico	X	
Beans (green, soy, yellow)	Burma	X	X
Beef	Brazil	X	
Bidis (hand-rolled cigarettes)	Bangladesh	X	
Bidis (hand-rolled cigarettes)	India	X	
Blueberries	Argentina	X	
Brassware	India	X	
Brazil Nuts/Chestnuts	Bolivia	X	X
Brazil Nuts/Chestnuts	Peru		X
Bricks	Afghanistan	X	X
Bricks	Argentina	X	
Bricks	Bangladesh	X	
Bricks	Bolivia	X	
Bricks	Brazil	X	
Bricks	Burma	X	X
Bricks	Cambodia	X	
Bricks	China	X	X
Bricks	Ecuador	X	
Bricks	India	X	X
Bricks	Nepal	X	X
Bricks	North Korea		X
Bricks	Pakistan	X	X
Bricks	Paraguay	X	
Bricks	Peru	X	
Bricks	Uganda	X	
Bricks	Vietnam	X	
Bricks (clay)	Colombia	X	
Broccoli	Guatemala	X	
Carpets	Afghanistan	X	
Carpets	India	X	X
Carpets	Iran	X	

Carpets	Nepal	X	X
Carpets	Pakistan	X	X
Cashews	Brazil	X	
Cashews	Guinea	X	
Cassiterite (tin ore)	Democratic Republic of the Congo	X	X
Cattle	Bolivia		X
Cattle	Brazil	X	X
Cattle	Chad	X	
Cattle	Ethiopia	X	
Cattle	Lesotho	X	
Cattle	Mauritania	X	
Cattle	Namibia	X	
Cattle	Niger		X
Cattle	Paraguay		X
Cattle	South Sudan	X	X
Cattle	Uganda	X	
Cattle	Zambia	X	
Cement	North Korea		X
Ceramics	Brazil	X	
Charcoal	Brazil	X	X
Charcoal	Namibia	X	
Charcoal	Uganda	X	
Chile Peppers	Mexico	X	
Christmas Decorations	China		X
Citrus Fruits	Belize	X	
Citrus Fruits	Turkey	X	
Cloves	Tanzania	X	
Coal	Afghanistan	X	
Coal	China		X
Coal	Colombia	X	
Coal	Mongolia	X	
Coal	North Korea		X
Coal	Pakistan	X	X
Coal	Ukraine	X	
Coca (stimulant plant)	Colombia	X	X
Coca (stimulant plant)	Peru	X	
Cocoa	Cameroon	X	
Cocoa	Cote d'Ivoire	X	X
Cocoa	Ghana	X	
Cocoa	Guinea	X	

Cocoa	Nigeria	X	X
Cocoa	Sierra Leone	X	
Coconuts	Philippines	X	
Coffee	Colombia	X	
Coffee	Cote d'Ivoire	X	X
Coffee	Dominican Republic	X	
Coffee	Guatemala	X	
Coffee	Guinea	X	
Coffee	Honduras	X	
Coffee	El Salvador	X	
Coffee	Kenya	X	
Coffee	Mexico	X	
Coffee	Nicaragua	X	
Coffee	Panama	X	
Coffee	Sierra Leone	X	
Coffee	Tanzania	X	
Coffee	Uganda	X	
Coltan (tantalum ore)	Democratic Republic of the Congo	X	X
Copper	Democratic Republic of the Congo	X	
Corn	Bolivia	X	X
Corn	Guatemala	X	
Corn	Philippines	X	
Cotton	Argentina	X	
Cotton	Azerbaijan	X	
Cotton	Benin	X	X
Cotton	Brazil	X	
Cotton	Burkina Faso	X	X
Cotton	China	X	X
Cotton	Egypt	X	
Cotton	Kazakhstan	X	X
Cotton	Kyrgyz Republic	X	
Cotton	Mali	X	
Cotton	Pakistan		X
Cotton	Paraguay	X	
Cotton	Tajikistan	X	X
Cotton	Turkey	X	
Cotton	Turkmenistan	X	X
Cotton	Uzbekistan	X	X
Cotton	Zambia	X	
Cottonseed (hybrid)	India	X	X

Cucumbers	Mexico	X	
Cumin	Turkey	X	
Diamonds	Angola	X	X
Diamonds	Central African Republic	X	
Diamonds	Democratic Republic of the Congo	X	
Diamonds	Guinea	X	
Diamonds	Liberia	X	
Diamonds	Sierra Leone	X	X
Diamonds	Zimbabwe	X	
Dried Fish	Bangladesh	X	X
Eggplants	Mexico	X	
Electronics	China	X	X
Embellished Textiles	India	X	X
Embellished Textiles	Nepal	X	X
Emeralds	Colombia	X	
Fashion Accessories	Philippines	X	
Fish	Cambodia	X	
Fish	Ghana	X	X
Fish	Indonesia	X	
Fish	Peru	X	
Fish	Philippines	X	
Fish	Thailand		X
Fish	Uganda	X	
Fireworks	China	X	X
Fireworks	Guatemala	X	
Fireworks	El Salvador	X	
Fireworks	India	X	
Fireworks	Peru	X	
Flowers	Ecuador	X	
Flowers (poppies)	Afghanistan	X	
Fluorspar (mineral)	Mongolia	X	
Footwear	Bangladesh	X	
Footwear	Brazil	X	
Footwear	China		X
Footwear	India	X	
Footwear (sandals)	Indonesia	X	
Furniture	Turkey	X	
Furniture (steel)	Bangladesh	X	
Garlic	Argentina	X	
Garments	Argentina	X	X
Garments	Brazil		X

Garments	China		X
Garments	India	X	X
Garments	Jordan		X
Garments	Malaysia		X
Garments	Thailand	X	X
Garments	Vietnam	X	X
Gems	India	X	
Gems	Zambia	X	
Glass	Bangladesh	X	
Glass Bangles	India	X	
Glass Bangles	Pakistan	X	
Goats	Mauritania	X	
Gold	Bolivia	X	
Gold	Burkina Faso	X	X
Gold	Colombia	X	
Gold	Democratic Republic of the Congo	X	X
Gold	Ecuador	X	
Gold	Ethiopia	X	
Gold	Ghana	X	
Gold	Guinea	X	
Gold	Indonesia	X	
Gold	Mali	X	
Gold	Mongolia	X	
Gold	Nicaragua	X	
Gold	Niger	X	
Gold	North Korea		X
Gold	Peru	X	X
Gold	Philippines	X	
Gold	Senegal	X	
Gold	Suriname	X	
Gold	Tanzania	X	
Granite	Nigeria	X	X
Granite	Sierra Leone	X	
Granite (crushed)	Benin	X	
Grapes	Argentina	X	
Gravel (crushed stones)	Guatemala	X	
Gravel (crushed stones)	Nicaragua	X	
Gravel (crushed stones)	Nigeria	X	X
Gypsum (mineral)	Niger	X	
Hazelnuts	Turkey	X	
Heterogenite (cobalt ore)	Democratic Republic of the Congo	X	

Hogs	Philippines	X	
Incense ( <i>agarbatti</i> )	India	X	
Iron	North Korea		X
Jade	Burma	X	X
Leather	Bangladesh	X	
Leather	Pakistan	X	
Leather Goods/Accessories	India	X	
Lobsters	Honduras	X	
Locks	India	X	
Manioc/Cassava	Brazil	X	
Manioc/Cassava	Cambodia	X	
Manioc/Cassava	Nigeria	X	
Matches	Bangladesh	X	
Matches	India	X	
Melons	Honduras	X	
Melons	Mexico	X	
Melons	Panama	X	
Miraa (stimulant plant)	Kenya	X	
Nails	China		X
Nile Perch (fish)	Tanzania	X	
Oil (palm)	Indonesia	X	
Oil (palm)	Malaysia		X
Oil (palm)	Sierra Leone	X	
Olives	Argentina	X	
Onions	Mexico	X	
Palm Thatch	Burma		X
Peanuts	Bolivia		X
Peanuts	Turkey	X	
Physic Nuts/Castor Beans	Burma		X
Pineapples	Brazil	X	
Pornography	Colombia	X	
Pornography	Mexico	X	
Pornography	Paraguay	X	
Pornography	Philippines	X	
Pornography	Russia	X	X
Pornography	Thailand	X	
Pornography	Ukraine	X	
Poultry	Bangladesh	X	
Pulses (legumes)	Turkey	X	
Pyrotechnics	Philippines	X	
Rice	Brazil	X	

Rice	Burma	X	X
Rice	Dominican Republic	X	
Rice	India	X	X
Rice	Kenya	X	
Rice	Mali	X	X
Rice	Philippines	X	
Rice	Uganda	X	
Rubber	Burma	X	X
Rubber	Cambodia	X	
Rubber	Indonesia	X	
Rubber	Liberia	X	
Rubber	Philippines	X	
Rubies	Burma	X	X
Salt	Bangladesh	X	
Salt	Cambodia	X	
Salt	Niger	X	
Sand	Nigeria	X	
Sapphires	Madagascar	X	
Sesame	Burma		X
Shellfish	El Salvador	X	
Shellfish	Nicaragua	X	
Shrimp	Bangladesh	X	
Shrimp	Burma		X
Shrimp	Cambodia	X	
Shrimp	Thailand	X	X
Silk Fabric	India	X	
Silk Thread	India	X	
Silver	Bolivia	X	
Sisal	Brazil	X	
Sisal	Kenya	X	
Sisal	Tanzania	X	
Soap	Bangladesh	X	
Soccer Balls	India	X	
Stones	India	X	X
Stones	Madagascar	X	
Stones	Nepal	X	X
Stones	Zambia	X	
Stones (limestone)	Egypt	X	
Stones (limestone)	Paraguay	X	
Stones (pumice)	Nicaragua	X	
Strawberries	Argentina	X	

Sugar Beets	Turkey	X	
Sugarcane	Belize	X	
Sugarcane	Bolivia	X	X
Sugarcane	Brazil		X
Sugarcane	Burma	X	X
Sugarcane	Colombia	X	
Sugarcane	Dominican Republic	X	X
Sugarcane	El Salvador	X	
Sugarcane	Guatemala	X	
Sugarcane	Kenya	X	
Sugarcane	Mexico	X	
Sugarcane	Pakistan		X
Sugarcane	Panama	X	
Sugarcane	Paraguay	X	
Sugarcane	Philippines	X	
Sugarcane	Thailand	X	
Sugarcane	Uganda	X	
Sunflowers	Burma		X
Surgical Instruments	Pakistan	X	
Tanzanite (gems)	Tanzania	X	
Tea	Kenya	X	
Tea	Malawi	X	
Tea	Rwanda	X	
Tea	Tanzania	X	
Tea	Uganda	X	
Teak	Burma	X	X
Textiles	Bangladesh	X	
Textiles	China	X	
Textiles	North Korea		X
Textiles (hand-woven)	Ethiopia	X	X
Textiles (jute)	Bangladesh	X	
Thread/Yarn	India	X	
Tilapia (fish)	Ghana	X	X
Timber	Brazil		X
Timber	North Korea		X
Timber	Peru		X
Tin	Bolivia	X	
Tobacco	Argentina	X	
Tobacco	Brazil	X	
Tobacco	Cambodia	X	
Tobacco	Indonesia	X	

Tobacco	Kazakhstan	X	X
Tobacco	Kenya	X	
Tobacco	Kyrgyz Republic	X	
Tobacco	Lebanon	X	
Tobacco	Malawi	X	X
Tobacco	Mexico	X	
Tobacco	Mozambique	X	
Tobacco	Nicaragua	X	
Tobacco	Philippines	X	
Tobacco	Tanzania	X	
Tobacco	Uganda	X	
Tobacco	Zambia	X	
Tomatoes	Argentina	X	
Tomatoes	Dominican Republic	X	
Tomatoes	Mexico	X	
Toys	China	X	X
Trona (mineral)	Niger	X	
Vanilla	Uganda	X	
Wheat	Pakistan		X
Wolframite (tungsten ore)	Democratic Republic of the Congo	X	X
Yerba Mate (stimulant plant)	Argentina	X	
Zinc	Bolivia	X	

## ANNEX 5

### TRADE STATISTICS RELATED TO CERTAIN PRODUCTS

We have undertaken an analysis based on official trade statistics (source: COMTRADE) for the products included in the USDOL list. Current export destinations for these products were identified, to assess whether there are any other significant destinations for exports of these products aside from the EU. The statistical information confirmed this.

On average, the EU accounts for less than 22% of imports of the products listed by the USDOL. This means that 78% of exports go to other markets. This underlines that, if restrictive trade measures were to be envisaged by the EU alone, they would lack effectiveness, as exporters would be likely to develop other available markets already at their disposal. If this coupled with the fact that a vast majority of growth in the medium term is likely to take place outside the EU (in particular in emerging economies)<sup>28</sup> underlines the increasing likelihood that outlets other than the EU would exist for countries wishing to export these products. The tables below illustrate this fact, on a product per product basis.

It is important to underline at least two salient limitations of this analysis.

First, the fact that a product is on the USDOL list does not imply that WFCL are used to produce all products which are exported. A proper reading of the statistics would be as follows, using the example of Tomatoes below:

According to the USDOL list, child labour is alleged to be used in the production of Tomatoes in Argentina, Dominican Republic and Mexico (see Annex 4). It is not possible to determine the extent of use of child labour, let alone the use of WFCL, i.e., we do not know how many of the imports from these countries actually use WFCL. Whatever these quantities are, Argentina, Dominican Republic and Mexico have many possible export destinations. While the EU is an important destination, absorbing 21.1% of world imports of Tomatoes, exports from Argentina, Dominican Republic and Mexico have other important potential markets absorbing 78.91% of world imports. This implies that restrictive trade action by the EU alone would have a limited impact, if any. In addition, it could well punish exporters which do not use WFCL in the production of their goods.

Second, the available statistics have a HS 6-digit (or higher) level of disaggregation, so in some cases the figures include product categories broader than those identified in the USDOL list.

	<b>going into EU</b>	<b>going to other countries</b>
Artificial flowers	32.2%	67.8%
Baked goods	8.5%	91.5%
Bamboo	33.6%	66.4%
Bananas	45.0%	55.0%
Beans	21.0%	79.0%
Beef	8.1%	91.9%
Bidis	2.8%	97.2%

<sup>28</sup>

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Blueberries	32.5%	67.5%
Brassware	14.1%	85.9%
Brazil nuts	32.1%	67.9%
Bricks	8.8%	91.2%
Broccoli	1.6%	98.4%
Carpets	25.9%	74.1%
Cashew	22.5%	77.5%
Cattle	0.1%	99.9%
Cement	8.5%	91.5%
Ceramic	18.5%	81.5%
Charcoal	40.7%	59.3%
Christmas articles	25.1%	74.9%
Citrus fruit	32.7%	67.3%
Cloves	4.5%	95.5%
Coal	20.3%	79.7%
Coca leaf	1.6%	98.4%
Cocoa	38.2%	61.8%
Coconuts	31.6%	68.4%
Coffee	46.5%	53.5%
Coltan tantalum ore	32.6%	67.4%
Copper	13.7%	86.3%
Corn	6.7%	93.3%
Cotton	7.9%	92.1%
Cotton seeds	13.3%	86.7%
Cucumbers	9.0%	91.0%
Cumin	17.4%	82.6%
Diamonds	23.2%	76.8%
Dried fish	4.3%	95.7%
Eggplants	11.1%	88.9%
Electronics	5.1%	94.9%
Embellished textiles	30.0%	70.0%
Emeralds	19.4%	80.6%
Fashion accessories	34.2%	65.8%
Fireworks	38.8%	61.2%
Fish	29.4%	70.6%
Flowers	37.1%	62.9%
Flowers (poppies)	32.6%	67.4%
Fluorspar	34.9%	65.1%
Footwear	33.2%	66.8%

Footwear Sandals	26.4%	73.6%
Furniture	24.2%	75.8%
Furniture steel	26.9%	73.1%
Garlic	14.5%	85.5%
Garments	35.2%	64.8%
Gems	14.7%	85.3%
Glass	16.8%	83.2%
Glass bangles	36.7%	63.3%
Goats	9.6%	90.4%
Gold	9.5%	90.5%
Granite	29.7%	70.3%
Granite (crushed)	75.7%	24.3%
Grapes	36.5%	63.5%
Gravel	26.2%	73.8%
Gypsum	2.5%	97.5%
Hazelnuts	68.8%	31.2%
Heterogenite (cobalt ore)	5.9%	94.1%
Hogs	1.1%	98.9%
Incense	24.5%	75.5%
Iron	15.6%	84.4%
Jade and Tanzanite	8.7%	91.3%
Leather	11.4%	88.6%
Leather goods	33.7%	66.3%
Lobsters	21.6%	78.4%
Locks	18.7%	81.3%
Manioc/Cassava	1.8%	98.2%
Matches	15.9%	84.1%
Melons	33.8%	66.2%
Nails	16.9%	83.1%
Nile perch	42.4%	57.6%
Olives	11.3%	88.7%
Onions	13.9%	86.1%
Palm oil	17.5%	82.5%
Peanuts	38.2%	61.8%
Physic nuts	27.5%	72.5%
Pineapples	36.9%	63.1%
Poultry	10.6%	89.4%
Printed matters	19.7%	80.3%
Pulses	25.3%	74.7%

Rice	8.2%	91.8%
Rubber	19.5%	80.5%
Rubies and Sapphires	21.8%	78.2%
Salt	11.3%	88.7%
Sand	11.9%	88.1%
Sesame	10.5%	89.5%
Shellfish	24.7%	75.3%
Shrimps	33.1%	66.9%
Silk fabric	27.4%	72.6%
Silk thread	18.3%	81.7%
Silver	18.7%	81.3%
Sisal	13.3%	86.7%
Soap	14.5%	85.5%
Soccer balls	25.0%	75.0%
Soya beans	15.1%	84.9%
Stones	11.4%	88.6%
Stones (limestone)	21.1%	78.9%
Stones (pumice)	8.8%	91.2%
Strawberries	22.4%	77.6%
Sugar beets	1.8%	98.2%
Sugarcane	63.4%	36.6%
Sunflowers	24.7%	75.3%
Surgical instruments	35.2%	64.8%
Tantalum ores	22.6%	77.4%
Tea	20.1%	79.9%
Teak	15.8%	84.2%
Textiles	30.5%	69.5%
Textiles hand woven	33.0%	67.0%
Textiles jute	13.0%	87.0%
Thread - yarn	14.8%	85.2%
Tilapia	42.2%	57.8%
Timber	19.6%	80.4%
Tin ores and concentrates	0.4%	99.6%
Tobacco	20.4%	79.6%
Tomatoes	21.1%	78.9%
Trona	14.8%	85.2%
Toys	28.2%	71.8%
Vanilla	42.8%	57.2%
Wheat	6.3%	93.7%

Wolframite/Tungsten ore	6.7%	93.3%
Yerba mate	17.3%	82.7%
Zinc	16.1%	83.9%