

## **Nedspice Child Labour Definition & Guideline Document**

### **1. Introduction**

Child labour is still a reality in many countries. According to the International Labor Organization (ILO) 125 million children between the ages 5 – 17 are involved in child labour. Recent report shows that Vietnam accounts for 1 million of those children and that 59,7% of them work in the agriculture, forestry and fishery sector<sup>1</sup>. In India it is estimated that 10.1 million children are involved child labour.<sup>2</sup>

This document clearly defines which situations should be considered child labour and how child labour cases should be reported internally. Figure 2 and 3 are aimed to support agronomist or others to make a just analysis of the situation and whether or not it should be reported as child labour.

The definitions in, and rationale of, this document are based on the UN Guiding Principles on Business and Human Rights (UNGPs), ILO's 1998 Declaration on Fundamental Principles and Rights at Work, ILO Convention No. 138 on Minimum Age (1973), ILO Convention No. 182 on Worst Forms of Child Labour (1999) as well as national Vietnamese and Indian laws, respectively Vietnam Labour Code 2012, Vietnam Law on Children (2016) and The Child Labour Act (Prohibition and Regulation) (1986) and The Child Labour Act (Prohibition and Regulation) (2016).

### **2. Definitions – Understanding Child Labour**

In general, child labour is any work that deprives children of their childhood, their potential and their dignity, that is harmful to physical and mental development including by interfering with their education.

Children have an internationally recognized right to be free from child labour. A child labour impact refers to an actual or potential infringement (i.e. a limitation on or undermining) of the right to be free from child labour.

#### **Child**

Every human being under the age of 18 is considered a child, as defined by the United Nations Convention on the Rights of the Child.<sup>3</sup> India is a signatory of the UNCRC and as such should apply the same definition of 'child' within their domestic laws. However, various national and local laws in India define the words 'child' and 'minor' differently. This ambiguity within the law mostly affects children between the age of 15-18. Vietnam has also ratified the UNCRC, but the national Vietnamese Law on Children 2016 adopts a lower age (16) for children.

However, for the purposes of this document the definitions as described by the UNCRC and relevant ILO conventions are leading.<sup>4</sup>

#### **Child labour**

Not all work performed by children is child labour. Work performed by children is

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<sup>1</sup>Viet Nam National Child Labour Survey 2018, International Labour Organization

<sup>2</sup> Census 2011

<sup>3</sup> United Nations Conventions on the Right of the Child (UNCRC)

<sup>4</sup> Vietnamese legal age of children has been a concern to the CRC committee, as well as UNICEF. Indian ambiguous laws are on the radar of many human rights activities and child protection focused NGOs.

considered child labour when it

1) is likely to impede the child's education and full development (due to the child's age), and/or 2) jeopardises the physical, mental or moral wellbeing of a child (due to the nature of the work). The type of work, age of the child and number of hours are additional factors that determine whether it concerns child labour under 1 and/or 2.

#### **Light work**

Work that children can do as long as it does not threaten their health and safety, or hinder their education or vocational training (generally, non-hazardous work for fewer than 14 hours per week). It should only be performed by children aged 13 or over when permitted by law. ILO Convention No. 138 Light Work Provision allows children between 13 and 15 (or alternatively, 12-14) to perform light work for up to 14 hours a week.

Examples of light work are chores in their own household, help on family or small-scale farms or work performed as part of vocational training in school.

In Vietnam, a list of light work permissible for children above the age of 13 and under 15 is provided<sup>5</sup>.

#### **Hazardous work**

Hazardous child labour based on the ILO definition<sup>6</sup> is children (anyone under the age of 18) performing 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.

This includes: 1) work that exposes children to physical, emotional or sexual abuse; 2) work underground, underwater, at dangerous heights or in confined spaces; 3) work with dangerous machinery, equipment and tools, or work that involved the manual handling or transporting of heavy loads; 4) work in an unhealthy environment, which may, for example, expose children to hazardous substances, agents or processes or to temperatures, noise levels or vibrations that is damaging to their health; 5) work under particularly difficult conditions, such as work for long hours or during the night; and 6) work that prevents children from returning home each day.<sup>7</sup>

Most common examples of hazardous child labour work in agriculture are children working with pesticides, heavy equipment or machinery (for example crawling under the threshing machine), climbing ladders and/or working for excessively long hours or in high temperatures. Hazardous child labour work is prohibited for all children under 18. Hazardous conditions are often known as the 3D jobs: dirty, difficult and dangerous.

Hazardous child labour is one of the worst forms of child labour.

#### **Other worst forms of child labour**

These comprise slavery, trafficking, debt bondage and other forms of forced labour, including forced recruitment for use in armed conflict, the use of children in prostitution and pornography, and in illicit activities such as organized begging or the trafficking or

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<sup>5</sup> Viet Nam Circular No. 09/2020/TT-BLDTBXH, see also Appendix 2

<sup>6</sup> Article 3(d) of ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999

<sup>7</sup> ILO C182 and ILO R190

sale of narcotics. Children should never be involved in such activities.

### 3. Reporting mechanism

To identify possible child labour issues within Nedspice direct supply chain it is vital that any instances of child labour or cases similar to child labour are directly reported internally in a proper way. This way a better understanding of the magnitude and cause(s) of the problem is developed, which contributes to remediation plans or other solution-orientated- actions.

In the unfortunate event of a child labour case found or a situation where child labour likely occurred/will occur, the farmer group leader or agronomist is asked to report information (see figure 1) to the local programme manager and group director sustainability directly via Whatsapp.

For India: report information to Ganapathy K.D. (9741811255) and Steve Clemenson

Reporting information preferably includes, but is not limited too the following:
<ul style="list-style-type: none"> <li>• (alleged) Age of child found working</li> <li>• Description of tasks/work that child was doing or is thought to be doing. Including information on 'hazardousness' of work (e.g. working with pesticide, tools and/or machinery used, climbing ladders)</li> <li>• (estimated) Hours of work the child is/was working</li> <li>• Educational situation of the child</li> <li>• Family situation</li> <li>• If possible, photo of the child and/or working environment</li> </ul>

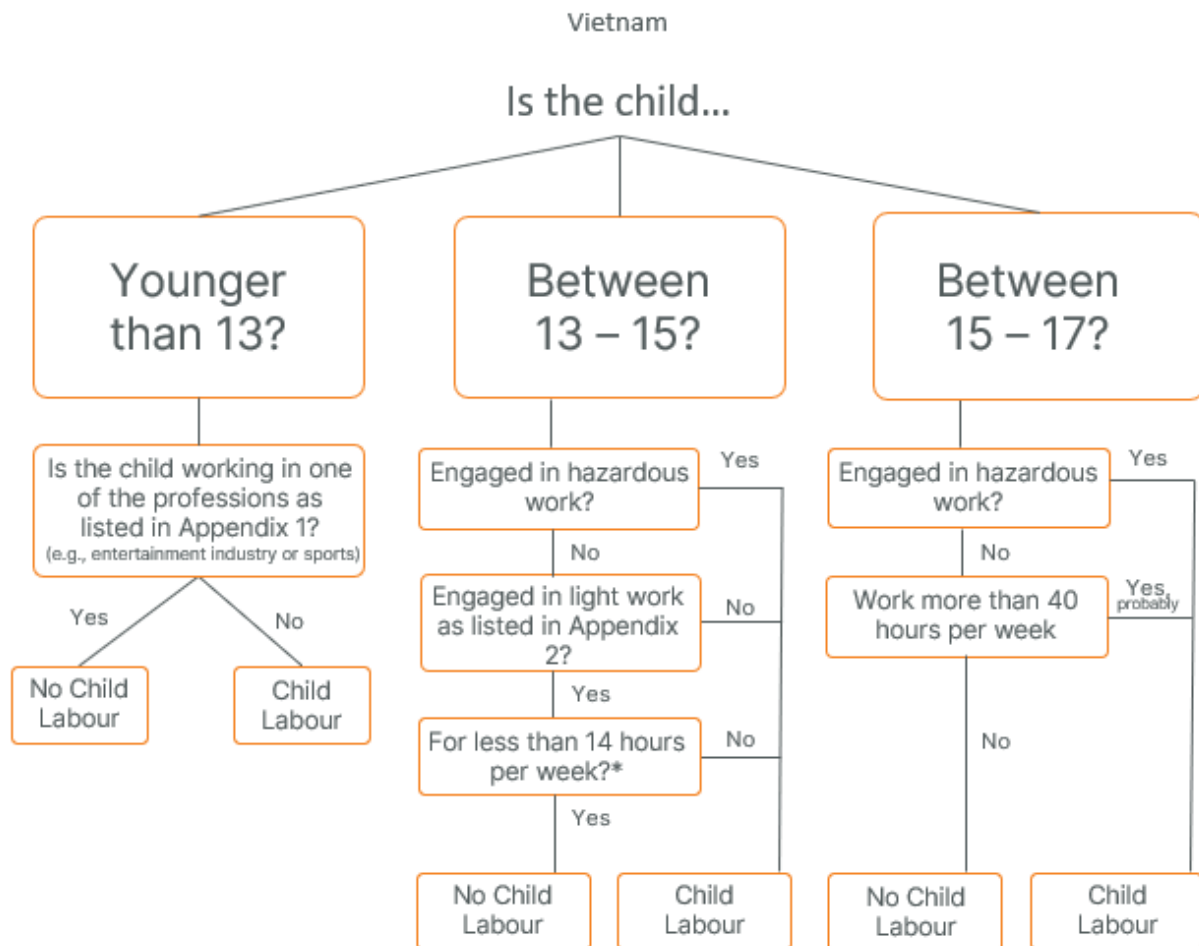
(+316-11703623)

For Vietnam: report information to Hung Le Thanh (+84 903933126) and Steve Clemenson (+316-11703623)

### Figure 1. Reporting checklist

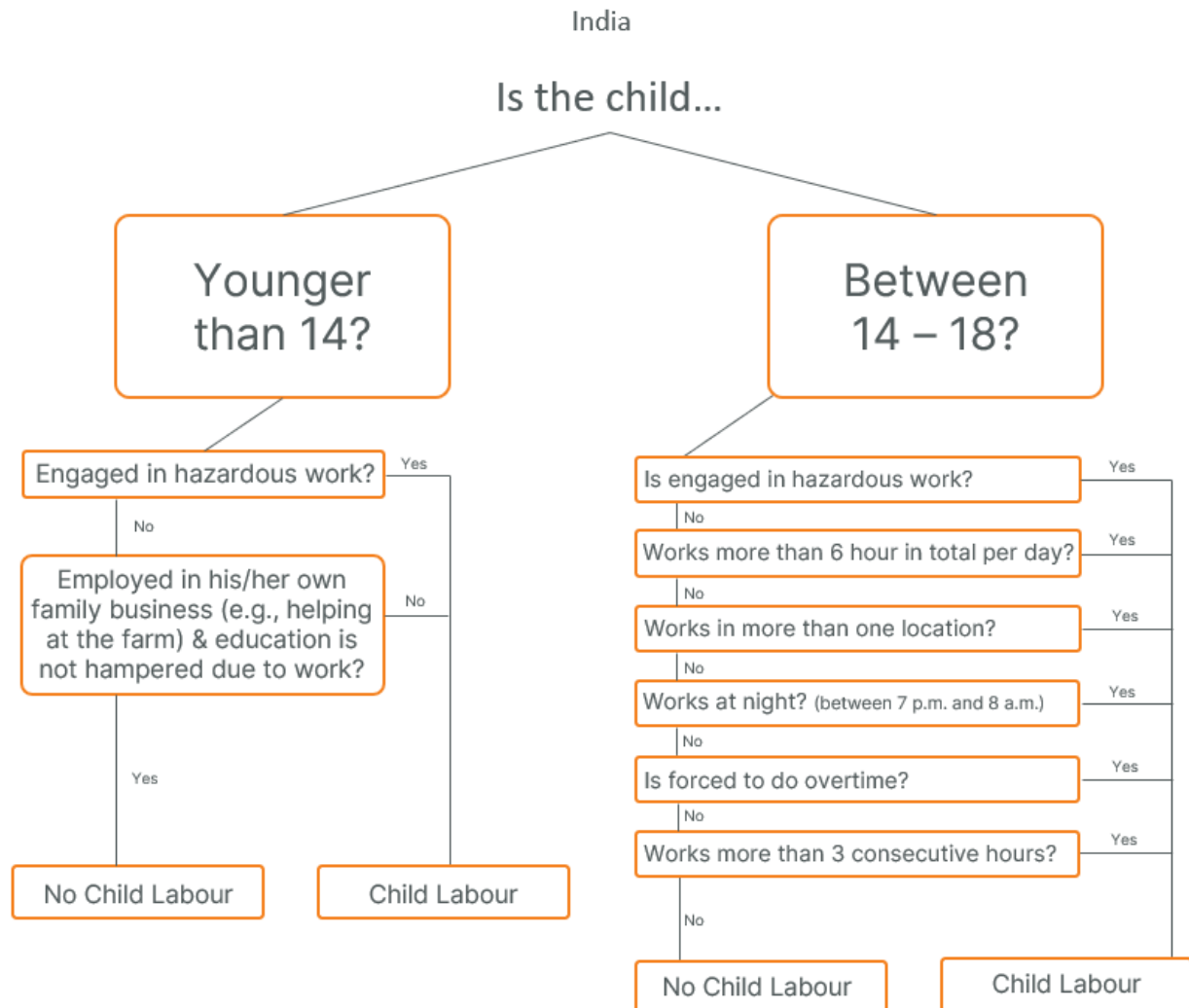
The following figures can contribute to a proper assessment of the situation and decision on whether a case should be considered child labour. Cases that are considered not to be child labour but e.g. permissible light work, or unclear situations should be reported to the programme manager and group director sustainability as well.

**Figure 2. Child labour decision flow - Vietnam**



\*Vietnam Labour Code 2012 art. 163 states that children under the age of 15 can work 4 hours per day or 20 hours per week. However, for the purpose of this document the stricter definition (<14 hours per week) of the ILO Convention No. 138 is leading.

**Figure 3. Child labour decision flow - India**



#### **4. Appendices**

##### **Appendix 1.**

##### **I. LIST OF WORKS ALLOWED USING PERSONS UNDER 13 YEARS OLD TO WORK**

- 1. Actors and actresses: Dancer; singer; circus actors; movie actors; theater actors, traditional musical theatre actors, reformed opera actors and puppetry actors (excluded water puppetry).**
- 2. Gifted athletes: gymnastics, swimming, athletics (except chained dumbbell), table tennis, badminton, basketball, handball, billiards, football, martial arts, kicking shuttlecock, takraw, chess, China chess, and volleyball.**

##### **Appendix 2.**

**LIST OF SMALL JOBS FOR PEOPLE FROM 13 YEARS old to less than 15 years old (*Issued together with Circular No. 09/2020/TT-BLDTBXH dated November 12, 2020 of the Minister of Labor, War Invalids and Social Affairs*) ) Viet Nam Circular No. 09/2020/TT-BLDTBXH**

- 1. Performing arts.**
- 2. Sports athletes.**
- 3. Writing articles, writing articles.**
- 4. Software programming.**
- 5. Traditional occupations: ceramic glaze; do paper making; making conical hats; incense; dotted cones; weaving mats; empty; weaving; brocade embroidery; making rice vermicelli; making vermicelli; make bean sprouts; making rice paper; silk weaving; lotus thread.**
- 6. Handicrafts: embroidery lace; fine art carpentry; make horn combs; making folk paintings (Dong Ho paintings, Hang Trong paintings...); squeeze to he; making woodcut paintings, silk paintings; pick up seashells, scallops... to mount on fine art paintings; beaded rosary beads; puppet making; making greeting cards from decorative art paper products on greeting cards; Make paper model picture frames, paper boxes, paper bags.**
- 7. Knitting, making household items, handicrafts from natural materials such as rattan, bamboo, cork, coconut, banana, water hyacinth, jute, sedge, cinnamon, quots, dot, conical leaf.**
- 8. Wrapping spring rolls, wrapping candy, wrapping cakes (except for the case of operating or using packaging machines, equipment and tools).**
- 9. Thread cutting, buttoning, buttoning, packing of handmade textile products.**
- 10. Delivering news, mail, parcels; postage packaging.**
- 11. Door-to-door sales; sales by phone; online sales.**
- 12. Shoe polish; processing and selling food on the street.**
- 13. Tutor; cleaning, helping in families; house cleaning help.**
- 14. Security, parking of agencies, businesses, restaurants.**
- 15. Collect money from vending machines, write numbers from the meters; cashier, sales in supermarkets.**
- 16. Work in restaurants, cafeterias, cafes: receptionist, bartender, table assistant, kitchen assistant, chef, housekeeping.**
- 17. Office work: photocopying, typing, answering the phone.**
- 18. Sales services: clothes, shoes, books, groceries.**
- 19. Preliminary processing of agricultural products: sorting, peeling, peeling, separating kernels, packing.**

**20. Weeding clean vegetable garden; harvest clean vegetables, tubers and fruits in season.**

**21. Raising livestock, poultry, raising worms, crickets, non-toxic and dangerous insects.**