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U.S. DEPARTMENT OF LABOR
BUREAU OF INTERNATIONAL LABOR AFFAIRS

**LAWS GOVERNING EXPLOITATIVE CHILD
LABOR REPORT
MOROCCO**

July 2004

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Introduction

This report on the laws of Morocco governing exploitative child labor has been prepared pursuant to section 2102(c)(9) of the Trade Act of 2002 (“Trade Act”) (Pub. L. No. 107-210). Section 2102(c)(9) provides that the President shall:

with respect to any trade agreement which the President seeks to implement under trade authorities procedures, submit to the Congress a report describing the extent to which the country or countries that are parties to the agreement have in effect laws governing exploitative child labor.

The President, by Executive Order 13277 (67 Fed. Reg. 70305), assigned his responsibilities under section 2102(c)(9) of the Trade Act to the Secretary of Labor, and provided that they be carried out in consultation with the Secretary of State and the United States Trade Representative. The Secretary of Labor subsequently provided that such responsibilities would be carried out by the Secretary of State, the United States Trade Representative and the Secretary of Labor. (67 Fed. Reg. 77812). This report provides information on laws governing exploitative child labor. For information on the incidence and nature of child labor and government efforts to eliminate the worst forms of child labor, please see section D of the U.S. Department of Labor's "Morocco: Labor Rights Report."

Exploitative Child Labor

There is no universally accepted definition of the term "exploitative child labor." Under article 2(3) of the International Labor Organization (ILO) Convention 138, Minimum Age for Admission to Employment, the minimum age of admission into employment or work in any occupation “shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15.” Countries whose economy and educational facilities are insufficiently developed may initially specify a minimum legal working age of 14 when ratifying the convention. Additionally, under article 7(1), “National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is – (a) not likely to be harmful to their health or development; and (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.” Countries that have specified a minimum legal working age of 14 may permit the employment or work of persons 12 to 14 years of age on light work as defined in article 7(1). Examples of such light work may include work in a family business, on a family farm, after school, or in legitimate apprenticeship opportunities that is not hazardous and that does not affect a child's attendance at school.

While there is no universal definition for exploitative child labor, the ILO has defined the “worst forms” of child labor in ILO Convention 182, Worst Forms of Child Labor.

Under article 3 of ILO Convention 182, the term the worst forms of child labor comprises:

- (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.

According to Convention 182, the types of work referred to under article 3(d) “shall be determined by national laws or regulations or by the competent authority....” Article 2 of the Convention states that “the term *child* shall apply to all persons under the age of 18.”¹

This report relies primarily on information from the U.S. Department of State in Washington, D.C. and the U.S. Embassy in Morocco. It also relies upon a wide variety of reports and materials originating from Morocco, international organizations, non-governmental organizations (NGOs), as well as on consultations held in Rabat and Casablanca by U.S. Department of Labor officials with Moroccan government officials, representatives of worker and employer organizations, and NGOs pursuant to section 2102(c)(7) of the Trade Act.² The Department of Labor also requested public comments in a *Federal Register* notice published on April 21, 2003, but no comments were received.³

Child Labor Laws and Enforcement

Morocco has recently updated legislation relating to child labor. A new Labor Code was published in the *Bulletin Officiel* on December 8, 2003 and took effect on June 7, 2004.⁴ The new Labor Code raises the minimum age for employment from 12 to 15 years.⁵ The

¹ International Labor Organization, *C182 Worst Forms of Child Labour Convention, 1999*, Articles 2, 3 and 4; available from: <http://www.ilo.org/ilolex/english/newratframeE.htm>. ILO Recommendation 190 on the worst forms of child labor provides certain guidelines that countries should consider in determining what constitutes a worst form of child labor under Article 3(d). See International Labor Organization, *R190 Worst Forms of Child Labour Recommendation, 1999*; available from: <http://www.ilo.org/ilolex/english/newratframeE.htm>.

² The consultations were held January 8-10, 2003.

³ U.S. Department of Labor “Request for Information Concerning Labor Rights in Morocco and its Laws Governing Exploitative Child Labor,” *Federal Register* 68 no. 76 (April 21, 2003), 19579-19582.

⁴ Law No. 65-99 relative to the Labor Code [hereinafter Labor Code], as cited in the *Bulletin Officiel*, December 8, 2003.

⁵ Labor Code, Article 143.

minimum age restriction applies to the industrial, commercial, and agricultural sectors and also extends to children working in apprenticeships and family enterprises.⁶ Under the new Labor Code, children under the age of 16 are prohibited from working more than 10 hours per day, which includes at least a 1 hour break.⁷ Children under the age of 18 are not permitted to work in hazardous occupations that include work involving the operation of heavy machinery and exposure to toxic materials or emissions. They also are prohibited from working at night between the hours of 9:00 p.m. and 6:00 a.m. for non-agricultural work and between 8:00 p.m. and 5:00 a.m. for agricultural work.⁸ The Labor Code also prohibits children under 18 from working in stone quarries and mines⁹ and from performing activities that pose an extreme danger to them, exceed their capacities, or result in the breach of public morals.¹⁰ Further, the Labor Code provides for legal sanctions against employers who recruit children under the age of 15 to work.¹¹ Violations of child labor laws are enforceable by criminal penalty, civil fine, and withdrawal or suspension of one or more civil, national, or family rights, including denial of residence for a period of 5 to 10 years.¹²

The new Labor Code prohibits forced or compulsory labor, including by children; however, there are reports that such practices occur.¹³ A widespread form of involuntary labor is “adoptive servitude.” Children, predominantly girls from rural areas, are contracted by their parents or sold by orphanages as maids to wealthy urban families and work for little or no payment.¹⁴ A law was enacted in 1993 for the protection of abandoned children in Morocco. According to this law, persons younger than 18 and unable to support themselves economically are identified as abandoned if their parents are unknown, unable to be located, or incompetent of assuming a parental role.¹⁵ These children are then considered eligible for adoption, and adoptive parents are entitled to a stipend from the government. However, there has been some concern that girls are being

⁶ *Understanding Children’s Work in Morocco*, prepared by the Inter-Agency Research Cooperation Initiative of the ILO, UNICEF, and World Bank, March 2003, 38; available from http://www.ucw-project.org/pdf/publications/report_morocco_draft.pdf. The government is reportedly engaged in the development of a new law specifically on the issue on child domestic workers. See Management Systems International, *Combating Child Labor through Education in Morocco, technical progress report*, Rabat: March 31, 2004, 3.

⁷ U.S. Consulate-Casablanca, *unclassified telegram no. 1157*. See also Labor Code, Article 184 and 191.

⁸ Labor Code, Article 172.

⁹ *Ibid*, Article 179.

¹⁰ *Ibid*, Article 180.

¹¹ Employers who hire children under age 15 may be punished with a fine of 25,000 to 30,000 dirhams (US\$ 2,759 to US\$ 3,311). See Labor Code, Articles 4 and 143. In the past, legal penalties were only applied in cases in which child workers had lodged a complaint of abuse or maltreatment against an employer. See *Understanding Children’s Work (UCW), Understanding Children’s Work in Morocco*, 38.

¹² UN Committee on the Rights of the Child, *Consideration of Reports Submitted by States Parties: Morocco, Second Periodic Reports of State Parties in 2000*, February 12, 2003, para. 647.

¹³ Labor Code, Article 10. See also U.S. Department of State, *Country Reports – 2003: Morocco*, section 6c.

¹⁴ U.S. Department of State, *Country Reports on Human Rights Practices – 2003: Morocco*, Washington, D.C., February 25, 2004, sections 5, 6c and 6f; available from <http://www.state.gov/g/drl/rls/hrrpt/2003/27934.htm>.

¹⁵ Under this “*kafala*” system, foster parents assume the same entitlements as birth parents; however, foster children do not have the same rights as legitimate children. See UN Committee on the Rights of the Child, *Consideration of Reports Submitted by States Parties: Morocco*, paras. 18-19.

adopted at higher rates than boys, and that some of these girls find themselves in situations equivalent to forced domestic servitude.¹⁶

The prostitution of children, corruption of minors, and involvement of children in pornography are prohibited under the Penal Code.¹⁷ The Penal Code prohibits soliciting for the purposes of prostitution,¹⁸ as well as aiding, protecting, or profiting from the prostitution of others.¹⁹ In December 2003, Parliament changed the Code to make child sexual abuse a crime and to increase penalties against those who hire children under age 18 for purposes of sexual exploitation. Under Penal Code Article 497 (revised), anyone who incites a minor under age 18 to commit a vice or who contributes to the corruption of a minor is subject to a prison sentence of 2 to 10 years, and a fine of up to 200,000 dirhams (US\$ 21,739).²⁰

In November 2003, the Immigration and Emigration Act came into effect, prohibiting trafficking of persons through the levying of strict fines and prison sentences against individuals involved in or failing to prevent trafficking in persons, including government officials.²¹ There are several statutes under which traffickers can be prosecuted, including laws on kidnapping, forced prostitution, and coercion.²² Law enforcement agencies actively investigate, prosecute, and convict traffickers.²³

The Ministry of Employment, Social Affairs, and Solidarity is responsible for implementing and enforcing child labor laws and regulations.²⁴ However, with only a small number of labor inspectors, limited investigative powers, limited awareness of the child labor issue, and a lack of resources, the Ministry's enforcement activities have been severely constrained.²⁵ Furthermore, although the new Labor Code does empower

¹⁶ Ibid, para. 43. See also U.S. Department of State, *Country Reports – 2003: Morocco*, sections 5.

¹⁷ Penal Code of Morocco, Articles 497-504, as cited in The Protection Project Legal Library, [cited November 10, 2003]; available from <http://209.190.246.239/protectionproject/statutesPDF/MOROCCO.pdf>.

¹⁸ The Protection Project, "Morocco," in *Human Rights Report on Trafficking in Persons, Especially Women and Children: A Country-by-Country Report on a Contemporary Form of Slavery*, Washington, D.C., 2002; available from <http://www.protectionproject.org/>.

¹⁹ Ibid.

²⁰ U.S. Consulate-Casablanca, *unclassified telegram no. 0077*, January 8, 2004. The same penalties apply in cases where an attempt was made to commit such offenses or when part of the offense was committed outside Morocco. See also U.S. Consulate-Casablanca official, electronic communication to USDOL official, March 25, 2004.

²¹ U.S. Department of State, *Country Reports – 2003: Morocco*, section 6f. See also U.S. Department of State, *Trafficking in Persons Report – 2003: Morocco*.

²² U.S. Department of State, *Trafficking in Persons Report – 2003: Morocco*. According to Articles 472-478 of the Penal Code, any person who uses violence, threats or fraud to abduct (or attempt to abduct) a minor under 18 years of age, or facilitate the abduction of a minor may be imprisoned for 5 to 10 years. If the minor is under the age of 12, the sentence is doubled, from 10 to 20 years. See UN Committee on the Rights of the Child, *Consideration of Reports Submitted by States Parties: Morocco*, para. 665.

²³ U.S. Department of State, *Trafficking in Persons Report – 2003: Morocco*.

²⁴ U.S. Consulate-Casablanca, *unclassified telegram no. 1157*. See also U.S. Department of State, *Country Reports – 2002: Morocco*, section 6d.

²⁵ U.S. Consulate-Casablanca, *unclassified telegram no. 1157*. The Union of Moroccan Women also has demanded that authorities act to abolish child labor in the country after hearing disturbing testimony from children in bonded domestic labor. See BBC World Service, *Moroccan Call to End Child Labour*, BBC News, [online] May 28, 2000 [cited October 16, 2003]; available from <http://news.bbc.co.uk/1/hi/world/africa/767182.stm>.

inspectors to bring charges for employing children under age 15, inspectors have limited ability to monitor the work of children in the informal sector, including the work of child maids.²⁶ Courts can take action once two witnesses file a complaint, but few employers of child maids have been prosecuted.²⁷ In the few cases where legal sanctions for child labor violations are applied, they are generally insufficient to act as effective deterrents.²⁸

The Government of Morocco ratified ILO Convention 138, Minimum Age for Admission to Employment, on January 6, 2000 and ILO Convention 182, Worst Forms of Child Labor, on January 26, 2001.²⁹

²⁶ U.S. Consulate-Casablanca, *unclassified telegram no. 1157*.

²⁷ Labor Code, Articles 4 and 143. See U.S. Consulate-Casablanca, *unclassified telegram no. 1257*, August 3, 2003. See also U.S. Consulate-Casablanca, *unclassified telegram no. 1830*.

²⁸ Understanding Children's Work, *Understanding Children's Work in Morocco*, 38.

²⁹ ILO, *Ratifications by Country*, in ILOLEX, [database online] [cited October 22, 2003]; available from <http://www.ilo.org/ilolex/english/newratframeE.htm>.