

**U.S. Department of Labor
Bureau of International Labor Affairs
Office of Child Labor, Forced Labor, and Human Trafficking**

FREQUENTLY ASKED QUESTIONS:

***DOL Efforts to Combat Child Labor and Forced Labor Pursuant to the
Trafficking Victims Protection Reauthorization Act of 2005 (TVPRA)***

1. What is the Trafficking Victims Protection Reauthorization Act of 2005? Why is it relevant for the Department of Labor?

On January 10, 2006, President Bush signed the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005, Public Law 109-164 (2006). The Act mandated among other things that the Department of Labor's Bureau of International Labor Affairs (ILAB) "carry out additional activities to monitor and combat forced labor and child labor in foreign countries." 22 U.S.C. § 7112.

These additional activities are:

- (A) Monitor the use of forced labor and child labor in violation of international standards;
- (B) Provide information regarding trafficking in persons for the purpose of forced labor to the Office to Monitor and Combat Trafficking of the Department of State for inclusion in [the] trafficking in persons report required by section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b));
- (C) Develop and make available to the public a list of goods from countries that ILAB has reason to believe are produced by forced labor or child labor in violation of international standards;
- (D) Work with persons who are involved in the production of goods on the list described in subparagraph (C) to create a standard set of practices that will reduce the likelihood that such persons will produce goods using the labor described in such subparagraph; and
- (E) Consult with other departments and agencies of the United States government to reduce forced and child labor internationally and ensure that products made by forced labor and child labor in violation of international standards are not imported into the United States.

2. How does the Department of Labor (DOL) intend to carry out these mandates? What has DOL already done?

Responses are provided below to each of the five TVPRA requirements.

- (A) Monitor the use of forced labor and child labor in violation of international standards –

ILAB staff conducts research on child labor, which includes funding for contracts and grants to research child labor and forced labor in the production of goods internationally. In addition, ILAB published a public request for information on forced labor and child labor in the production of goods internationally, as well as information on government, industry or third-party efforts to combat these problems. Initial public submissions were due March 26, 2008, but submissions continue to be received and reviewed on an ongoing basis. ILAB also held a public hearing on these issues on May 28, 2008.

(B) Provide information regarding trafficking in persons for the purpose of forced labor to the Office to Monitor and Combat Trafficking in Persons of the Department of State –

ILAB continues to share resources and coordinate activities to combat forced labor and human trafficking with the Department of State, the Department of Homeland Security, and other U.S. government partners.

(C) Develop and make available to the public a list of goods from countries that ILAB has reason to believe are produced by forced labor or child labor in violation of international standards –

In order to produce the list mandated in subsection (C), ILAB developed a set of procedural guidelines establishing the criteria by which goods and countries will be placed on the list. The Guidelines were published in a Federal Register Notice on December 27, 2007, and can be found at:
<http://a257.g.akamaitech.net/7/257/2422/01jan20071800/edocket.access.gpo.gov/2007/pdf/E7-25036.pdf>.

(D) Work with persons who are involved in the production of goods on the list described in subparagraph (C) to create a standard set of practices –

When the list is developed, ILAB will consult with employers, together with U.S. government partners, foreign governments, industry representatives, and other interested stakeholders, to work toward a standard set of practices to combat the use of forced labor and child labor in the production of goods internationally.

(E) Consult with other departments and agencies of the United States government to reduce forced and child labor internationally and ensure that products made by forced labor and child labor in violation of international standards are not imported into the United States –

Prior to publishing its initial list, and in making determinations concerning the addition or removal of the good from the initial list, ILAB will undertake consultations with relevant U.S. government agencies.

3. How does DOL define child labor and forced labor for purposes of developing the list of goods it has reason to believe are produced in violation of international standards?

“Child labor” under international standards means all work performed by a person below the age of 15. It also includes all work performed by a person below the age of 18 in the following practices: (A) All forms of slavery or practices similar to slavery, such as the sale or trafficking of children, debt bondage and serfdom, or forced or compulsory labor, 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 purposes; (C) the use, procuring, or offering of a child for illicit activities in particular for the production and trafficking of drugs; and (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. The work referred to in subparagraph (D) is determined by the laws, regulations, or competent authority of the country involved, after consultation with the organizations of employers and workers concerned, and taking into consideration relevant international standards. This definition will not apply to work specifically authorized by national laws, including work done by children in schools for general, vocational or technical education or in other training institutions, where such work is carried out in accordance with international standards under conditions prescribed by the competent authority, and does not prejudice children’s attendance in school or their capacity to benefit from the instruction received.

“Forced labor” under international standards means all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily, and includes indentured labor. “Forced labor” includes work provided or obtained by force, fraud, or coercion, including: (1) By threats of serious harm to, or physical restraint against any person; (2) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or (3) by means of the abuse or threatened abuse of law or the legal process. For purposes of this definition, forced labor does not include work specifically authorized by national laws where such work is carried out in accordance with conditions prescribed by the competent authority, including: any work or service required by compulsory military service laws for work of a purely military character; work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country; work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations; work or service required in cases of emergency, such as in the event of war or of a calamity or threatened calamity, fire, flood, famine, earthquake, violent epidemic or epizootic

diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population; and minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives have the right to be consulted in regard to the need for such services.

4. How will DOL staff use the December 27, 2007, Procedural Guidelines to identify goods to be placed on the list?

The procedural guidelines listed the following five criteria for evaluating information:

- Nature of the information;
- Date of the information;
- Source of the information;
- Extent of corroboration from various sources; and
- Whether the information indicates a significant incidence of child labor, forced labor, or forced child labor in the production of the good.

In the December 27, 2007, Federal Register Notice, these five criteria are discussed in greater detail. These criteria will be used, in combination with information provided at the 2008 hearing, and additional information gathered by ILAB staff and contractors, to formulate the list.

5. Will DOL include specific company names in the list?

The TVPRA mandated a list of goods and countries, not company or industry names. It would be difficult for DOL to attempt to track the identity of every company and industry using a good produced with child labor or forced labor. In addition, it is Department's experience that child labor and forced labor frequently occur in small local enterprises, for which company names, if they are available, have little relevance. Consequently, DOL has concluded that seeking to track and name individual companies would be of limited value. Moreover, holding individual violators accountable would exceed the mandate of the TVPRA of 2005.

6. In identifying goods to be placed on the list, what are DOL's criteria regarding the date of source information?

DOL will consider information up to seven years old at the time of receipt. More current information will generally be given priority, and information older than seven years will generally not be considered. The Department's experience is that the use of child labor and forced labor in a country or in the production of a particular good typically persists for several years, particularly when no

meaningful action is taken to combat it. Information about such activities is often actively concealed. Information that is several years old therefore can provide useful context for more current information.

7. Will the list be comprised of whole product categories or pieces of products or both?

In determining which goods and countries are to be placed on the list, DOL will, as appropriate, take into consideration the stages in the chain of a good's production. Whether a good is placed on the list may depend on which stage of production used child labor or forced labor. For example, if child labor or forced labor was only used in the extraction, harvesting, assembly, or production of raw materials or component articles, and these materials or articles are subsequently used under non-violative conditions in the manufacture or processing of a final good, only the raw materials/component articles and the country/ies where they were extracted, harvested, assembled, or produced, as appropriate, may be placed on the list. If child labor or forced labor was used in both the production or extraction of raw materials/component articles and the manufacture or processing of a final good, then both the raw materials/ component articles and the final good, and the country/ies in which such labor was used, may be placed on the list. This is to ensure a direct correspondence between the goods and countries which appear on the list, and the use of child labor or forced labor.

8. Even if there is forced labor or child labor in the production of a good in a given country, what mitigating factors might result in that good/country not appearing on the list, or being removed from the list?

Information on government, industry, or third-party actions and initiatives to combat child labor or forced labor will be taken into consideration, although they are not necessarily sufficient in and of themselves to prevent a good and country from being listed. DOL will take into consideration efforts that have been effective in significantly reducing if not eliminating forced labor and/or child labor from a particular industry or industries.

9. How will allegations of violations be verified?

DOL has developed procedures for the review and analysis of any information relating to the use of forced labor or child labor in the production of a good, to ensure that our sources of information are credible and corroborated, and that the final list is accurate.

10. How often will the list be updated with new and removed items?

The list will be updated on an ongoing basis, depending on the nature and extent of information received through the "maintenance" process spelled out in the procedural guidelines, and as additional information becomes available.

11. What are the anticipated uses of the list?

The primary purpose of the List, as stated in DOL's Federal Register Notice of December 27, 2007, is to promote ameliorative efforts to eliminate forced labor and child labor at the country level.

12. How does the TVPRA list differ from the list mandated under Executive Order 13126?

Executive Order 13126 on the "Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor," was signed on June 12, 1999. The Executive Order is intended to prevent federal agencies from buying products that have been made with forced or indentured child labor. This differs from the TVPRA list, which is intended to promote efforts to monitor and combat forced labor and child labor in foreign countries. In addition, the E.O. list focuses on forced or indentured child labor, while the TVPRA list focuses on a broader population, including adults in forced labor and children in exploitative labor that is not necessarily "forced or indentured."

The current list of products developed under E.O. 13126 by the Department of Labor, in consultation and cooperation with the Department of the Treasury and the Department of State, was published in the January 18, 2001, Federal Register. See 66 Fed. Reg. 5353 (January 18, 2001).