

ALL INDIA RICE EXPORTERS ASSOCIATION (AIREA) NEW DELHI

RESPONSE TO US DEPARTMENT OF LABOR'S LIST OF GOODS
PRODUCED BY CHILD LABOR OR FORCED LABOR IN SO FAR AS IT
APPLIES TO RICE EXPORTED FROM INDIA

US Department of Labor (DOL) has produced a report, titled The Department of Labor's List of Goods Produced by Child labor or Forced Labor, September 2009. The report has been prepared in accordance with the Trafficking Victims Protection Reauthorization Acts (TVPRA) of 2005 & 2008. The List contains 122 goods from 58 countries

Rice is one of the 19 goods listed from India. As a matter of interest, Rice is mentioned against seven (7) other countries viz. Brazil, Burma, Dominican Republic, Kenya, Mali, Philippines and Uganda but not Pakistan, the other major rice producer in the region which follows similar production practices as India.

At the same time a Federal Register Notice was issued seeking to revise the Executive Order 13126 of list of productst which the Department of Labor, in consultation with the Departments of State and Homeland Security have a reasonable basis to believe, might have been mined, produced or manufactured by forced or indentured child labour.

Rice from India is included in this list as well.

Our response to the inclusion of Indian Rice in these Lists is constructed on three aspects:

- A. Examination of source reports indicated in Bibliography
- B. Indian legislative and administrative environment in respect to child labor
- C. Processes being followed in Indian rice export industry.

A. Examination of Source Reports

A critical examination of source material indicated in the Bibliography of both the EO list and TVPRA list reproduced below shows that beyond an occasional passing refernce, the public documents do not contain any empirical data on such practices occurring in the modern rice export sector in India. This does not, therefore, warrant the inclusion of Indian Rice in the List in TVPRA or in the Exceiutive Order 13126.

We would request Department of labour to provide access to US Embassy reports which are not publicly available so that we can examine on what basis, if any, they have alleged the use of child labour in this sector. In particular , the additional bibliography for the Executive Order is a report focusing on brick kilns where a reference to rice production could only be a passing one and NOT based on any study. The other article which has been cited is not even available any longer on the weblink that ghas been given!

Bibliography of TVRA Report

- ILOIPEC. *A Global Alliance Against Forced Labour*. Geneva, 2005; available from <http://yaleglobal.yale.edu/display.article?id=5715>.
2. Manier, B. "India: Economic Boom Masks Widespread Child Labour." *International Confederation of Free Trade Unions* No. 6, Brussels, October 2004; available from <http://www.ictu.org/www/PDF/LMSDossier604IndiaEN.pdf>.
 3. Pandey, Balaji. *Bonded Labour in Bihar and Uttar Pradesh: An Exploratory Study*. Institute for SocioEconomic Development, Sikhyakapada, October 2005.
 4. Subrahmanyam, S. et al. *Labor and Financial Markets from the Employers' Perspective: The Case of Ranga Reddy District in Andhra Pradesh*. ILO, New Delhi, 2003.
 5. U.S. Department of State. "India." In *Trafficking in Persons Report*. Washington, DC, June 5, 2006; available from <http://www.state.gov/g/tip/rls/tiprpt/2006/65989.htm>.
 6. U.S. Department of State. "India." In *Country Reports on Human Rights Practices 2007*. Washington, DC, March 11, 2008; available from <http://www.state.gov/g/drl/rls/hrrpt/2007/100614.htm>.
 7. U.S. Embassy New Delhi. *reporting*. June 11, 2008.

Bibliography cited in EO

1. Bhukuth, Augendra. *Child Labour and Debt Bondage: A Case Study of Brick Kiln Workers in Southeast India*. August 1, 2005; available from http://goliath.ecnext.com/coms2/gi_0199-5050896/Child-labour-and-debtbondage.html
2. ILO-IPEC. *A Global Alliance Against Forced Labour*. Geneva, 2005; available from <http://yaleglobal.yale.edu/display.article?id=5715>.

B. Indian Legislative & Policy Regime in relation to Child Labor.

The Constitution of India in Article 39 of the Directive Principles of State Policy pledges that "the State shall, in particular, direct its policy towards securing ... that the health and strength of workers, men and women, and the tender age of children are not abused, and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength, that children are given opportunities and facilities to develop in a healthy manner, and in conditions of freedom and dignity, and that childhood and youth are protected against exploitation, and against moral and material abandonment."

As a follow-up of this commitment, and being a party to the UN Declaration on the Rights of the Child 1959, India adopted the National Policy on Children in 1974. The child labor program in India is national in character and involves the Government of India, the governments of the States and the Union Territories of India, as well as such tripartite fora as the Indian Labor Conference and the Standing Labor Committee.

India's first act on the subject was the enactment of the Children (Pledging of Labor) Act of February 1933. This was followed by the Employment of Children Act in 1938. Subsequently, twelve additional legislations were passed that progressively extended legal protection to children. Provisions relating to child labor under various enactments such as the Factories Act, the Mines Act, and the Plantation Labor Act etc. have concentrated on aspects such as reducing working hours, increasing minimum wage and prohibiting employment of children in occupations and processes detrimental to their health and development.

The Child Labor (Prohibition & Regulation) Act 1986 of India aims to prohibit the entry of children into hazardous occupations and to regulate the services of children in non-hazardous occupations. It regulates the working conditions of children in other employment. The Act

- bans the employment of children, i.e. those who have not completed their 14th year, in specified occupations and processes (listed in the Schedule to the Act, attached at [Annexure I](#));
- lays down a procedure to make additions to the schedule of banned occupations or processes;
- regulates the working conditions of children in occupations where they are not prohibited from working;
- lays down penalties for employment of children in violation of the provisions of this Act,, and other Acts which forbid the employment of children;
- Brings uniformity in the definition of the "Child" in related laws.

India has announced a National Policy of Child Labor as early as 1987, and was probably the first among the developing countries to have such a progressive policy. Through a notification dated May 26, 1993, the working conditions of children have been regulated in all employment not prohibited under the Child Labor (Prohibition and Regulation) Act. Further, following up on a preliminary notification issued on October 5, 1993, the government has also prohibited employment of children in occupations such as abattoirs/slaughter houses, printing, cashew de-scaling and processing, and soldering.

Conclusion after Examination of the Policy & Legislative Regime

India is a constitutional democracy committed to the rule of law. The Directive Principles of the Constitution specifically call upon the State to direct its policy towards securing health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength. Pursuant to this the Union and the

States have over the past fifty years enacted progressive legislation and proactively participated in International efforts to reduce and ultimately eliminate child labor and forced labor. Administrative Rules have been framed to give effect to such legislation.

Government authorities at State and Union levels are empowered to inspect facilities, monitor compliance and prosecute violators. Concurrently, the Government has ongoing programmes focused on educational and welfare aspects of children.

A critical examination of India's efforts to eliminate child labor and forced labor shows that the inclusion of Indian Rice in TVPRA List and in the EO 13126 is not warranted.

C. Processes Currently Being Followed in Indian Rice Export Industry

The Indian rice export industry has grown manifold over the past two decades not only in volumes and value of exports (last year basmati rice exports were at Rs 12000.00 crore) but even more significantly in the consistent quality of the product and hence its strong brands. This has been possible due to major advances in technology, machinery, processes and marketing of the product. India today has some of the most modern, world class rice mills producing high value basmati for the sophisticated markets across the globe. And along with the sophisticated machinery and plants the industry has invested heavily in quality standards, sustainability and compliance. Robust internal processes and SOPs for all aspects including manning and HR practices of the paddy-to-finished product cycle are in place and effectively monitored. Otherwise the brands will not be supported and sustained in international markets.

India's modern rice mills follow a two tier process for ensuring compliance with Indian law on child labor and forced labor.

- (a) Compliance with State and Union legislation followed by site visits / inspections and certification as required by law on aspects relating to child labor and forced labor.
- (b) Audit and visits to premises and inspection of records by overseas buyers to ensure that safety, hygiene and human welfare aspects are taken care of before actual shipments take place.

Both above compliance processes are in place at all factories involved with exporting rice to USA. Documentary records of two prominent Indian rice exporters are attached to this Note at Appendices 'A' & 'B' to this Note. These Appendices purport to highlight Company policies with

regard to child labor, record of inspections by State government authorities and audit reports carried out on behalf of buyers in USA.

Appendix 'A' – LT Foods, owners of 'Dawat' brand of Basmati rice

Appendix 'B' – Sunstar Overseas Ltd, private label packers to Costco and others

Conclusion after Examining Processes at Factory Premises

Examination of records including submissions to Government authorities and reports on audit conducted by well known international certifying agencies show that the inclusion of Indian Rice in TVPRA List and in the EO 13126 is not warranted.

Overall Conclusion and Response to ILAB List in so far as it pertains to Indian Rice

Having examined (a) Bibliography provided by DOL, (b) the Indian Legislative, Public Policy regime as well as Administrative measures in place and (c) Processes and SOPs existing and being followed at the modern rice exporting mills, it is considered that inclusion of Indian Rice in the TVPRA List and in the EO 13126 are totally unfounded and have no factual basis and it may be removed.

Submitted by Jai Oberoi, Executive Director

All India Rice Exporters Association

81/2, Adchini, Sri Aurobindo Marg

New Delhi – 110017

Tele:- 91-11-41071555 , 41072555, 919810464559

Fax:- 91-11 – 41070555

Email:- ed.airea@airtelmail.in

Form No. 35
(Prescribed under rule 112)

INSPECTION BOOK

Date & time of inspection	Name of the Inspecting Officer	Details of violation observed	Section of the Factories Act and Rules violated	Remarks including may passed by Inspecting Officer
[REDACTED]	[REDACTED]	<p>Visited the factory for inspection under factories Act 1948. Follow-up inspection conducted of the regular inspection dated 18/7/2000. It is found that management has complied with all the 5 Nos observations out of total 6 except Ser (2) i.e. only compliance of rest room not done.</p>	[REDACTED]	<p>16/8/2000</p>
[REDACTED]	[REDACTED]	<p>Visited the factory for inspection under factories Act 1948. The details of observation made follows</p>	[REDACTED]	<p>17/11/2005</p>



Human Resource Management

SOCIAL ACCOUNTABILITY POLICY

Approved By

[REDACTED]

Issued By

[REDACTED]

Date Issued

15 Jan 2009

Policy No.

[REDACTED]

Sunstar Overseas Limited aspires to be a benchmark in the global market and therefore chooses to voluntarily implement a comprehensive system for managing the ethical work-place conditions as a part of its business agenda.

Sunstar Overseas Ltd is committed to maintain a positive culture and continuously improve the working conditions by the following:-

- By respecting applicable ILO's & other requirements with regards to the human dignity.
- By recognizing its people as a primary source of its competitiveness and providing the equal employment opportunity and fostering the climate of openness, mutual trust and team work.
- By its management principles and volunteer commitment to improve the quality of life of its employees and the community it serves via its HR policies and projects eg Organic & Fair Trade Project and via active participation in the social activities.
- By implementing various Food Safety & Quality Systems eg HACCP based BRC & ISO22000 (FSMS) and Environment Management System.
- By providing safe and healthy working environment at all working sites and facilities.
- By developing leading edge solution in technology, process and product.

Sunstar periodically reviews the policy for the continual improvement of its business processes, working environment and fostering the employee satisfaction at all levels.

Facility Name: [REDACTED]
Facility Address: [REDACTED]
Facility Tel: [REDACTED]
Facility Fax: [REDACTED]
Facility Contact: [REDACTED]
Facility Email: [REDACTED]

Vendor Name: [REDACTED]
Vendor Tel: [REDACTED]
Vendor Fax: [REDACTED]
Auditor(s): [REDACTED]
Monitoring Firm: Intertek
Length of Audit: 01 day

AUDIT FINDINGS:

- Child Labor
- Forced Labor
- Harassment and Abuse
- Health and Safety
- Freedom of Association and Collective Bargaining
- Non Discrimination
- Disciplinary Practices

- Working Hours
- Compensation & Benefits
- Environment
- Monitoring & Documentation & Compliance
- Subcontracting & Homework

COMPLIANCE AND MONITORING

Full Access Denied Access : Documents Interviews Walkthrough

OVERALL RATING:	Needs Improvement
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AUDIT RESULTS COMMUNICATED WITH:

Name: [REDACTED]
Title: [REDACTED]
Attitude of Facility/Vendor: Receptive Denied: Name/Title/Reason
 Other:

A closing meeting has been performed at the end of the audit process in which the listed findings were explained and discussed and the necessary corrective actions were agreed.

Signatures: [REDACTED]
 Auditor (s) _____ Company _____
 Date _____ Date _____

Non-Compliance	Law/Code	Corrective Action Plan
[REDACTED]	[REDACTED]	[REDACTED]

Intertek

Company Name

Audit Date

Audit Number

I. Child Labor

1. It was noted during review of records that, personal files including age proof records were not available for 08 out of 10 samples selected from different departments.

1. In accordance with Industrial Employment Standing orders Rules 1946, Schedule I - B, Section 2A. "Every industrial establishment shall maintain a service card in respect of each workmen in the form appended to these orders, wherein particulars of that workers shall be recorded with the knowledge of that workman and duly attested by an officer authorized in this behalf together with date".
As per clause 1 (iv) "Every workman shall indicate his exact date of birth to the employer or the officer authorized by him in this behalf, at the time of entering service of the establishment. The employer or the officer authorized by him in this behalf may before the date of birth of a workman is entered in his service card, require him to supply:
His matriculation or school leaving certificates granted by the Board of Secondary Education or similar educational authority. A certified copy of his date of birth as recorded in the registers of a municipality, local authority or Panchayat or Registrar of Births:
In the absence of either of the aforesaid two categories of certificates, the employer or the officer authorized by him in this behalf may require the workman to supply, a certificate from a Government Medical Officer not below the rank of an Assistant Surgeon, indicating the probable age of the workman provided the cost of obtaining such certificate is borne by the employer;
Where it is not applicable to obtain a certificate from a Government Medical Officer, an affidavit sworn, either by the workman or his parents, or by a near relative, who is in a position to know about the workman's actual or approximate date of birth, before of First Class Magistrate or Oath Commissioner, as evidence in support of the date of birth given by him.

It is recommended to the factory to maintain age proof records for all employees working in the facility.

Management Comment: We have started and trying to obtain the age proof record and will maintain the age proof record at the earliest for all the employees working in the facility.

II. Forced Labor

None

None

None

III. Harassment & Abuse

None

None

None

IV. Health & Safety (Production Area & Dormitory)

<p>1) It was noted during tour of the facility that facility has provided smoke detector in the milling, sortex and packing area. however smoke detector not provided in dehusking and new sortex department. 2) Facility has provided layout plan of the facility but not provided the evacuation plan in the departments.</p>	<p>In accordance with the Factories Act 1948, Section 38 (1) In every facility, all practicable measures shall be taken to prevent outbreak of fire and its spread, both internally and externally, and to provide and maintain (a) safe means of escape for all persons in the event of a fire, and (b) the necessary equipment and facilities for extinguishing fire. (2) Effective measures shall be taken to ensure that in every facility all the workers are familiar with the means of escape in case of fire and have been adequately trained in the routine to be followed in such cases.</p>	<p>It is recommend to the facility to. 1) Provide smoke detector to the said departments. 2) Display the evacuation plan in a local language understood by majority of the employees, the evacuation plan should contain the position of fire extinguishers, position of exits, first aid box, escape routes, We are here position and it should be displayed in each department in a place visible to all the employees. Factory Management Comment: Process is going on to install the smoke detector in all the departments. Evacuation plan will be displayed in local language at the earliest.</p>
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V. Freedom of Association / Collective Bargaining

None	None	None
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VI. Non Discrimination

None	None	None
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VII. Disciplinary Practices

None	None	None
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VIII. Working Hours

<p>The compliance status of working hours could not be verified due to the following: A) Non availability of IN/OUT of 05 employees out of 10 selected samples for the current month. B) It was noted during review of daily stock record that 21 MT (Metric Ton) of variety Blended Royal Bas Old received at SILOBL01 (Storage Container) from the Milling Department (Main Production), 08 MT of variety Blended Rozana Super 90 issued for packing from SILOBL03. 04 MT (Metric Ton) of variety Blended Heritage Basmati received at SILOBL04 (Storage Container) from the Milling Department (Main Production), 16 MT of variety Blended Dawat Gold BAS issued for packing from SILOBL05, 26 MT of variety 1121 Steam Wand issued for packing from SILOBL07, 65 MT (Metric Ton) of variety Basmati Raw Wand 07 received at SILORC10 (Storage Container) from the Milling Department (Main Production), 30 MT of variety A GD Raw Wand 07 issued for packing from SILORC03 on March</p>	<p>In accordance with Factories Act 1948, Section 52: The manager of every factory shall maintain a register of adult workers, to be available to the Inspector at all times during working hours, or when any work is being carried on in the factory, showing- (a) the name of each adult worker in the factory; (b) the nature of his work;(c) the group, if any, in which he is included; (d) where his group works on shifts, the relay to which he is allotted; (e) such other particulars as may be prescribed. In accordance with the Factories Act, 1948 Section 52 (1) No adult worker shall be required or allowed to work in a facility on the first day of the week unless, (a) he has or will have a holiday for a whole day on one of the three days immediately before or after the said day, provided that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day.</p>	<p>It is recommended to the factory to (a) maintain complete and accurate in/Out time records for all employees to verify the compliance status of Working Hours (b) ensure that weekly rest days and declared holidays to be provided to all employees. (c) restrict the regular working hours to a maximum of 8 hours per day and 48 hours per week. Management Comment: We will maintain In/Out time records for all employees in future and an effort is being made to maintain staggered weekly off.</p>
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15, 2009. Similar rice of different categories and variety were received from milling department and issued to packing department on March 01, 08, 22 and 29, 2009, which were weekly rest days and rice of different categories and variety were received from milling department and issued to packing department on February 23, 2009, which were declared holidays. However the available IN/Out record does not reflect any working on the said dates.

C) It was noted during audit process that employees were working from 07.00 am to 07.00 pm every day with 01 hours of Lunch break. However, wages records does not reflect any overtime compensation.

In accordance with the Factories Act 1948, Section 51, no adult worker shall be required or allowed working in a facility for more than 48 hours in a week and in accordance with Section 54, no adult to worker shall be required or allowed to work in a facility for more than 9 hours in any day.

In accordance with Factories Act 1948, Section 64 (4) (i), in making rules under this section, the state Government shall not exceed, except in respect of exemption under clause (a) of sub-section (2) the following limits of work inclusive of overtime: - (i) the total number of hours of work including overtime in any day shall not exceed 10 (ii) the spread over, inclusive of intervals for rest, shall not exceed twelve hours in any one day, (iii) the total number of hours of work in a week, including overtime, shall not exceed sixty (iv) and the total number of hours of overtime shall not exceed fifty for any quarter.

In accordance with the Punjab Industrial Establishment (National and Festival Holidays and Casual and Sick Leave) Act, 1965 (extended to Haryana), Section 3 (1) every worker shall, in each calendar year, be allowed in such manner and on such conditions as may be prescribed:
 (a) three national holidays of one whole day on the 26th January, 15th August and 2nd October
 (b) four (five – for Haryana) other holidays on any of the specified festivals specified in the schedule appended to this act.

IX. Compensation and Benefits

The compliance status of wages and benefit could not be verified due to the following:

A) Non availability of IN/OUT of 05 employees out of 10 selected samples and wages record of 04 out of 10 selected samples for the current month

B) It was noted during review of daily stock record that 21 MT (Metric Ton) of variety Blended Royal Bas Old received at SILOBL01 (Storage Container) from the Milling Department (Main Production), 08 MT of variety Blended Rozana Super 90 issued for packing from SILOBL03.

In accordance with Factories Act 1948, Section 62: The manager of every factory shall maintain a register of adult workers, to be available to the Inspector at all times during working hours, or when any work is being carried on in the factory, showing- (a) the name of each adult worker in the factory; (b) the nature of his work; (c) the group, if any, in which he is included; (d) where his group works on shifts, the relay to which he is allotted; (e) such other particulars as may be prescribed.

In accordance with the Factories Act, 1948 Section 52 (1) No adult

It is recommended to the facility to maintain complete, accurate Wages and IN/Out time records for all employees to verify the compliance status of Compensation and ensure that overtime wages to be compensated at the rate of 200% of the ordinary rate of wages.

Management Comment:

We will maintain In/Out and wages record for all employees in future and an effort is being made to maintain staggered weekly off.

Intertek

Company Name

Audit Date

Audit Number

1) The compensation and Benefits could not be verified due to inconsistencies noted between records. For details, please refer 'Working Hours' section.

In accordance with the Factories Act 1948, Section 62, the factory shall maintain a register of adult workers containing name of employees, nature of work done, the group to which he/she belongs & in accordance with the Minimum Wages Act, 1948, Section 18(1) Every employer shall maintain such registers and records giving such particulars of employees employed by him, the work performed by them, the wages paid to them, the receipts given by them, and in such particulars and in such forms as may be prescribed.

It is recommended to the factory to maintain complete, accurate and updated time / payroll records for all employees to demonstrate the compliance.

Management Comment:

Same as Working Hours

2) It was noted during review of records that, personal files including letter of appointment were not maintained for 06 out of 10 selected samples.

In accordance with Industrial Employment (Standing order) Central Rules, 1946, Schedule I-B, Clause 2, the employer shall in accordance with the terms and conditions stipulated in the letter of appointment, confirm the eligible workman and issue a letter of confirmation to him. Whenever a workman is confirmed, an entry with regard to the confirmation shall also be made in his service card within a period of thirty days from the date of such confirmation.

It is recommended to the facility to issue appointment letter to all the employees working in the facility.

Management Comment: Process is started and fully implemented within two months.

3. It was noted during review of records that, Constant reminders have been sent to the concern department (Last reminder sent on June 12, 2009) to obtain the renewal of license for the current and the last year. The application is under process at the time of audit.

In accordance with Haryana Factories Rules 1952, Rule 10 (1) A licence shall be renewed by the Chief Inspector on payment of the same fee which is charged for the grant of license

It is recommended to the facility to get the renewed licence from the concern Government Authority at the earliest.

Management Comment: We had applied with the required formalities and waiting for the same.

4. It was noted that facility was using 04 Generators (1010 KVA x 2, 1250 KVA x 1, 750 KVA x 1) however facility does not have permission to use two generators of 1250 and 750 KVA from the electricity board.

In accordance with Indian Electricity Rules 1956, Rule 46, 47, 47(a) and 63, factory should take prior approval from appropriate Government Authority before using diesel generator sets.

It is recommended to the facility to obtain the permission to use the said generators from the Electricity board.

Management Comment: We will provide with in 10 days

XII. Sub-contracting & Homework

None

None

None

CONFIDENTIAL

CORRECTIVE ACTION PLAN ACKNOWLEDGEMENT REPORT

The Corrective Action Plan Acknowledgement Report (CAPAR) will be used to summarize the facility audit findings and a corrective action plan that both the auditor and the facility manager believe is reasonable to ensure conformity with the Your Client's Code of Conduct and local laws.

The form should be used in the following manner:

- Document all violations on the form below prior to the closing meeting;
- Then use the form as an agenda during the closing meeting;
- During the closing meeting, go through the facility audit findings with the facility management, and try and agree upon a corrective action plan;
- Document the corrective action plan;
- Both parties should sign and date the form.

Please leave one copy of the CAPAR with the facility manager and retain one copy with the audit program or working papers. The CAPAR is for facility reference purpose only.

Vendor Name [REDACTED]	Facility Name [REDACTED]	Ref # IDA-3482-02	Date [REDACTED]
Facility Address [REDACTED]		Country India	
Auditor Name [REDACTED]		Firm [REDACTED]	
Start time of audit 09.30 am		End time of audit 7.00 pm	
Facility Representative [REDACTED]		Title Management Representative	

CODE OF CONDUCT	VIOLATION	CORRECTIVE ACTION PLAN
1. Child Labor	Nil	Nil
2. Compulsory/ Prison Labor	Nil	Nil
3. Physical Abuse	Nil	Nil