



Comment From the Apparel Export Promotion Council (AEPC),
on the US Department of Labor's Notification Pursuant to
Executive order (EO) 13126

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1. This is in response to the Notice of Initial Determination Updating the List of Products Requiring Federal Contractor Certification as to Forced/Indentured Child Labor Pursuant to Executive Order (EO) 13126, dated 11.09.2009. The Notice of Initial Determination proposes to update the existing list by adding *Garments from India* amongst other goods from other origins.
2. The Apparel Export Promotion Council (AEPC) would like to respond to the US Department of Labor to such possible inclusion of Garments on the EO List.

I. Background

3. **The Role of AEPC:** To monitor and extend support to the export sector of the industry, the Apparel Export Promotion Council (AEPC) was incorporated in 1978. AEPC is the official body of apparel exporters in India that provides assistance to Indian exporters as well as importers/international buyers who choose India as their preferred sourcing destination for garments. The AEPC reports to the Ministry of Textiles, Government of India and facilitates exporters in compliance requirements.
4. **Role of Textiles & Clothing in India's Economy:** India's textiles and clothing industry is one of the mainstays of national economy. It is also one of the largest contributing sectors of India's exports worldwide. At current prices, the Indian textiles industry is pegged at US\$ 61 billion, 64% of which services domestic demand.
5. The textiles industry accounts for 14% of industrial production; employs 35 million people and accounts for nearly 12% share of the country's total exports basket. Readymade Garments account for almost 45% of the total textiles export. Apparel and cotton textiles products together contribute nearly 70% of the total textiles export. As per the available WTO data, India's percentage share in global textiles and clothing trade was 4% in textiles,

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and 3% in clothing during the year 2008. India's rank in world trade has been 6th in textiles and 5th in clothing.

6. **India's presence in the US:** The United States is an important and established market for Indian textiles and clothing exports. About 30% of garments exported from India are to the US market. The US imports garments worth \$ 73 billion in a year. Imports from India in 2008 stood at about \$ 3.12 billion and constituted 4% of its apparel imports.
7. The product profile of India's apparel exports to the US includes cotton dresses (\$132.46 million), T-shirts (\$397 million), gents' shirts (\$83 million), blouses (\$173 million), shorts and trousers (\$244 million), cotton underwear (\$109 million), cotton sheets (\$136 million), pile towels (\$178 million) and floor coverings (\$115 million).
8. During January to June 2009, the total textile imports in the US were \$37.54 billion, of which apparel accounted for \$28.91 billion. Indian apparel exports during the period to US were \$1.59 billion which was about 8.63% lower compared to same period of the previous year.

II. India's Concern & Position

9. The AEPC would like to express its concern about the proposed inclusion of "Garments" under the EO list. We expressly deny the apprehension expressed by the US Authorities through the above notification as would be apparent from the following:
 - a. **Legal Prohibition:** Indian Constitution and the specific legislation do not permit the use of Child or Forced labor.
 - b. **International Certification Procedures:** A factual analysis would indicate that the elaborate system of certification leaves no room for use of any child or forced labour.

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- c. **Industry Efforts:** Considering the fact that US is one of the major markets for India, the garments industry has made special efforts to ensure that there is no incidence of child or forced labour.

The details of the above submissions are given in the following paragraphs.

III. Legal Prohibition:

Constitutional Obligations

10. In India, the post-independence era has seen an unequivocal commitment of the government to the cause of children or forced labor through constitutional provisions, legislation, policies and programs.
11. 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 a vocation 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."*
- The Constitution of India, through various articles enshrined in the Fundamental Rights and the Directive Principles of State Policy, lays down that the State shall provide free and compulsory education to all children of the age six to 14 years. It further provides that no child below the age of 14 years shall be employed to work in any factory or mine.
 - The Child Labor (Prohibition & Regulation) Act, 1986 of India prohibits the employment of children below the age of 14 in factories and mines. India has also announced a

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National Policy of Child Labor as early as 1987, and was probably the first among the developing countries to have such a progressive policy.

12. As being a party to the UN Declaration on the Rights of the Child 1959, India adopted the National Policy on Children in 1974. The policy reaffirmed the constitutional provisions and stated that *"it shall be the policy of the State to provide adequate services to children, both before and after birth and through the period of growth to ensure their full physical, mental and social development. The State shall progressively increase the scope of such services so that within a reasonable time all children in the country enjoy optimum conditions for their balanced growth."*

International Conventions & Treaties

13. The Government of India is a signatory to all relevant International Conventions governing labor conditions.
14. India has ratified on December 2, 1992, the Convention on the Rights of the Child which came into force in 1990. This ratification implies that India will ensure wide awareness about issues relating to children among government agencies, implementing agencies, the media, the judiciary, the public and children themselves. The Government's endeavor is to meet the goals of the Convention and to amend all legislation, policies and schemes to meet the standards set in the Convention.
15. India is also a signatory to the World Declaration on the Survival, Protection and Development of Children. In pursuance of the commitment made at the World Summit, the Department of Women and Child Development under the Ministry of Human Resource Development has formulated a National Plan of Action for Children. Most of the recommendations of the World Summit Action Plan are reflected in India's National Plan of Action.

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16. India's policy on child labor has evolved over the years against this backdrop and its present regime of laws relating to child labor has a pragmatic foundation, consistent with the International Labor Conference resolution of 1979. This ILO resolution calls for a combination of prohibitory measures and measures for humanizing child labor, wherever such labor cannot be eliminated altogether in the short term. It should also be mentioned that India is second to none in its commitment to and in the upholding of the core international labor standards such as freedom of association, collective bargaining and non-discrimination.

IV. International Certification Programs

17. It is important to note that such enormous contribution to international trade from the sector could not be achieved if the Indian industry were not complying with the requisite standards of world production units and common codes of conduct and corporate social responsibility. Further, as pointed out above, Indian Government is committed since independence to eradicate any form of forced or indentured child labor and has taken several steps in this regard.

18. Besides the serious efforts of the Government, industry too has taken several steps to ensure that its products are free of any forced or indentured child labor. This also flows down from the fact they are members of several international organizations/institutions which independently certify that they do not use forced or indentured child labor. In fact, when supplying products to the United States, manufacturers also ensure that the workers are over 18 years so that they meet with the criteria in the US as is mandated by the buyers.

19. Certain certification organizations provide services of stringent checking to ensure that basic compliance with labor conditions are met by manufacturers producing goods for the international markets. Such compliance standards are common and irrespective of national requirements.

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20. The Worldwide Responsible Accredited Production (WRAP) is a not-for-profit organization dedicated to promoting ethical, humane, and lawful conditions and practices in manufacturing facilities all around the world. The WRAP program is the world's largest facility certification program mainly focused on the apparel, footwear and sewn products sectors. Facilities receive a certification of six months to one year based on compliance with the 12 WRAP Principles. The Principles are based on generally accepted international workplace standards, local laws and workplace regulations which encompass human resources management, health and safety, environmental practices, and legal compliance including import/export and customs compliance and security standards. **WRAP mandates the prohibition of forced and child labor.**
21. Another compliance standard, SA8000, is a global social accountability standard for decent working conditions, developed and overseen by Social Accountability International (SAI). SA8000 is based on the UN Universal Declaration of Human Rights, Convention on the Rights of the Child and various International Labour Organization (ILO) conventions. Amongst others, SA8000 covers the following areas of accountability:
- **Child labor:** No workers under the age of 15; minimum lowered to 14 for countries operating under the ILO Convention 138 developing-country exception; remediation of any child found to be working
 - **Forced labor:** No forced labor, including prison or debt bondage labor; no lodging of deposits or identity papers by employers or outside recruiters.
22. **Mandatory Audit by the Buyer:** Another aspect of certification comes from the buyer. All major buyers in the US ensure that there is a proper audit of the manufacturing process by the supplier in India. One important component of the certification is the absence of child labor in the production process. All suppliers to the US market report that they are audited by their buyers. The international firms that are engaged by the buyers to audit the Indian suppliers are of global repute and their mandatory compliance requirements are very strict

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thereby ensuring that all Indian suppliers meet with the regulations of the United States for supplying their goods.

V. Industry Efforts:

23. Given the mandatory audits by the buyers and the certification process, AEPC would like to point out that if any evidence of forced/indentured child labor was found, these agencies would have denied certificates to the Indian manufacturers, which has not been the case, thereby proving the point that there is no case of child labor in the Indian apparel export sector.

24. The agencies to certify compliance do not work with the industry themselves. Third-party auditors are appointed to conduct audits and supply fair evidence of working conditions. These audits cannot be tampered with. For example, employees are randomly selected and privately interviewed to see if their reported facts support or conflict with what is reported by the manufacturer.

VI. Government of India, Labour Bureau Survey:

25. The Government of India, Ministry of Labour and Employment appointed the Labour Bureau to conduct Occupational Wages Surveys. These surveys are conducted after regular intervals and cover periods of five years and up. The need for such survey was to undertake a Wage Census and to collect a reliable and accurate statistical data on occupational wage rates.

26. The Occupational Wage Survey's Sixth Round commenced in 2002 and the subsequent Report was published in 2008. Covering over six years, the Report on Textile Garments Industry presents percentage distribution of work force in textile garments industry by sex and age of the workers employed. The report considers every member of the organized garments manufacturing sector in the country. Out of the six major producing Indian States

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and others no one reports employing any children forcefully or willfully. No incidence of child or forced labour is reported for the period of survey, i.e. 2002-2008. The Table from the Sixth Round of the Occupational Wages Survey representing the zero incidence of child labor is reproduced below:

PERCENTAGE DISTRIBUTION OF WORK FORCE IN TEXTILE GARMENTS INDUSTRY BY SEX-AGE

Sl. No.	Stratum	Estimated Total No. of Workers	Percentage of Workers			
			Men	Women	Adole-scents	Children
1	2	3	4	5	6	7
1	Haryana	35473	85.04	14.96	-	-
2	Delhi	28596	80.81	19.19	-	-
3	Uttar Pradesh	28206	95.46	4.54	-	-
4	Maharashtra	16698	81.33	18.67	-	-
5	Karnataka	182888	21.36	78.64	-	-
6	Tamil Nadu	75804	15.58	84.42	-	-
7	Residual	25687	60.73	39.27	-	-
Textile Garments Industry		393352	40.74	59.26	-	-

27. The US Department of Labor should have used reports of such agencies to conclude their investigations into incidents of forced/indentured child labor. The data listed in the bibliography, does not provide any concrete source of information and seems to be based on certain research reports and not empirical data from industry.

28. The garment industry of India recognizes the importance of complying with international regulations to remain an important source of supply in the US market. Therefore, the industry ensures that it understands the US regulations and makes very effort to match the laws and regulations of the US Government. Continuous efforts are made by the industry to

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operate at the highest level of international standards. It is imperative for industry to meet the compliance requisites of the buyer's jurisdiction to preserve their markets. Members of the Indian garment manufacturing industry, therefore, have voluntarily enrolled into stringent certification programs whereby resting buyer apprehensions regarding labor and environmental violations.

29. Illustratively, the garment manufacturer-exporters in the Indian district of Tirupur, Tamil Nadu operate within the outlines of the Social Accountability International's (SAI) SA 8000 Standards. To achieve the standards required by the SA 8000, industry members collaborate with local non-governmental organizations (NGO).
30. The SA 8000 requires and the manufacturing companies fulfill, amongst others, the following imperatives:
- a. The company shall not engage in or support the use of child labour
 - b. The company shall establish, document, maintain, and effectively communicate to personnel and other interested parties policies and procedures for remediation of children found to be working as child labour and shall provide adequate support to enable such children to attend and remain in school until no longer a child.
 - c. The company shall establish, document, maintain, and effectively communicate to personnel and other interested parties policies and procedures for promotion of education for children and young workers who are subject to local compulsory education laws or are attending school, including means to ensure that no such child or young worker is employed during school hours and that combined hours of daily transportation (to and from work and school), school, and work time does not exceed 10 hours a day.
 - d. The company shall not expose children or young workers to situations in or outside of the workplace that are hazardous, unsafe, or unhealthy.

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31. Such efforts are directed towards maintaining the status quo on zero incidence of child labor in the Indian garments industry. The social trend of employing children at work places has been extinct for over a decade in India. Recent literature and data showcases how the Government of India has brought about the change and such data should have been the source for clarifying any apprehensions the US Department of Labor may have regarding the same.
32. The Initiation Notice requires Information Sought and needs such information to be weighed in determining whether or not a product should be included on the updated list. Criteria include the nature of the information describing the use of forced or indentured labor and the source of such information. The information seems to be classified. No challenge can be raised against considering such information to reach the conclusions that the US Department of Labor has reached because the same is not available to us for review. We request that the information regarding apprehensions of forced/indentured child labor may be retrieved from certifying authorities.
33. Further, the manufacturers are disallowed from employing any child at their premises under the Indian prohibitory law against child labor. The Child Labor Act, 1986, vide Section 14, metes out penalties to defaulting employers. It prohibits manufacturers from employing children and makes them liable for punishment with imprisonment for a term of three months to one year. Apart from such penal punishments, the violator is liable to pay a fine of minimum ten thousand rupees.
34. Without prejudice to the aforesaid, the AEPC requests that the US Department of Labor may kindly provide all such evidence/reports/documents which have formed the basis for the proposed inclusion of garments in the EO list. It is stated that in the absence of the said information, no interested party can offer its comments and defend its interests in a reasonable manner. We reserve our right to offer additional comments/information as and

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when we receive the full documentation from the US Department of Labor or any other agency involved in the present process.

35. It may also be noted that “garments” as a product category has never been under either the EO list or the TVPRA as garment industry in India has always adhered to the international norms on issues of forced or indentured child labour. It is for this reason also that we would request for a fair opportunity for advancing our submissions based on facts.

36. The AEPC is of the view that there does not seem to be a legal or factual premise to suggest the inclusion of garments to the EO List.