

**Thailand's Efforts in the Prevention and the Elimination of Child Labor:
Shrimp, Garments, Sugarcane, and Pornography**

in response to

**The U.S. Department of Labor's
Notice of Initial Determination Updating the List of Products Requiring
Federal Contractor Certification as to Forced/Indentured Child Labor
Pursuant to Executive Order 13126**

and

**List of Goods Produced by Child Labor or Forced Labor
announced on 10 September 2009**

- I. Laws, Regulations and National Plan of Action
 - II. Enforcement and Protection
 - III. Preventive Efforts
 - IV. Facts and Efforts in certain goods listed in DOL's List of Goods Produced by Child Labor or Forced Labor: Shrimp, Garments, Sugarcane, and Pornography
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Promoting and protecting children's rights and welfare has consistently been one of Thailand's main national priorities. In 1987, the Royal Thai Government set up the Commission for the Protection of Child Labor. In 1992, Thailand ratified the Convention on the Rights of the Child. While in 2001, the Royal Thai Government ratified the International Labor Organization (ILO) Convention No. 182 on the Elimination of All Worst Forms of Child Labor.

The 2007 Constitution ensures the promotion and protection of children's rights and also recognizes the rights and freedoms set forth in the international conventions to which Thailand is party. It also guarantees twelve years of free education including those in need of special support such as the disadvantaged group, including the disabled and those with financial difficulties. In 2009, the Royal Thai Government put into effect the 15-year free education program, which is even beyond what is stipulated in the 2007 Constitution.

In 2006, the Ministry of Labor appointed the National Committee for the Elimination against the Worst Forms of Child Labor to more effectively resolve the child labor problem and eliminate the worst forms of child labor. In 2008, the National Committee approved the National Plan of Action for the Elimination of the Worst Forms of Child Labor with substances in line with the ILO Convention No. 182. This national plan aims to prevent and suppress the use of child labor especially the worst forms of child labor through a wide range of relevant parties' network.

I. Laws, Regulations and National Plan of Action

1) Constitution of 2007

- Section 84 (7): Promote people at working age to obtain employment; protect child and woman labor; organize labor relations systems and tripartite arrangement (in which workers have rights to elect their own representatives to deal with employers); provide social security system; protect workers, whose work is of similar value, to ensure that they receive wages, fringe benefits, and welfare equally and impartially.

- Section 40 (6): Children, youths, females, the handicapped and permanently infirmed shall be duly protected in the course of investigations into cases of sexual violence.

2) **Labor Protection Act: LPA of 1998** is the current law that includes preventive and protective measures for child labor as follows:

- LPA prohibits employment of a child under 15 years of age, and compulsory education is 9 years which prevents early entry into the labor market.

- LPA states that persons of age 15 or above are able to be engaged in the workforce, whereas employment of a person under 15 is considered to be illegal. Employment of a child below 15 years carries a penalty of up to 1 year imprisonment or fine of up to 200,000 baht or both.

- It is prohibited to employ a person below 16 to work in sea fishing, except in the case of employing a child aged not below 15 with their parents or guardians employed on the same boat.

- An employer must notify labor inspectors of an employment of a child below 18 years of age within 15 days of employment. The employer must also record any changes in the employment conditions and keep the record at the workplace ready for official inspection during working hours. The employer must notify labor inspectors of the termination of a child's employment within 7 days of the final employment day. Failure to notify a labor inspector of the employment of a person under 18 years of age carries a penalty of a fine of up to 20,000 baht.

- Prohibition of child labor to work during the period of 10 pm to 6 am, unless permitted by the Director-General of the Department of Labor Protection and Welfare, and exceptions for child actors/actresses or other similar work. An employer shall provide a child worker with a continuous rest period of no less than 1 hour after four hours of work, and the child employee shall be provided with some additional rest periods as specified by the employer. Failure to provide rest periods or forcing a child worker to perform prohibited tasks or paying the child's wages to others or demanding or accepting a deposit from a child worker will result in 6 months imprisonment or a fine not exceeding 100,000 baht or both. Forcing a child to work during prohibited hours, which

leads to damages in the child's physical or mental health or the child's death, carries a prison term of up to 1 year or a fine of up to 200,000 baht or both in conformity with the principles of the ILO Convention No. 138 concerning the minimum wage for employment.

- A worker under 18 years of age shall be entitled to take leave with pay of not more than 30 days per year to attend meetings or seminars, obtain education or training, or leave for other matters. Failure to comply with this would carry a penalty of up to 10,000 baht fine.

- An employer is prohibited from demanding or accepting a guarantee money for any purposes from a child worker, and from paying the wages of a child worker to any other person.

- Sexual harassment is prohibited. Sexual harassment of a child worker below 15 years of age carries a penalty of a maximum 20,000 baht fine.

- LPA provides protection for employees working in Thailand including foreign labor. In the case of foreign workers not registered with the Department of Labor Protection and Welfare, the Department will coordinate with other relevant agencies, especially the Department of Employment, which is the focal point on this matter, and with the Immigration Office or the Royal Thai Police to render assistance and to take action towards repatriating these workers to their home countries.

- Article 49 of the LPA clearly states that a safe working environment must be secured for child labor and sets forth types of work prohibited for workers under the age of 18, which is in line with the UN Convention on the Rights of the Child (CRC) regarding the minimum age of employment. The types of work prohibited are as follows:

- (1) smelting, blowing, casting or rolling of metal;
- (2) metal stamping;
- (3) work directly exposed to heat, cold, vibration, noise and light exceeding normal standard, which could be hazardous as described in the Ministerial regulation;
- (4) work exposed to poisonous materials, explosives or inflammable materials;
- (5) driving or operating of forklifts and cranes;
- (6) work which uses electric or motorized saws;
- (7) underground, under water, in a cave/tunnel/shaft work;
- (8) work directly exposed to radiation
- (9) Machine or engine cleaning whilst the machines or engines are in operation,
- (10) Work performed on a scaffold more than 10 meters from the ground
- (11) Other works described in the ministerial regulations.

3) **Child Protection Act of 2003** secures the prohibition and elimination of the persistent exploitation of children in slave-like and bonded conditions, illicit activities, hazardous and arduous work, prostitution, pornography, or other similar activities.

4) **The Prevention and Suppression of Human Trafficking Act of 2008** imposes heavier penalties on all persons involved in human trafficking. This recent Act defines “exploitation” to cover sexual exploitation, pornography production/distribution, other forms of sexual exploitations, slavery, forced begging, forced labor, trade in organs, or other similar forms of exploitation regardless of consent being given or not. Also indicated in Section 39, any person involved in human trafficking are to receive a penalty of 4 to 10 years imprisonment and a fine of 80,000 to 200,000 baht. Convictions involving persons aged 15 to not over 18 are to receive a penalty of 6 to 12 years imprisonment and a fine of 120,000 to 240,000 baht. Convictions involving persons over 15 years of age are to receive a penalty of 8 to 15 years imprisonment and a fine of 160,000 to 300,000 baht.

5) **Ministerial Regulations concerning Labor Protection in the Agricultural Sector of 2005** determines the minimum age (it is prohibited to hire children below 15 years of age), the welfare and safe type of works for young workers in the agricultural sector in line with the LPA.

6) **The National Plan of Action for the Elimination against the Worst Forms of Child Labor of 2008** approved by the National Committee on the Elimination against the Worst Forms of Child Labor and the Cabinet is in line with The ILO Convention 182 and focuses on 5 strategies:

(1) To prevent the use of child labor by reducing the number of Thai and migrant child labor in the labor market.

(2) To protect child labor from work that may affect their physical, emotional, and intellectual development.

(3) To eliminate the worst forms of child labor especially child labor in illegal work. This includes protecting children from being maltreated by their employers.

(4) To provide developmental rehabilitation to children victims being rescued.

(5) To promote efficient implementing mechanisms for effective elimination of the worst forms of child labor.

The National Plan also lists occupations considered to be worst forms of child labor in line with The ILO Convention 182, as follows:

- (1) 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 labor, including forced or compulsory recruitment of children for use in armed conflict;

- (2) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (3) 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;
- (4) 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.

II. Enforcement and Protection

1) Inspections of workplaces

- **by labor inspectors of the Ministry of Labor** (Department of Labor Protection and Welfare)

- **Regular inspections throughout the country** as specified in annual plan and goals. With the total number of labor inspectors of only 678 (as of February 2009), the Ministry of Labor recognizes the inadequacy of human resources comparing to 389,561 workplaces to be inspected and therefore came up with pro-active inspections in risk areas.

- **Pro-active inspections at certain types of workplaces or in certain areas at risk of possible violations of labor laws**, taking into account economic, social, and political conditions as well as information received from Child Labor Protection Networks mentioned in item 4 below

In performing inspections, labor inspectors:

- have the authority to enter a workplace or employer's office to examine the working and employment conditions and for fact-finding purpose, issue an inquiry notice or summon on an employer, employee, or other persons to give statements or submit objects or documents and issue a written order to an employer or employee to comply with LPA.

- have the duty to provide employers and employees with advice on just and good labor practices as well as consultations on rights and duties under labor laws.

- **by labor inspectors of other government agencies**

In addition to inspections by labor inspectors of the Ministry of Labor, the Ministerial Regulation on Workplace Inspections of 1999 under the LPA provides additional inspections by labor inspectors of other government agencies, such as police officers, navy officers, officers of Ministry of Public Health.

These labor inspectors shall set monthly inspection plan in coordination with labor inspectors of the Ministry of Labor to avoid redundancy of inspections.

- **Inspection plans of the Ministry of Labor for the year 2010** focuses on inspecting workplaces with workers of the age between 15 -18 and illegal

migrant labors and the making of analysis on child labor situation in cooperation with Operation Centers for Helping Children and Women Labor located throughout the country.

2) Investigations and Prosecutions

- by labor inspectors of the Ministry of Labor

- Carry out an investigation immediately when a complaint is made that an employer violates or fails to comply with LPA.

- Take a legal action immediately when any of the following violations is found:

- violation of, or failure to comply with, LPA's minimum age for employment, prohibited working hours for a child of the age 15 to 18, prohibited hazardous and immoral works for a child of the age 15 to 18.

- use of child labor with torture, detention or other form of criminal acts

- sexual harassment to a child or female worker.

- In other case of violations, issue an order to the employer to comply with relevant laws within a certain period of time.

- by Police officers of the Royal Thai Police

Apart from labor investigations by the Ministry of Labor, the Royal Thai Police also expedite preventive measures and perform investigations with a view to try in court the criminals of human trafficking and other crimes against children.

The Children, Juveniles and Women Division (CWD) was established and has been operated since July 1, 2005, as a specialized unit under the Central Investigation Bureau of the Royal Thai Police, with the task of suppressing crimes against Children, Juveniles and Women, including human trafficking, throughout the country through coordination with Bangkok Metropolitan Police Bureau and Police Region 1-9. In September 2009, CWD was renamed as the Anti-Trafficking Unit.

3) Inspection and Investigation by the Office of Immigration Bureau

The Office of Immigration Bureau appoints task-forces for surveillance, inspection, detection and investigation on cases of illegal child labor and illegal migrant labors in different zones across the country. The task-forces also promote public awareness in this regard. The Bureau also establishes networks of communities' leaders for intelligence purpose.

4) Child Labor Protection Networks comprised of 15,895 people from relevant governmental agencies, NGOs, the media, civil society organizations, employer and employee organizations, academics, and local communities. The networks serve as informants on cases of illegal or unjust employment of child labor and channels for raising public awareness and disseminating knowledge on labor protection, rights and duties of employers and employees to the public.

5) **Organization of Seminars** among various agencies with a view to establishing and disseminating guidelines of work on the law enforcement and protection of children and women labor for all relevant agencies

III. Preventive Efforts

1) **Compulsory education** in Thailand keeps children in primary and secondary schools for 9 years (Compulsory Education Act of 2002). Distance / remote education is provided to students in remote areas. Thai government has the policy to extend compulsory education to 12 years to include high school education and to ensure access to cost-free education for 15 years (from kindergarten).

2) Apart from dissemination of knowledge on preventing and resolution of child labor problems through public campaigns and the media, in 2008 and 2009 the **Ministry of Labor** has implemented several activities to prevent exploitation of child labor as follows:

- **Public education** through mobile units on the prevention of child labor and remedial measures, targeting employers, employees, child workers, students and the general public in 75 provinces. This activity mobilizes relevant public agencies and local communities to take part in anti-child labor exploitation efforts aiming to raise awareness on exploitation of child labor, legal punishment and responsibilities.

- **Preparedness programs prior to entering the labor market**, specifically for lower and higher secondary school students and vocational students, in order to prevent them from being lured into unlawful activities. The programs are in line with the Safety in School Project under the Department of Labor Protection and Welfare.

- **Village Labor Volunteer Programs** have been established to organize training for community leaders and teachers on local measures for child labor problems.

- **Organization of series of meetings, seminars, and training courses** on labor protection laws among employers, employees, labor inspectors and relevant agencies to provide comprehensive knowledge on labor protection, including child labor, along with coordination guidelines.

3) **In cooperation with the ILO and IPEC** (International Programme on the Elimination of Child Labor), the Ministry of Labor continuously organize activities aimed to prevent and eliminate child labor and forces labor, as follows:

- Collaboration Project aimed for integrated efforts in solving the problems of the worst forms of child labor in Chiang Rai Province (April 2007 – December 2009)

- Operational Project to address child migrants in Thailand and in Mekong Sub-region (July 2007 – November 2009)
 - Project on the prevention of the worst forms of child labor and human trafficking in Samut Sakorn Province (March 2007 – December 2009)
 - Project aimed for cooperation in solving the problem and promote good health of child labor in fishery and services sectors in Songkla and Pattani Provinces (January 2008 – December 2009)
 - Project aimed for integrated efforts in solving the problem of inappropriate use of child labor in Samut Sakorn Province (February 2008 – February 2009)
 - Project on promoting education for migrant children and children of migrant labors to prevent and deal with child labor problems in Tak Province (May 2008 – December 2009)
 - Project on promoting quality of life in agricultural communities and reducing child labor problems in agricultural sector in Pob Pra District, Tak Province (June 2008 – December 2009)
 - Project on solving the worst forms of child labor problems in Chiang Rai Province (November 2008 – December 2009)
- As most of the projects are completing by the year's end, assessment of the success of the projects cannot yet be shared at this stage.

IV. Facts and Efforts in certain goods listed in DOL's List of Goods Produced by Child Labor or Forced Labor: Shrimp, Garments, Sugarcane, and Pornography

Shrimp

In 2008 and 2009, the Thai private sector in collaboration with governmental agencies has conducted activities aimed to prevent and eliminate the use of illegal child labor in shrimp industry as follows:

1) Ministry of Labor

- organized meetings with shrimp manufacturers providing information on negative impacts of the use of child labor and forced labor.
- sets up inspection plan for workplaces of fisheries and related industries
- supervises labor inspections and surveillance of labor employment in workplaces for export products by Offices of Labor Protection and Welfare in all provinces throughout the country, particularly those in 22 coastal provinces (Cholburi, Samut Prakarn, Samut Sakorn, Samut Songkram, Petchburi, Trad, Chantaburi, Rayong, Prajuabkirkhan, Chumporn, Ranong, Surat Thani, Nakorn Sri Thammarat, Pattalung, Songkla, Pattani, Naratiwad, Satul, Trang, Krabi, Phuket, and Pang Nga) and areas in Bangkok where facilities for processed seafood for export, and related industries are located with a view to prevent use

of forced labor, trafficked labor, child labor under the age of 15, and illegal child labor at the age between 15 to-18.

2) **Thai Frozen Foods Association** has been very enthusiastic and proactive in addressing the allegation on child and forced labor and regularly cooperates with the relevant public agencies, especially after the report of “The True Cost of Shrimp” was released in 2008. The Association established its Working Group on Labor Issues, organized meetings of its Sub-committee on Shrimp and Related Products and meetings among its members to find solutions to the child labor problem, established a committee to oversee factories for processed shrimp products and facilities for processed seafood in 4 regions, and set forth guidelines to be followed by its members :

- members shall inspect their subsidiary facilities from where they buy raw materials (shrimps)
- members shall buy raw materials (shrimps) only from subsidiary facilities registered with the Department of Fisheries.
- member facilities in 4 sub-regions (Samut Sakorn Province (which situated in Central region), Upper Southern region, Eastern region and Lower Southern region) shall inspect their subsidiary facilities to **ensure the followings:**
 - **no use of child labor**
 - no use of illegal labor
 - no detention
 - daily wages not lower than minimum wages stipulated by law.

3) On August 5, 2008, The Thai Frozen Food Association organized a meeting on the Prevention and Suppression of Human Trafficking Act of 2008 to disseminate the information to member facilities, and their subsidiary facilities, in Samut Sakorn Province.

4) During June 2-13, 2008, the U.S. Department of Homeland Security, in coordination with the U.S. Embassy in Bangkok, sent the U.S. Immigration and Customs Enforcement (ICE) officials to Thailand to observe the operation and labor employment of 12 shrimp facilities and 5 subsidiary facilities in Thailand. Representatives of Thai private sector and governmental agencies (Ministry of Foreign Affairs, Ministry of Commerce, Ministry of Agriculture) also participated in this observation. The U.S. team expressed their satisfaction with the result and their appreciation for Thailand’s transparency. No evidence of child labor or forced labor was found in the investigation.

5) The Thai Frozen Foods Association has been implementing a project on monitoring and evaluating labor employment standard of subsidiary facilities for processed seafood in 2008 and 2009, which inspects at random labor employment, including child labor, of almost 50 facilities and found that their

labor employment complies with LPA. In addition, on August 28, 2008, officials from the U.S. Immigration and Customs Enforcement joined the Association's inspection and were satisfied with the operation plan of the Association.

Garments

Thailand's labor employment in garment industry is checked and controlled by two main labor standardization systems:

- 1) National standard set by the Department of Labor Protection and Welfare
- 2) International standards, codes of conducts of brand companies, Third Party Certification, SA 8000, WRAP, FLA

Production of garments for export accounts for 80% of Thailand's total garments production. More than 80% of production for export is outsourced by the Original Equipment Manufacturers – OEMs for well-known brands like Reebok, Nike, Adidas, Nautica, The North Face, Jones New York, Talbots, Babies 'r' us. **Such brands require that production in Thailand meets their standards, including child labor employment standard, and set up mechanism for annual inspection at random by generally accepted international third party, such as the Bureau Veritas C.P.S., to ensure compliance of such standards.** Failure to comply with these standards will jeopardize the export garment business. **No illegal child labor has been found in Thailand's export garments production during the past several years.**

Sugarcane

Children found in sugarcane plantations in Thailand are not labor. They may accompany their parents who work at the plantations to spend time with their parents. During this time, it is possible that they may observe and familiarize themselves with their family work and skills, which may as well be the skills they need for their future work.

The Office of the Cane and Sugar Board, Ministry of Industry, had already alerted all twenty-seven Sugarcane Plantation Associations throughout the country about the DOL report and stressed the importance of employing neither forced nor child labor in sugarcane plantation.

Pornography

Child Pornography is illegal in Thailand. Demand for child pornography often comes from outside the country. The Government has cooperated with foreign governments on law enforcement cases against their nationals who have abused children for the purpose of pornography.

Apart from the National Plan of Action for the Elimination against the Worst Forms of Child Labor (in Section I of this document) which lists the use, procuring or offering of a child for the production of pornography or for pornographic performances as occupations considered to be worst forms of child labor, there are laws protecting Children from pornography as follows:

1) Child Protection Act of 2003 prohibits use of a child for pornographic performances or acts. Violation of the law, with or without the child's consent, constitutes a criminal offence with penalties. The Law also provides the followings:

- prohibition and elimination of exploitation of children in slave-like or bonded conditions, illicit activities, hazardous and arduous work, prostitution, or other similar activities.
- protection for children from all forms of abuses, exploitation, violence and gross negligence by clearly stipulating that any child below the age of 18 is protected by the State. It is forbidden to force, threaten, induce, encourage, consent to, or act in any other way that results in child exploitation.

2) Penal Code Amendment Act (No.5) of 1982 provided that an act relating to pornography, such as making, producing, having in possession, importing, exporting, publishing, advertising of pornography is a criminal offence with penalties

3) Computer-related Offences Act of 2007 imposes heavy penalties to whoever download pornographic information to computer system or intentionally forward such information and such information is accessible to the public, as well as to service providers who assist or allow such act in the system under their control.

4) Penal Code Amendment Act (No.14) of 1997 imposes heavy penalties to whoever commits a sexual offence against children

5) Criminal Procedure Code Amendment Act (No.20) of 1999 protects child victim from being exposed to the public in judicial process

6) Prevention and Suppression of Prostitution Act of, 1996 imposes heavy penalties to whoever procures, lures, compels, threatens children for the purpose of prostitution

7) Witness Protection Act of 2003 encourages child and adolescent victims to be a witness or an informant in trafficking or organized crime.

8) Protection of Victims of Violence in Family Act of 2007 protects everyone in the family, especially children and women from all forms of abuse and exploitation.

9) Promotion of Child and Youth Development Act of 2007 promotes programs and activities for children and youth to empower and prevent them from becoming victims of all forms of exploitation.

10) Employment of Aliens Act of 2008 ensures that migrant workers with a work permit receive various welfare and labor law protection entitlements in accordance with the Labor Protection Act of 1998 and imposing heavier penalties on employers who engage in human trafficking and forced labor.

11) The Anti-Trafficking in Persons Act of 2008 imposes heavy penalties on all persons involved in human trafficking giving a broader definition of "exploitation" – seeking benefits from the prostitution, production or distribution of pornographic materials, other forms of sexual exploitation, slavery, causing

another person to be a beggar, forced labor or service, coerced removal of organs for the purpose of trade, or any other similar practices resulting in forced extortion, regardless of such person's consent.

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Information was provided by the following agencies:

- Ministry of Labor
- Ministry of Agriculture and Cooperatives
- Ministry of Justice
- Ministry of Industry
- Office of the Attorney General
- Office of the Commissioner General, Royal Thai Police
- Thai Frozen Foods Association
- Thai Garment Manufacturers Association