

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

FREQUENTLY ASKED QUESTIONS:

***Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005
List of Goods Produced by Child Labor or Forced Labor***

September 2016

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

The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005, Public Law 109-164 (2006), mandates among other things that ILAB “carry out additional activities to monitor and combat forced labor and child labor in foreign countries.” See 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 have these mandates been carried out?

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 and forced labor utilizing a wide variety of publicly-available primary and secondary sources. ILAB periodically publishes public

requests 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. ILAB also receives and reviews public submissions of information on an ongoing basis. ILAB's research activities include funding contracts and grants to gather qualitative and quantitative data on child labor and forced labor in the production of goods internationally.

(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 shares information and coordinates activities to combat forced labor and human trafficking with the Department of State, the Department of Homeland Security, the Office of the United States Trade Representative, 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;

ILAB released its initial *List of Goods Produced by Child Labor or Forced Labor* (List) on September 10, 2009 and has since published six updated editions. The 2016 edition contains 139 goods from 75 countries produced by child labor, forced labor or both.

In order to compile a credible List that is as comprehensive as possible, ILAB developed a draft research methodology and published it in the *Federal Register* on October 1, 2007, with a request for public comment. Public comments were integrated, as appropriate, into ILAB's final *Procedural Guidelines for the Development and Maintenance of the List of Goods From Countries Produced by Child Labor*, which can be found at: <http://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;

In December 2012, ILAB released *Reducing Child Labor and Forced Labor: A Toolkit for Responsible Businesses*, a free, comprehensive online resource for companies seeking to develop robust social compliance systems in their global supply chains. ILAB consulted with U.S. government partners, foreign governments, industry representatives, employers, and other interested stakeholders in developing this publication. The Toolkit is also available in Spanish, French, and Portuguese. The Toolkit, as well as its foreign language editions, are available at: <http://www.dol.gov/ilab/child-forced-labor/>.

(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 each edition of the List, ILAB consults extensively with relevant U.S. government agencies. ILAB also works closely with the Department of Homeland Security's Customs and Border Protection and supports its enforcement of the Tariff Act of 1930, which prohibits the importation of products made with forced labor into the United States, by serving on its Forced Labor Working Group.

3. What were the most recent changes to the List?

The 2016 edition of the TVPRA List adds three new goods (pepper, potatoes, and silk cocoons) and two new countries (Costa Rica and Sudan) to the List. This edition also features the removal of one line item: garments from Jordan. With these changes, the List includes 139 goods from 75 countries, and a total of 379 items.

In addition, the 2016 report includes, for the first time, narrative descriptions of the child labor or forced labor occurring in the mining, production, or manufacture of each new item being added to the List. Based on available information, we detail the areas of a country where the child or forced labor is concentrated, how widespread the problem is, the ages and other demographics of the victims, the hazards to which child laborers are exposed, the forms of forced labor used to exploit victims, and other details that help to tell their stories more fully than in past editions.

4. What criteria does ILAB use to remove goods from the List?

ILAB's procedural guidelines provide criteria for the removal of items from the List. ILAB must have reason to believe that a problem of child or forced labor is "significantly reduced if not eliminated" from the production of the particular good in the country in question for it to be removed. The guidelines indicate that a forced or child labor problem at "a single company or facility" or in "an isolated incident" "will not weigh in favor of a finding that a good is produced in violation of international standards." Similarly, when ILAB has reason to believe that a child or forced labor problem with respect to a listed good has been eliminated or reduced to a single company or facility or to an isolated incident, the threshold for removal would be met.

5. What is ILAB's process for researching removal cases?

The research includes document review, interviews with key informants, and, when possible, travel to the relevant countries to conduct in-person interviews and site visits. In selecting removal cases for research, ILAB prioritizes those for which a credible argument for removal has been brought to our attention by foreign governments, industry groups, U.S. Government colleagues, or other stakeholders. We continue to research potential removals on an ongoing basis.

6. What definitions of child labor and forced labor are used in developing the List?

The definitions below are excerpted from ILAB's procedural guidelines, where the full definitions can be found.

“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.

“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.

7. How are the December 27, 2007 procedural guidelines used to identify goods to be placed on the List?

The procedural guidelines list the following five principal 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. See 72 Fed. Reg. 73374 (Dec. 27, 2007). These criteria are used in evaluating all information relevant to goods produced by child labor and forced labor in violation of international standards, to formulate the List.

8. What sources of information does ILAB use to place goods on the List?

To ensure a transparent process, ILAB does not use any information in developing the List that is not available to the public, including government-classified information. ILAB uses a wide variety of publicly-available primary and secondary sources to conduct the research. Primary sources include original quantitative and qualitative research studies and other data or evidence gathered first-hand, while secondary sources are those that cite, comment on or build upon primary sources. ILAB’s primary sources include surveys carried out by foreign governments in conjunction with the ILO; site visits and data gathered by ILAB staff and

other U.S. Government personnel; and quantitative and qualitative studies carried out by a variety of governmental and nongovernmental entities, including academic institutions. Where available, ILAB relies on statistically representative studies in which participants are chosen through random sampling. This type of research produces reliable estimates of the number of individuals in child labor or forced labor working in particular activities in a given sector or geographic area. Because these studies provide empirical, quantitative evidence about both the nature and prevalence of the problem, ILAB sometimes bases a determination to add a good to the List on a single, representative survey when it is confident in the rigor of its methodology and execution.

ILAB's secondary sources include information reported by U.S. Government agencies, foreign governments, and civil society organizations, including reporting from U.S. Government-funded technical assistance projects. The Department of State and U.S. embassies and consulates abroad provide important information by gathering data from local contacts, conducting site visits, and reviewing local media sources. On December 3, 2013 ILAB issued a notice in the *Federal Register* requesting information from the public on child labor and forced labor in the production of goods globally and reached out to the embassies of all countries researched (see Appendix A) requesting this information, as well. ILAB monitors reports from international institutions, non-governmental organizations, and academic journals and media sources on an ongoing basis.

For each good that appears on the List, DOL makes available a bibliography of the sources (articles, reports, publications, communications, etc.) that were relied upon in reaching the determination. The bibliography can be found on the ILAB Web site at <http://www.dol.gov/ilab/reports/child-labor/list-of-goods>. Many of the sources contain URLs so that they can easily be found on the Internet. When URLs are not provided, the public should request copies of sources from the author or organization that published it. Sources that must be obtained directly from ILAB (such as ILAB-funded research reports) may be requested from ILAB, and many are available on ILAB's Web site.

9. Why are specific company names not included on the List?

The TVPRA mandated a List of goods and countries, not company or industry names. It would be difficult for ILAB 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 the 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, ILAB has concluded that seeking to track and name individual companies would be highly resource-intensive and of limited practical value. Moreover, holding individual violators accountable would exceed ILAB's mandate under the TVPRA of 2005.

10. In identifying goods to be placed on the List, what are the criteria regarding the date of source information?

Under its procedural guidelines, ILAB may consider information up to seven years old at the time of receipt. However, since 2011 ILAB has chosen to use information no more than 5

years old at the time of receipt. More current information has been generally given priority. ILAB'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 many years, particularly when no meaningful action is taken to combat it. Information about such exploitive activities is often actively concealed. Information that is several years old therefore can still provide useful context for more current information.

11. Why are some entries on the List whole product categories, while others are components or raw materials?

When ILAB finds evidence of child labor or forced labor in the production of a good, ILAB carefully considers the stage of production at which child labor or forced labor was used. For example, if child labor or forced labor was only used in the extraction of a raw material, and this raw material was subsequently used under non-violative conditions in the manufacture of a final good, only the raw material and the country where it was extracted would be placed on the List. If child labor or forced labor was used in both the extraction of a raw material and the manufacture of a final good, then both the raw material and the final good, and the country/ies in which such labor was used, would 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.

12. In placing goods on the List, does ILAB take into account efforts that are being made to address forced labor and child labor?

Information on government, industry, or third-party actions and initiatives to combat child labor or forced labor is taken into consideration, although it is not necessarily sufficient in and of itself to prevent a good and country from being listed. Only efforts that have been effective in significantly reducing or eliminating forced labor and/or child labor from the production of a good in a country would prevent the listing of that good and country.

13. How often will the List be updated with new and removed items?

ILAB will update and publish the List every other year, pursuant to changes in the law enacted in 2013.

14. What are the anticipated uses of the List?

The List's primary purposes are to raise public awareness about forced labor and child labor and to promote efforts to address them. The List is not intended to be punitive, but rather as a starting point for individual and collective action. Publication of the List has provided ILAB new opportunities to engage in technical cooperation with foreign governments to combat child labor and forced labor and has also been a valuable resource to many companies in carrying out risk assessment and due diligence on labor rights in their supply chains.

15. If the List indicates that there is both “child labor” and “forced labor” in the production of a certain good in a country, does this mean that there are children working in forced labor conditions in the production of the good?

Not necessarily. For each good and country, the List specifies whether there is evidence of child labor, forced labor, or both. If the List indicates forced labor is used in the production of a particular good, this could indicate forced labor of adults, forced labor of children, or both. If the List indicates child labor is used in the production of a good, this could indicate child labor but not *forced* child labor, even where forced *adult* labor is used in the production of that good. The TVPRA did not require the inclusion of information on forced child labor in the List. However, ILAB has a separate mandate under Executive Order 13126 to publish a list of goods produced by forced or indentured child labor (EO 13126 List). Further information on the EO 13126 List can be found at <http://www.dol.gov/ILAB/regs/eo13126/main.htm>.

16. If the List indicates that there is child labor or forced labor in the production of a good in a country, does this mean that all such goods produced in that country are made by forced labor or child labor?

No. Within any industry in any given country, there are companies that operate within the law, and those that willfully employ exploitative and illegal labor practices such as forced labor and child labor. An entry on the List merely indicates that there is a significant incidence of child labor or forced labor in the production of the good in the country.

17. The five criteria listed in the procedural guidelines include “extent of corroboration from various sources,” but for some goods, only one source is listed. How was the evidence corroborated?

“Extent of corroboration” was one of several criteria used to judge goods and countries. In a few cases, a single source was considered sufficient because it was exceptionally strong and credible, clearly established the nature of the forced or child labor situation, and clearly established the significance of the problem.

18. Why does the List include goods produced in the informal or “artisan” sector of production?

Research covered all economic activity for adults and children in the production of goods, including formal and informal sector production and goods produced for personal and family consumption. Examples of informal sector activity include day labor hired without contract; small-scale farming and fishing; artisanal mining and quarrying; and manufacturing work performed in home-based workshops. Some illicit goods are also included in the List; this is not intended to condone or legitimize the production or consumption of these goods.

19. Why does the List include goods that are not exported to the United States?

The TVPRA mandate directs ILAB to monitor and combat child labor and forced labor “in foreign countries” and to develop a List of “goods from countries.” It does not restrict the List to goods that are exported to the United States. In most cases, ILAB does not have information about whether the goods on the List are consumed domestically or exported.

20. How does the List relate to the Tariff Act of 1930 and the Trade Facilitation and Enforcement Act?

The Trade Facilitation and Trade Enforcement Act was signed by President Obama on February 24, 2016. The law includes an amendment to the Tariff Act of 1930 removing the “consumptive demand” exemption to the Tariff Act’s prohibition on the importation of goods into the United States produced by forced, slave, convict, forced child, or indentured labor. Previously, the exemption had allowed for goods made by such labor into the United States, if the goods were not produced domestically in sufficient quantities to meet U.S. consumer demand. The Department of Homeland Security’s (DHS) Customs and Border Protection (CBP) enforces this law. DOL’s List, as well as its List of Products Produced by Forced or Indentured Child Labor (EO 13126 List), serve as a resource to DHS, but the inclusion of a good on either of DOL’s Lists is not a *per se* ban on importation of those goods into the U.S.

21. Why do the goods on the List vary in their levels of specificity - e.g. “Stones” from India vs. “Pumice Stone” from Nicaragua?

The TVPRA procedural guidelines define a ‘good’ as “goods, wares, articles, materials, items, supplies, and merchandise.” ILAB determines the type of good included on the List based on the level of specificity in the sources used to corroborate the use of child labor or forced labor in the production of a good. ILAB welcomes additional information from interested parties that provides greater detail on the goods listed.

22. Why does the List leave some countries out? Did ILAB conduct research on those countries and find no child labor or forced labor?

A country’s absence from the List does not necessarily indicate that child labor and/or forced labor are not occurring in the production of goods in that country. Data can be unavailable for various reasons, including both research and policy considerations. Research survey methodologies on hard-to-reach populations, especially for individuals in forced labor, are still in developmental stages and continue to be piloted and refined in order to capture the appropriate constructs. While research on child labor is more advanced, and has gone beyond population estimates, data on the specific types of work in which children are involved beyond aggregated industry data is still not collected in a universal manner. In addition, policy decisions that affect the availability of data on child labor or forced labor include government failure to allocate sufficient financial resources or hesitancy to collect and make publicly available data on such sensitive issues.

23. Why is the United States not included on the List?

Coverage of domestically-produced goods is beyond the TVPRA mandate; thus, ILAB did not conduct research on the United States. However, DOL recognizes that both child labor and forced labor occur in the United States.

DOL is the sole federal agency that monitors child labor and enforces child labor laws. The most sweeping federal law that restricts the employment of child workers is the Fair Labor Standards Act (FLSA), enforced by DOL's Wage and Hour Division (WHD). In addition, the Occupational Safety and Health Act and related regulations, enforced by DOL's Occupational Safety and Health Administration (OSHA), apply to all employees regardless of age. WHD and OSHA have an active referral process in place for cases involving children under age 18, and the enforcement staffs of the respective agencies have worked collaboratively on a number of investigations.

WHD's YouthRules! Web site at <http://www.youthrules.dol.gov> provides information about child labor, including the jobs minors may perform and the hours they may work. A WHD toll-free helpline is also available (866-4US-WAGE or 487-9243) to provide information about child labor laws.

More information can be found on the Web site of the Wage and Hour Division: <http://www.dol.gov/whd/>.

24. Should consumers stop buying these goods?

No, the List should not be used as a basis for boycotting listed goods and countries. The inclusion of a good and country in the List does not mean that all such goods made in this country are made by child or forced labor; rather, it means that *more than an isolated instance* of production is carried out by such labor. Rather than a call to boycott such goods, the List has two important aims: to raise public awareness about child labor and forced labor and to promote efforts to address them. The report is not intended to be punitive, but rather as a starting point for individual and collective action. Elimination of child labor or forced labor from an industry or a country requires intensive, sustained commitment by governments, companies and industry groups, workers and labor unions, and civil society organizations. In some cases, consumers and investors have played a role by advocating for products that are free of child and forced labor.

25. What can I do to combat child labor and forced labor?

There are many actions that consumers and members of the public can take using the information in the List, and in all of DOL's reports on international child labor and forced labor. They can ask questions about the specific goods they buy: "In the workplaces where these goods are made, are there freely-operating unions or other ways for workers to raise their voices against labor abuses? What efforts are companies making to find and address child labor and forced labor, particularly in their global supply chains? What are governments doing?" They can share information about child and forced labor with others,

including the companies from which they buy goods. They can donate, volunteer, sign petitions, or attend events to support organizations that are working to end these abuses.

26. How can the public provide information to support adding goods to or removing goods from the List?

ILAB seeks studies, reports, statistics, news articles, electronic media, or other sources that establish the presence or absence of a significant incidence of child labor or forced labor in the production of a particular good in a country. ILAB also welcomes information on government, industry, or third-party efforts that have been effective in combating these problems. Where applicable, information submissions should indicate their source or sources, and copies of the source material should be provided. If primary sources are utilized, such as research studies, interviews, direct observations, or other sources of quantitative or qualitative data, details on the research or data-gathering methodology should be provided. Classified information will not be accepted. Please refer to the “Procedures for the Maintenance of the List” section of the procedural guidelines for further details and submission instructions. Information can also be sent at any time to ilab-tvpra@dol.gov.

The way to significantly reduce or eliminate child labor or forced labor varies from good to good and from country to country. Solutions must be designed to fit each context, and must account for a variety of factors such as the legal, regulatory and enforcement regimes in place; the number of producers in the country; the structure of supply chains; geography; infrastructure; levels of community activism and many others. Few human rights problems with the complexity of child and forced labor can be solved through unilateral action alone. Solutions often must be cross-sectoral and collaborative, leveraging the unique strengths, resources, and positions of multiple stakeholders.

27. Why should Governments conduct surveys if they will be used to add goods to DOL’s Lists?

As global awareness has grown about the negative short- and long-term effects of labor exploitation, governments have been increasingly willing to collect and share data on the magnitude and nature of child labor and forced labor. To date, 98 countries have collected data on child labor, and a smaller, yet significant, number of countries have collected forced labor data. Countries that conduct and disseminate such research understand that doing so is crucial to the development of effective strategies to combat these problems, putting them at the forefront of change.

28. How can I access the TVPRA List?

To request the TVPRA List in hard-copy, send an e-mail to GlobalKids@dol.gov to request that it be mailed to you. Through our website, this and other DOL reports on international child labor and forced labor are available in .html and PDF formats, at www.dol.gov/endchildlabor.

Our reports are also accessible on USB drive, as well as fact sheets about ILAB’s work, frequently asked questions about each report, and other report-related materials translated

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into French, Spanish, Portuguese, Arabic, and Russian. To request a USB, please send an e-mail to GlobalKids@dol.gov.

Finally, the *Sweat & Toil* mobile app contains over 1,000 pages of research from the reports. *Sweat & Toil* helps you easily sort data by region, country, assessment level, good, and type of exploitation – all without needing an internet connection! You can download the free app on the iTunes or Google Play store and access the data behind the app on our website: <http://developer.dol.gov/others/sweat-and-toil>.