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[Docket No. DOL-2010-0005]

Bureau of International Labor Affairs, Department of Labor

RE: Notice of Initial Determination Revising the List of Products Requiring Federal Contractor Certification as to Forced/Indentured Child Labor Pursuant to Executive Order 13126

Federal Register, December 16, 2010 (volume 75, Number 241, pp 78755-78758)

The Child Labor Coalition (CLC) is pleased to comment on the U.S. Department of Labor's (DOL) notice of initial determination revising the list of products requiring federal contractor certification as to forced/indentured child labor pursuant to Executive Order 13126. Our comments are provided to augment DOL's efforts to assist federal agencies trying to take appropriate actions to enforce the laws prohibiting the manufacture or importation of goods, wares, articles, and merchandise mined, produced or manufactured wholly or in part by forced or indentured child labor pursuant to Executive Order 13126.

The CLC, founded in 1989, is a 26-member coalition of organizations working to reduce exploitative child labor in the United States and internationally through advocacy and education (a membership list is attached to this document). The coalition is co-chaired by the National Consumers League and the American Federation of Teachers.

The coalition applauds the Bureau of International Labor Affairs' efforts to protect child workers around the world and considers the EO 13126 list to be an invaluable tool in reducing exploitative child labor. The EO 13126 list and the simultaneously published List of Goods Produced by Child Labor or Forced Labor are extraordinary documents that demonstrate the Department of Labor's commitment to protecting children. We applaud the Department and those who worked on these lists for their diligence.

The Child Labor Coalition does have a concern with the disappearance of Indian carpets from the EO 13126 list. We understand that ILAB has hired a contractor to conduct a lengthy review of child labor in Indian carpet manufacturing, and in November 2010, ILAB's Sandra Polaski indicated that despite the disappearance of Indian carpets from the final list, released in July 2010, that "given that child labor and forced labor often occur in informal production of goods, the Labor Department believes that more information is needed to make a final determination on whether carpets from India should be included on both of its lists."

The December 2010 notice in the *Federal Register* does not discuss the elimination of Indian carpets or any rationale for its removal from the list.

The coalition believes that ILAB should continue to include Indian carpets on the EO 13126 list until there is greater evidence that the problem has been eliminated. As noted in a DOL document about this issue, "The hidden nature of the 'cottage' industry in Pakistan and India can lead to greater involvement of children, with children working either directly with their families or as hired labor."

We understand that ILAB commissioned research from Macro International on this subject. Given the hidden nature of the manufacture of Indian carpets, we urge ILAB to be cautious about giving too much weight to one study. The CLC also urges ILAB to make public Macro International's research findings.

Once a product is on the list, there should be credible evidence from diverse sources confirming the elimination of child labor before it is removed. In this case, we believe there is ample evidence indicating that bonded and indentured child labor is still a significant problem.

The CLC has seen news stories over the last two years that suggest bonded child labor in Indian carpets remains a current problem. For example, in August 2010, child labor researcher Siddarth Kara told CNN [bold font added for emphasis]:

The "Carpet Belt" of north India spreads west from the city of Allahabad, east through Bhadohi, over to Varanasi along the banks of the Ganga River.

There are literally thousands of carpet looms concentrated in this region. Many are no more than small village huts with a single loom and a few workers inside. Others are large shacks that may possess up to twenty looms and **thirty or more children**.

I have visited this region several times, and each time I find similar circumstances. The carpets are being woven in wretched conditions by bonded laborers (usually dalits or "untouchables") or **even some trafficked boys as young as six years old**.

Kara continues:

Most prized by the carpet producers are young boys. Their nimble fingers are perfectly suited to carpet weaving, and being children, they are more easily coerced to work sixteen to eighteen hours a day.

Young boys like the one I met at a shelter for rescued child trafficking victims near Allahabad, are locked inside carpet shacks in cramped quarters, beaten regularly, given meager allotments of food, suffer respiratory ailments from the high level of thread dust, and are force-fed stimulants to keep them working. They suffer deformed spines, malnutrition, vision ailments, and severe cuts from the sharp claw tool that is used to pull the thread down the loom.

The young boy said he was told wild dogs were in the forest outside the loom and would eat him if he tried to escape. He was also told that if anyone ever knocked on the door, he and the other boys should not say a word or the guards would kill them, and their families.

Exploiting children in this way allows carpet producers to keep profits up and prices down. Carpets made in this region are routinely exported to the EU, U.S., and beyond.

Kara's research suggests that the problem is widespread. He spoke to one trafficker of children whose comments suggest there is no shortage of trafficking victims:

Sanjay claims he is routinely approached by parents in search of a deal for their children. He says he takes the children from villages throughout the Carpet Belt to Varanasi, where an agent allocates the boys to carpet looms and the girls to brothels. He said he is paid between \$90 and \$100 for boys and \$150 or more for girls. Of this sum, Sanjay pays about 20% back to the parents, along with the promise of remittances from future earnings.

The entire story may be found at this link:

http://articles.cnn.com/2010-08-16/world/kara.human.traffic.india_1_carpet-belt-carpet-industry-child-labor?_s=PM:WORLD

In addition to the news stories mentioned above, Mr. Kara also submitted written testimony to the CLC (received February 10, 2011):

In the summer of 2010, I took my third trip to the carpet belt region of north India to research bonded labour, child labour, and forced labour in

the carpet industry. Most of my research that summer was conducted in village areas in Uttar Pradesh within sixty kilometers of the cities of Allahabad, Bhadohi, and Varanasi. On previous trips I also documented the same in village areas in Bihar.

A mix of shacks and huts were being used as carpet looms. I documented a mix of debt bondage and forced labour conditions for individuals (almost entirely *dalits*) ranging from the ages of 10 to 32 years. I documented a total of eleven children that I can reliably state were under the age of fourteen (either through self-admission, appearance, or statements from family members). There may well have been many more, but I cannot say for certain whether they were under the age of fourteen, or working in debt bondage or forced labour conditions.

The working conditions were similar to what I have documented in the past – fourteen to sixteen hour days, restrictions on movement and employment, two meals provided, a high level of respiratory illness, and injury to hands due to poor lighting, poor ventilation, and fatigue. Physical punishments were not too common, though the labourers reported verbal abuse and intimidation on occasion.

The presence of children under the age of 14 working in the carpet looms is a violation of the Child Labour (Prohibition and Regulation) Act, 1986 as well as Article 24 of the Constitution of India.

Many labourers also reported underpayment of minimum wages, which is a violation of the Minimum Wages Act, 1948.

The failure to pay minimum wages is also tantamount to forced labour in Indian law (see *People's Union for Democratic Rights and Others vs. Union of India and Others*, 1982), which is a violation of Article 23 of the Constitution of India.

Twenty-one labourers reported being tied to carpet weaving due to an advance received (the advances were either cash, in-kind payments of shelter and food, or other assets), which is a clear violation of the Bonded Labour System (Abolition) Act, 1976.

GoodWeave, a member of the CLC and a leading nonprofit organization working to abolish worst forms of child labor, conducts inspection and monitoring of carpet looms; rescues and rehabilitates children from the carpet industry; and builds market demand for certified child-labor-free rugs. Currently operating in India and Nepal, GoodWeave continues to identify bonded laborers below the age of 14. The most recent case in India involved a 10-year-old boy from West Bengal found working the looms in Uttar Pradesh in early January 2011.

In December of 2010, GoodWeave conducted a survey of carpet weaving facilities in 50 villages throughout India's "carpet belt" in Uttar Pradesh. The survey showed that while overall child labor has reduced significantly over the past 12 years, various forms of child labor, including bonded child labor, still exist, primarily in more remote areas where subcontracted cottage industry weavers are operating. The highest incidence of child labor reported was in the district of Bhadohi, followed by Jaunpur and Mirzapur.

In March 2010, Aljazeera reported that thousands of children were still helping to manufacture Indian carpets under arduous conditions and earning only 50 cents a day. This clip shows an 11-year-old hard at work:

<http://www.youtube.com/user/AlJazeeraEnglish#p/search/1/p8yaTS7YS9k>

In 2005, Photographer Kay Chernush was commissioned by the U.S. State Department to take child labor photos in India and captured this striking photo of a young weaver who she estimated to be eight years old:



“On that trip I worked with a local NGO affiliated with Free the Slaves,” notes Chernush. “We went to quite a few villages outside Varanasi. All the looms--be it carpet or sari--were installed in cramped dark mud huts in the villages, and the children ranged in age from probably 6 or 7 to teens. They were definitely ensnared in bonded labor--sitting side by side with a family member. It was the adult, or the parent or even grandparent of the adult, who had incurred the debt. These are mostly "Dalits" or Untouchables.”

The CLC understands that progress is being made in the carpet looms of India, but wonders if an intractable child labor problem could be substantially eliminated in less than five years. We applaud the progress that is being made, but we fear that the job is not yet finished. We urge you to add carpets manufactured in India back to the list.

The CLC would also like to take this opportunity to comment on the U.S. Department of Labor's List of Goods Produced by Child Labor or Forced Labor 2010. As noted previously, we applaud the Department for this comprehensive list which is an extremely valuable tool in the fight to reduce exploitative child labor around the world. The comprehensive list is impressive in its scope. The CLC appreciates that the report looks at both legal frameworks and enforcement mechanisms, and that it also focuses attention to child labor in agriculture.

The CLC would like to urge one major change to the list. Because the U.S. employs hundreds of thousands of children under the age of 15 in U.S. agriculture under conditions that potentially endangers their health and education, we believe U.S. DOL should list the United States and the agricultural crops that very young workers can be found toiling in.

Members of the CLC, including the Association of Farmworker Opportunity Programs and staff of the National Consumers League, have conducted numerous field investigations in several states, including Texas, Colorado, North Carolina, and Washington State, and found children as young as nine years old toiling in the fields under harsh conditions. U.S. DOL investigations have also found children as young as five or six harvesting fruits and vegetables, stretching back to the targeted investigations under Operation Salad Bowl in the late 1990s and as recently as 2009.

Exemptions to U.S. child labor law allow large numbers of 12- and 13-year-olds to work unlimited hours when school is not in session. Small farm exemptions allow even younger children to work. CLC members have interviewed children who are 10-years-old performing work that many adults would find too hard. Often these children work barefoot, without hats, or sleeves, risking exposure to the sun and pesticides. Children often begin work at the break of dawn when temperatures are cold and fields are wet with dew (which soaks their clothes) and within a few hours they are suffering under temperatures that soar into the 90s and 100s. Access to drinking waters and toilets is often lacking. The children use dangerous implements to perform their work and are at risk of injury from tractors, pickup trucks and heavy machinery found on farms. Agriculture is consistently ranked as the second or third most dangerous occupational sector in the United States and is the most dangerous sector that very large numbers of children are permitted to work in.

The child labor laws of the United States recognize the importance of protecting child laborers in all industries except agriculture, leaving hundreds of thousands of children largely unprotected.

We understand that the U.S. DOL believes that Congress did not mandate the inclusion of U.S. child labor on the TVPRA list, and we applaud U.S. DOL's decision, despite this lack of mandate, to highlight information about U.S. child labor in the TVPRA report's

narrative. However, the CLC believes that the failure to include the United States and U.S. agricultural products *on the list* undercuts the power of the list to effect change. The lists are, in part, designed to provide U.S. consumers with the information they need to avoid products produced by exploitative child labor. Consumers need to know whether products produced in the United States are child-labor free. Otherwise, there is no point in avoiding the same products produced by children in other countries.

The failure of the U.S. government to acknowledge its own problems in its own backyard also undermines efforts to encourage other governments to address child labor issues and leaves the United States open to charges that it is being inconsistent and hypocritical.

In the spring of 2009, the CLC received an anecdotal report about child labor in the harvesting of açai berries in Brazil. An individual said that child labor was rampant in the harvesting of the berries and that the harvesters were exposed to potentially deadly parasites found in the trees the children toiled in.

The Web site Livestrong.com has a history of the açai berry that states that “child labor is common in açai cultivation and school drop-out [sic] is common during harvests.” The link to this entry is provided here:

<http://www.livestrong.com/article/146018-history-of-the-acai-berry/#ixzz1E2w7vJwh>

Several companies that sell açai on-line note that their product is made without child labor and suggest child labor is common in açai harvesting or the Amazonian region where much açai harvesting occurs:

<http://www.excitingbrazil.com/organicacai.html>

The CLC asked members of the NGO community if they could provide additional information about this problem and Kevin Bales of Free the Slaves responded:

I just wanted to add some more details about child labor in açai berry harvesting in Brazil. Free the Slaves works closely with our partner organizations Reporter Brasil and CPT in that country, we asked them to provide us with more information. Leonardo Sakamoto of Reporter Brasil sent this reply, I've added some of the medical details in [square brackets]:

"Açai is very well known product here in Brazil....There are several ways to harvest it: mechanized by big companies or manually by workers. Of course, there are hundreds of poor families that get their income by collecting and selling açai berries, **sometimes they use their children.**

The disease that you talk about is Chagas disease, caused ... by a protozoan [*Trypanosoma cruzi*]. It is commonly transmitted to humans by a bug [the blood-sucking assassin bugs of the subfamily Triatominae (family Reduviidae). In the early, acute stage, symptoms are mild and usually produce no more than local swelling at the site of infection. As the

heart disease and malformation of the intestines. If untreated, the chronic disease is often fatal.] In 10 to 15 years (in chronic cases), without treatment, your heart will increase, lose its strength and fail [this is severe inflammation/infection of the heart muscle (myocarditis), and it can also affect the brain (meningoencephalitis)].

You can treat but not heal it - you'll live with the disease for entire life. Unfortunately, cases of this disease have a intense relationship with poverty, not exclusive with açai, but the absence of prevention public policies for that. You'll find the bug in the houses of poor families (the bug loves to live in houses made with mud/adobe in rural areas), in palm trees (like açai), but you can also find it in some sugar cane crops...

Given the potential dangers associated with harvesting açai berries, the CLC would like to ask U.S. DOL to determine whether açai berries should be included on the list, if that evaluation has not already occurred.

Despite these suggestions, the CLC wishes once again to acknowledge U.S. DOL and ILAB for its diligent work in preparing these lists, which encompass a staggering amount of data collection and analysis. Thank you for providing these invaluable tools. We look forward to assisting the Department in its efforts to reduce child labor here and abroad.

Sincerely,



Sally Greenberg
Executive Director
National Consumers League
Co-Chair Child Labor Coalition

[Signature to be added]

Antonia Cortese
Secretary-Treasurer
American Federation of Teachers
Co-Chair Child Labor Coalition

[List of CLC members is attached on the following page:]

Attachment:

2011 Child Labor Coalition Members

**American Federation of School Administrators
American Federation of Teachers
Association of Farmworker Opportunity Programs
Calvert Group Ltd.
Communications Workers of America
Farmworker Justice
First Focus
GoodWeave
Human Rights Watch
Injury Control Research Center, West Virginia
University
International Brotherhood of Teamsters
International Labor Rights Forum
Media Voices for Children
Migrant Legal Action Program
National Association of State Directors of Migrant
Education
National Consumers League
National Education Association
National Migrant and Seasonal Head Start
Association
The Ramsay Merriam Fund
Solidarity Center, AFL-CIO
UNICEF/USA
United Food and Commercial Workers International
Union
United Methodist Church, Board of Church and
Society
United Methodist Church, Women's Division
Walden Asset Management
World Vision**