

January 16, 2014

Office of Child Labor, Forced Labor and Human Trafficking
Bureau of International Labor Affairs
United States Department of Labor
Washington, DC

Subject: TVPRA Comments: Docket No. DOL-2013-0003

Re: Removal of Jordanian Garments from the TVPRA List

These comments are submitted on behalf of the Jordan Garments, Accessories, and Textiles Exporters' Association ("JGATE") as part of the Office of Child Labor, Forced Labor, and Human Trafficking's ("OCFT") of the Bureau of International Labor Affairs ("ILAB") of the U.S. Department of Labor ("DOL") invitation for public comments regarding child labor and forced labor in foreign countries.¹ In particular, these comments seek the removal of garments from Jordan from the "list of goods from countries that ILAB has reason to believe are produced by forced labor or child labor in violation of international standards ("TVPRA² List, the List")."³

These comments are responsive to the "Information Requested on Child Labor and Forced Labor" as described in the Final Procedural Guidelines ("Guidelines") for the development and maintenance of the List.⁴ JGATE believes that the OCFT should remove Jordanian garments from the TVPRA List because (1) the reasons for originally including garments on the List are no longer relevant, (2) the Jordanian industry has adopted the Better Work program, which is a third-party initiative that has been effective in significantly reducing instances of forced labor and transparently reporting on any remaining issues so they can be effectively addressed, and (3) maintaining Jordanian garments on the List creates a disincentive for other industries to adopt similarly transparent programs aimed at reducing child and forced labor and improving overall labor compliance.

¹ 78 Fed Reg 72714 December 03, 2013

² Trafficking Victims Protection Reauthorization Act of 2005

³ <http://www.dol.gov/ilab/reports/child-labor/list-of-goods/>

⁴ 72 Fed Reg 73374 December 27, 2007

Reasons for Adding Jordanian Garments to the List are no Longer Relevant

There is no question that the Jordanian garment industry experienced problems with worker rights compliance in 2006. Our industry was growing rapidly at the time, and private sector and governmental institutional capability to adequately address the labor compliance challenges was not sufficient. But determined efforts by the Jordanian Government, the Jordanian industry, and other stakeholders, including the International Labor Organization and U.S. Government agencies have combined to put in place a far more comprehensive and effective labor compliance framework for the industry. Indeed, the industry profile is profoundly different in 2014 than it was in 2006. It is time the TVPRA List is updated to reflect this reality.

Almost all of the sources cited in the October 1, 2013 bibliography for garments from Jordan only relate to circumstances that existed in 2006. But today's Jordanian garment industry is profoundly different with regard to labor compliance and relying upon sources for issues that that existed in 2006 and 2007 is completely outdated.

Indeed, the current TVPRA List's bibliography presents no current evidence that Jordanian garments are produced with forced labor.⁵ The Guidelines for the development and maintenance of the TVPRA List outline five factors that are to be evaluated when ILAB considers a source of information:

1. Nature – is the information relevant?
2. Date – is the information more than 7 years old? More recent submissions are given priority.
3. Source – is the source of information credible, familiar with the issue, and have a reputation for accuracy?
4. Corroboration – what is the extent of corroboration of the information?
5. Significance – does the information describe significant violations?

When weighed against these five factors, all but one (the 2011 Better Work Synthesis Report) of the 24 citations for Jordanian garments in the List's bibliography fail to meet the requirements. Of the 24 citations listed for Jordanian garments:

- 15 were published in 2006
- 5 were published in 2007
- 1 was published in 2005
- 1 was published in 2008

⁵ http://www.dol.gov/ilab/programs/OCFT/2013TVPRA_Bibliography.pdf, page 87

⁶ 78 Fed Reg 72715, December 03, 2013

In its current review and consideration of whether to maintain Jordanian garments on the List, these 22 citations should not be recycled again and again as the basis to maintain Jordanian garments on the List. Indeed, the current request for public comments on the TVPRA List states that "DOL will generally consider sources with dates up to five years old."⁶ All of these 22 references are more than five years old and should no longer be presumed to provide an accurate picture of the Jordanian garment industry. Not only are these 22 citations outdated as defined by the request for comments, but they also fail to meet other requirements. For example, nine of the citations are from a single source, Charles Kernaghan, who formally ran the National Labor Committee and now operates the Institute for Global Labor and Human Rights. As a matter of methodology, it diminishes the credibility of the bibliography when the same source is repeatedly cited. As a matter of substance, Charles Kernaghan's reports about the Jordanian garment industry have contained unsubstantiated and unverifiable claims of labor violations and criminal acts. To his credit in 2006 he initially identified some serious problems in the industry, but these reports no longer can be considered relevant and as evidence of the existing reality.

Furthermore, most of the Internet links provided in the bibliography no longer function, but it is likely that many of the other citations, particularly from media outlets, are using Kernaghan's publications as their source, so his work easily could be the ultimate source for far more than nine of the 22 citations.

The most recent citation in the Bibliography was from February 2012, and under the established procedures should be prioritized for consideration. The article from the *Courthouse News Service* website described a labor complaint case brought against Jordanian manufacturers in U.S. District Court. But the case mentioned in this article was dismissed in August 2012.⁷ The substance of the article ended up being entirely irrelevant, and the source should have been dismissed when weighed against the Guidelines, yet it was still cited as evidence that garments from Jordan should remain on the TVPRA List.

Jordan has Adopted the Better Work Program

Most importantly, the Jordanian industry adopted the International Labour Organization's ("ILO") Better Work program, which is considered the gold standard for monitoring and remediating worker rights compliance issues globally. Jordan was the second country in the world to do so after the initial program was established in Cambodia. Better Work is the most transparent, intrusive, and credible program that a national garment industry can adopt, and JGATE would expect that OCFT would take the program into consideration with regard to the decisions on the TVPRA List. Indeed, as stated in the DOL Guidelines, in determining whether a product is being considered for removal from the List, "[OCFT] will consider particularly relevant and probative any evidence of government, industry, and third-party actions and initiatives that are effective in significantly reducing if not eliminating child labor and forced labor."⁸

⁷ Civil Action No. H-12-0282, United States District Court Southern District of Texas, Thuy Thi Vu, g/k/a Phuong-Anh Vu v. W&D Apparel (Jordan) Corp.

⁸ 72 Fed Reg 73378, December 27, 2007

Better Work Jordan (BWJ) is part of the Better Work global program run through the partnership of the ILO and the International Finance Corporation (IFC). When it began in 2009 BWJ was a voluntary program, but in 2011 the Jordanian Ministry of Labour made the participation compulsory for all garment-exporting factories.

It is through BWJ reporting that OCFT can evaluate the effectiveness of the Jordanian industry's efforts to reduce forced labor practices and improve labor compliance more broadly. The TVPRA List's bibliography cites the 2nd Synthesis Report from ILO's Better Work Jordan ("BWJ") program, which was published in March 2011. Since that report, BWJ has published three subsequent reports, the 5th and latest being publicly released in January 2014.

The 2nd Synthesis Report was a compilation of monitoring efforts and findings for the reporting period of December 2009 through December 2010. In the area of forced labor, the 2nd Synthesis Report highlighted the issues of worker curfews and bonded labor related to recruitment fees. The garment industry took the report's findings seriously in 2011, and utilized the collaborative remediation mechanisms of the BWJ program to address the concerns identified.

The positive trajectory of the Jordanian industry's compliance record is irrefutable in the area of forced labor practices as defined and reported by BWJ. For example, the 2nd Synthesis Report noted that 58 percent of Jordanian factories imposed a nighttime curfew. The record of improvement can be seen in the subsequent findings:

- 58% 2nd Synthesis Report (Dec. 2009 – Dec. 2010)⁹
- 37% 3rd Synthesis Report (Feb. 2010 – Feb. 2011)¹⁰
- 13.5% 4th Synthesis Report (Sep. 2011 – Sep. 2012)¹⁰
- N/A 5th Synthesis Report (Oct. 2012 – Sep. 2013) – BWJ did not report a statistic for curfews in the industry in the 5th Report.

The other area defined as a forced labor practice of particular concern raised by BWJ is that of bonded labor tied to recruitment fees paid to agents in the worker's country of origin. In the 2nd Synthesis Report, BWJ noted a 29 percent non-compliance rate for this issue in the sector. The record of improvement can be seen in the subsequent findings:

- 29% 2nd Synthesis Report (Dec. 2009 – Dec. 2010)
- 40% 3rd Synthesis Report (Feb. 2010 – Feb. 2011)
- 13.5% 4th Synthesis Report (Sep. 2011 – Sep. 2012)
- 0% 5th Synthesis Report (Oct. 2012 – Sep. 2013)¹¹

⁹ ILO Better Work Jordan 3rd Synthesis Report, March 2012, page 12

¹⁰ ILO Better Work Jordan 4th Synthesis Report, November 2012, page 4

¹¹ ILO Better Work Jordan 5th Synthesis Report, December 2013, page 21

The record of improvement in both of these areas demonstrates the effectiveness of the BWJ as a third party initiative, and it also demonstrates the garment industry's commitment to remediating concerns raised about core labor standards.

Maintaining Jordanian Garments on the List Creates a Disincentive to Adopt Better Work

One of the best ways that OCFT can encourage other countries to adopt the Better Work program, and other third-party initiatives, is by removing Jordanian garments from the TVPRA List. Such a decision would be entirely consistent with what DOL said the objective was in the first place, encouraging positive change: "The primary purposes of the List are to raise public awareness about the incidence of child labor and forced labor in the production of goods in the countries listed and to promote efforts to eliminate such practices."¹²

The Jordanian garment industry has shown that a third-party monitoring system can achieve the desired results of improving compliance with labor standards. However, the process of adopting and implementing the program is not easy. Since adopting the Better Work program, JGATE's member companies have endured significant burdens to facilitate constant monitoring, inspections, investigations, and evolving requirements in labor compliance. Other foreign industries understand these difficulties, and they could be resistant to adopting initiatives such as Better Work if the United States Department of Labor does not recognize such efforts, and the significant achievements involved.

In light of the Jordanian garment industry's progress in eliminating the types of practices that caused concerns in 2006, and continuing progress to significantly reduce any incidence of any remaining practices that could be defined as indicative of forced labor, particularly through cooperation with the ILO's Better Work Jordan program, JGATE believes OCFT should immediately remove Jordanian garments from the TVPRA list. Such an action would no doubt be a signal to apparel industries in other countries that truly there is an incentive to adopt best practices such as the Better Work program.

By maintaining Jordanian garments on the List, OCFT not only creates a disincentive for new countries to join the Better Work program, but it sends the wrong message to the international community; it sends the message that consumers and businesses should continue to be wary of Jordan's garment industry. While OCFT is sending that message, the ILO is simultaneously publicly explaining the successes of the BWJ program, and is trying to encourage further investment in the garment industry in order to support good actors. In December of 2013 the BWJ Project Advisory Committee "called on international buyers to deepen their support for the Jordan garment industry by increasing orders with participating factories in response to the progress made improving working conditions."¹³ It is unhelpful for OCFT and the ILO to have such contradictory messages on Jordan's garment industry. Considering the sources for both messages, the ILO's message is based on more recent facts and on-the-ground experience than OCFT's.

¹² 78 Fed Reg 60317 October 1, 2013

¹³ BWJ Project Advisory Committee's Statement on the release of the 5th Synthesis Report, December 18, 2013

Fortunately, this public comment process and review process allows the OCFT to remedy this anomaly by removing garments from Jordan from the TVPRA List. We urge that such a decision be made immediately.

Best Regards:

Farhan A. Ifram

JGATE – Board Member

Cell: +962-77-930 9000

mail: fifram@sam.com.jo