



**UNITED STATES
ASSOCIATION OF
IMPORTERS OF
TEXTILES AND
APPAREL**

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December 10, 2009

Honorable Sandra Polaski
U.S. Department of Labor
Bureau of International Labor Affairs
200 Constitution Avenue, NW
Washington, D.C. 20210

Re: Docket No. DOL-2009-002, Initial Determination Updating the List of Products
Requiring Federal Contractor Certification Pursuant to Executive Order 13126, 74 Fed.
Reg. 46794 (September 11, 2009)

Dear Deputy Undersecretary Polaski:

The U.S. Association of Importers of Textiles and Apparel, USA-ITA, on behalf of its member companies, hereby provides its views on the proposal by the U.S. Department of Labor to identify a wide range of consumer products made overseas, including garments made in Argentina, India and Thailand, as subject to a special certification by U.S. government procurement officers that a good faith effort has been made to determine that they were not made with forced or indentured child labor.

While USA-ITA doubts that any garments (including embroidery), home furnishings (including carpets), and toys made outside of the United States will be the subject of any U.S. Government procurement, the accusation lodged against these many industries is a matter of great concern to the U.S. companies that import apparel, home furnishings and toys. The certification requirement suggests that the imported products purchased for the U.S. commercial market are made with forced or indentured child labor. For the reasons explained below, particularly with respect to apparel, USA-ITA cannot accept that charge.

USA-ITA member companies include American manufacturers, distributors, retailers, importers and related service providers, such as shipping lines and customs brokers. Member companies account for more than \$100 billion in U.S. apparel sales annually and source from around the world, including

from the countries preliminarily identified by the September 11, 2009, Initial Determination. Many USA-ITA member companies also source many other consumer products for their retail operations, including home furnishings, footwear, electronics and toys.

As an importing industry that has been subject to more scrutiny and requirements than any other consumer goods industry, because of the system of country-specific quotas on textile and apparel products that were in place starting in the 1950s and continued until the end of 2008, U.S. apparel importers have had to know more about what is happening in the factories with which they do business around the world than most. Precisely because of the quota system, U.S. apparel importers have established significant standard operating procedures to ensure that they know where their goods are being produced and by whom. U.S. Government (Customs and Border Protection) officials have visited countless apparel factories to observe production and verify records demonstrating origin.

Further, since 9/11 and the establishment of the Customs-Trade Partnership Against Terrorism (C-TPAT), even more procedures and safeguards have been built into the supply chain that have also provided a window into the factories around the world, and their employees.

There is also heightened scrutiny of products, especially those produced for children, for compliance with product safety standards. Since the enactment of the Consumer Product Safety Improvement Act (CPSIA) in August 2008, additional checks have been built into manufacturers' and importers' compliance programs, particularly for products designed or intended primarily for children 12 years old and younger. All children's products – not just toys but all children's products -- are now subject to third party testing and certification requirements. Apparel has long been subject to flammability standards, but the establishment of a General Conformity Certificate requirement under the CPSIA has drawn increased attention to the steps that have to be taken to ensure compliance. Children's sleepwear is subject to further standards. The increased awareness of these many consumer product safety issues and requirements has meant that U.S. buyers have increased their presence in overseas facilities, and through such on site visits are in a position to identify and address not just product safety issues but also worker safety issues, and any worker rights abuses.

USA-ITA member companies recognize the importance of the commitment to ensure that internationally recognized worker rights are respected. These companies have incorporated this

commitment into their codes of conduct and business practices. With brand names at stake and with a firm belief that U.S. companies export their values to each factory with whom they elect to do business, there is real oversight. Factories are subject to a rigorous qualification process before any orders are placed with them, and there are strict prohibitions against subcontracting with any facility that is not also subject to prior review and approval. When there are violations, it is most often because of a violation of the “no subcontracting” condition. Importantly, however, the prevailing practice is to first try to work with the offending factory to bring it into compliance rather than remove all business and abandon the workers whose livelihood depends on the factory. Moreover, where there is a violation of worker rights, there is a firm commitment by U.S. companies to assist those workers, including helping to place them in school if the issue is child labor. It is therefore unacceptable to tar entire consumer product industries as purveyors of forced or indentured child labor, especially when U.S. brands consistently enforce their high standards with each factory with which they work.

As Secretary Solis well knows from correspondence that USA-ITA and other apparel importer trade associations have had with her with respect to cotton harvested in Uzbekistan, where there is clear evidence of the use of children, the industry is fully prepared to act. In that instance, it was apparent that the Government of Uzbekistan was orchestrating the forced employment of child labor in the harvesting of cotton.¹ Thus, USA-ITA and other members of the importing community joined with NGO’s to mount a public campaign to press the Government of Uzbekistan to take decisive and immediate action to end the use of forced child labor in the cotton fields of Uzbekistan. **Our organizations remain in close contact with U.S. government officials about this issue, and have raised our concerns with top officials in the Administration.** We have also written to the International Labor Organization (ILO) and our counterpart associations around the world to enlist their support in resolving this critical situation.

¹ USA-ITA would distinguish the situation in Uzbekistan from that described in the “2009 Summary Report: Child Labor, Forced Labor, and Forced Child Labor in China,” at Section 3.1.5.1, on cotton harvested in China. That report indicates that in September 2008 the Chinese Government issued a written policy expressly banning children from participating in school-organized activities to pick cotton, and describes 1) allegations by “two informants” that one school did not comply and 2) parents in another location who were up in arms that their children’s school had indicated an intention to defy the Central Government rule and were taking immediate action to challenge the local Education Department. Ultimately, the Summary Report is based on “two Type 2 interviews and a review of nine articles, six of which were relevant.”

USA-ITA is convinced that broadly identifying the consumer products industries in countries like China, India and Thailand as sources of products of forced or indentured child labor, and thereby compelling U.S. importers to reconsider doing business there, would have negative repercussions on U.S. influence.² Including these industries on a new E.O. 13126 final list will lead to some U.S. commercial market orders being withdrawn from those countries, even though importers know that their products are not made with child labor of any sort. But we all must recognize that this will do nothing to ensure that forced or indentured child labor is not used to produce garments for other markets. Many workers would lose their jobs, on top of the difficulties already being faced as a result of the downturn in the economy and steep decline in consumer demand for everything from apparel to electronics to toys to carpets.

Looking specifically at the issue of apparel, U.S. apparel imports from Argentina are already minimal, totaling less than \$2 million this year and just over \$2 million in 2008. India, however, accounts for \$2.9 billion worth of apparel for the most recent 12 month period for which data is available (through September), down from \$3.1 billion in 2007.³ And \$1.3 billion worth of apparel was imported from Thailand during the one year period ending September 2009, a drop from over \$1.7 billion in 2007. U.S. imports of carpets from India, Pakistan and Nepal have also declined, from \$501.2 million for the first nine months of 2008 to \$381.7 million for the first nine months of 2009. Even U.S. imports of toys from China have dropped, totaling \$19.3 billion for the first nine months of 2009 compared to \$22.3 billion for the same period in 2008. This trade should not be placed at further risk.

² USA-ITA notes with some concern the Department of Labor's definition of "significant incidence of child labor, forced child labor or forced labor that is not dependent on statistical testing," as described in the 2009 Summary Report for China. Page ix of that report quotes a 2007 Federal Register notice that states that a "pattern or practice in the industry as a whole" is not necessary. The authors of the Report therefore conclude that "any time there is a demonstration that is not an isolated incident and is not in a single company or facility, it will be considered to constitute a significant incidence." Further, the report notes that the information gathered to reach that threshold covers a period of six years, 2003 through 2008. Under that standard, it would seem that many U.S. origin goods also could be subject to a certification requirement if procured for the U.S. Government. See page xvii of the Department of Labor's 2008 Findings on the Worst Forms of Child Labor.

³ Looking briefly at the Macro-International In-country Research and Data Collection on Forced Labor and Child Labor in the Production of Goods: India, which was posted on the Department of Labor's website on December 9, 2009, USA-ITA questions whether the apparel related products mentioned there are produced for the U.S. market.

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The responsible action for the Department of Labor to take is to swiftly withdraw the threat of including these entire industries on the Executive Order 13126 list. USA-ITA respectfully urges the Department to do that.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Laura E. Jones". The signature is fluid and cursive, with the first name "Laura" being more prominent than the last name "Jones".

Laura E. Jones

Executive Director