

Sweatfree Procurement Forum for Purchasing/Government Officials

Thursday, January 28, 2010

Topic: Child Labor in Global Supply Chains & Response by U.S. Department of Labor

Next forum

To be announced

Send any suggestions for speakers or topics to bjorn@sweatfree.org

Present

Nancy Locke and Pam Tokenaga, Seattle

Cynthia Matz, Milwaukee

Farshid Yazdi, Los Angeles

Carmen Herrera, San Francisco

Monette McGuire, Madison

Michele Reale, New York

Julia Fraser, Portland OR

Sam Dominguez & Cynthia Gonzales, Austin

Dan Shoper, Washington

Facilitator: Bjorn Claeson, SweatFree Communities

Note-taker: Liana Foxvog, SweatFree Communities

Guest: Brandie Sasser, Bureau of International Labor Affairs (ILAB), US Department of Labor

Introduction

Brandie Sasser is an International Relations Officer in the Office of Child Labor, Forced Labor, and Human Trafficking at the Department of Labor. Ms. Sasser joined the Department of Labor in May 2005. Among other responsibilities, she is one of the Department's coordinators on combating trafficking in persons, as well as the coordinator of the Department's Executive Order 13126 list of products made with forced or indentured child labor. Prior to joining the Department of Labor, Ms. Sasser worked on a series of economic and legal reform projects at the IRIS Center at the University of Maryland. Ms. Sasser also worked at the World Bank for four years in the Operations Evaluation Department, designing and conducting policy and country level evaluations. She has also worked for local and international NGOs on issues such as gender and poverty reduction. She holds a MA in International Development from American University and a BA in International Relations from Xavier University.

Presentation

The Office of Child Labor, Forced Labor & Human Trafficking is one of three offices within the Bureau of International Labor Affairs (ILAB). The other two offices are the Office of Trade & Labor Affairs and the Office of International Relations. ILAB is the only international bureau within the Department of Labor.

ILAB's research mandate has evolved over the years depending on directive from Congress. Pursuant to the Trade and Development Act, ILAB produces an annual report on the worst forms of child labor (WFCL) and government efforts to combat the WFCL in countries that have trade preference agreements with the United States. . Under US legislation on trafficking reauthorized

in 2005, ILAB was mandated to develop a list of products it has a reason to believe were made with forced labor or child labor. An initial list was published in September 2009. The list names 122 goods in 58 of countries that were made with forced labor, child labor, or both. Six countries were identified as having forced labor or child labor in the production of garments and 15 countries were identified as having forced labor or child labor in the production of harvested cotton. The list is an awareness raising tool; it does not have procurement implications. ILAB does not have enforcement authority regarding the list.

In 1999, Executive Order 13126, referencing the 1930 tariff act, required DOL to develop a list of goods produced with forced or indentured child labor and required the General Services Administration (GSA) to issue regulations regarding the procurement of goods on the list. In 2001, DOL issued the initial list which included 11 products from two countries (<http://www.dol.gov/ILAB/regs/eo13126/main.htm>). All products except for one are from Burma and the remaining one is from Pakistan. The list has not been updated since 2001. In 2001, along with the release of the list, ILAB issued a set of procedural guidelines on maintenance of the list. The procedural guidelines state that ILAB could update the list on its own at any time and also could receive public submission suggesting the addition or removal of goods from the list. Four submissions have been received but no changes have yet been made in response to public submission although some of the submissions are still under review.

In evaluating information for the list, ILAB considers the nature, source and date of the information; the existence of corroboration; whether the incidents are isolated; and whether reasonable efforts are being made to address the issue in the country. ILAB coordinates with the Departments of State (DOS) and Homeland Security (DHS) in evaluating information and making updates.

In September 2009, ILAB published an Initial Determination in the Federal Register with a proposed updated list including 29 products from 21 countries, and solicited public comment through December 10, 2009. On that list there were three countries where garments were believed to be produced with forced child labor, and five countries where the same conditions pertained to the harvesting of cotton. ILAB received 43 public comments during the period, which are posted at www.regulations.gov. Currently the comments are being reviewed by ILAB, DOS, and DHS and then a final determination will be released which will replace the 2001 list. The list has received significant attention from business, civil society and media.

According to the GSA regulations, companies only have to certify to the end product that it was not made with forced or indentured child labor, they do not need to attest to conditions further down the supply chain. The list is not a ban on importing. Even if a product is named on the list, it can still come into the US, but the contractor must certify that they have done due diligence that their products are not made with forced or indentured child labor. GSA has overall control of the regulation but individual US Executive Branch agencies should be implementing it in all of their procurement. The regulation outlines remediation for a contractor that is identified with providing false information regarding the usage of forced or indentured child labor. The ultimate step would be debarment but that has not happened as of yet.

Discussion

- Countries in the list with forced or indentured child labor in the production of garments: Argentina, India and Thailand
- See www.dol.gov/ilab > See executive order 13126. Direct link: <http://www.dol.gov/ILAB/regs/eo13126/main.htm>
- The lists were developed for products in general (not focusing specifically on government procurement) so they do include products like embroidered apparel which may not be procured by government agencies
- Much of the forced child labor found was not at the factory level but further down the supply chain. For example, it may be at the level of families working in the home as contractors for a factory. There are also debt-bonded situations. Many industries respond by claiming that they monitor their factories and have not found child labor. In such a case, the problem may be that subcontractors are using forced child labor. Child labor problems are less often in the large factories and often further down the supply chain, in smaller factories, or in homes.
- ILAB staff conducts their own research and contracts out research to other groups. ILAB does not have its own staff in other countries.
- *Q: Does the expansion of the list mean that there is better data now or that there is a more child labor around the world?* The International Labor Organization (ILO) has found that child labor has decreased in some countries while it has increased in others. Some countries are open to doing research on child labor and forced labor, but it's more challenging to get information from others. If a country does not appear on the list, this shouldn't be taken to imply that there is no forced child labor in that country, it could mean the research hasn't been done. The last round of research was done in 77 countries and in 29 there was enough credible data showing forced child labor to put them on the list. The research will be continuing in the other countries if there are indicators to suggest that there may be child labor or forced labor in the production of the products.
- *Q: Which countries are more or less cooperative?* There's not a list as such. However, for example, in China child labor is illegal but the Chinese government denies that it remains a problem and the collection of data on the matter is considered a state secret. On the other hand, the governments of India and Brazil are funding programs to eliminate child labor. Sections 4 and 5 of ILAB's report on the "List of Goods Produced by Child Labor or Forced Labor" discusses these challenges and good practices (<http://www.dol.gov/ilab/programs/ocft/PDF/2009TVPRA.pdf>).