



## DEPARTMENT OF LABOR

[Agency Docket Number DOL-2023-0003]

### **Notice of Initial Determination to Remove Shrimp from Thailand and Garments from Vietnam from the List of Products Requiring Federal Contractor Certification as to Forced or Indentured Child Labor Pursuant to Executive Order 13126**

**AGENCY:** The Bureau of International Labor Affairs, Department of Labor.

**ACTION:** Notice of initial determination; request for comments.

**SUMMARY:** This initial determination proposes to revise the list required by Executive Order No. 13126 (“Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor”) (E.O. List) in accordance with the Department of Labor’s (DOL) “Procedural Guidelines for the Maintenance of the List of Products Requiring Federal Contractor Certification as to Forced or Indentured Child Labor” (the Procedural Guidelines). The E.O. List identifies a list of products, by their country of origin, that DOL, in consultation and cooperation with the Department of State and the Department of Homeland Security (hereinafter “the three Departments”), has a reasonable basis to believe might have been mined, produced, or manufactured by forced or indentured child labor. Federal contracting officers must check the E.O. List when issuing a solicitation for supplies expected to exceed the micro-purchase threshold and take certain steps if the solicited product appears on the list. This notice proposes to remove shrimp from Thailand and garments from Vietnam because the three Departments have preliminarily determined that the use of forced or indentured child labor in the production of these products has been significantly reduced. The Department of Labor invites public comment on this initial determination. The three Departments will consider all public comments prior to publishing a final determination revising the E.O. List.

**DATES:** Comments should be submitted to the Office of Child Labor, Forced Labor, and Human Trafficking (OCFT) via one of the methods described below and must be received by

no later than 5 p.m. ET, June 10, 2024, to guarantee consideration.

**ADDRESSES:** Information submitted to the Department of Labor should be submitted directly to OCFT, Bureau of International Labor Affairs, U.S. Department of Labor. Comments, identified as “Docket No. DOL–2004-0003,” may be submitted by any of the following methods:

*Federal eRulemaking Portal:* The portal includes instructions for submitting comments. Parties submitting responses electronically are encouraged not to submit paper copies.

*Facsimile (fax):* OCFT at 202-693-4830.

*Mail, Express Delivery, Hand Delivery, and Messenger Service (1 copy):* Ryan Olden at U.S. Department of Labor, ILAB/Office of Child Labor, Forced Labor, and Human Trafficking, 200 Constitution Ave. NW, Room S-5317, Washington, DC 20210.

*Email:* Email submissions should be addressed to Ryan Olden. Email: eo13126@dol.gov

**DIGITAL ACCESSABILITY:** The United States Department of Labor (DOL) is required to ensure that all its digital information is accessible to people with disabilities, including those who use assistive technology such as screen readers. Therefore, DOL requests that your submissions through the portal be as accessible as possible. If you are able to conform to the current Web Content Accessibility Guidelines (WCAG), then please do so. Otherwise, DOL requests that submissions be made in a Microsoft Word document, using the built-in Styles for document formatting, including descriptive Alt Text on embedded images and graphics, and using the built-in Word Accessibility Checker for additional accessibility improvements. Although permissible, please avoid submitting scanned images, screen shots, or PDFs whenever possible.

**FOR FURTHER INFORMATION CONTACT:** Ryan Olden. Phone: (202) 693-4867. eo13126@dol.gov.

**SUPPLEMENTARY INFORMATION:** DOL is requesting public comment on the revisions to

the E.O. List proposed below, as well as any other issue related to the fair and effective implementation of E.O. 13126. This notice is a general solicitation of comments from the public. All submitted comments will be made a part of the public record and will be available for inspection on <http://www.regulations.gov>.

In conducting research for this initial determination, the three Departments considered a wide variety of materials based on their own research, and materials from other U.S. Government agencies, foreign governments, international organizations, non-governmental organizations (NGOs), U.S. Government-funded technical assistance and field research projects, academic and other independent research, media, and other sources. The Department of State and U.S. embassies and consulates abroad also provided important information by gathering data from contacts, conducting site visits, and reviewing local media sources. In developing the proposed revision to the E.O. List, the three Departments' review focused on information concerning the use of forced or indentured child labor that was available from the above sources.

As outlined in the Procedural Guidelines, several factors were weighed in determining whether a product should be placed, or remain on, the revised E.O. List: the nature of the information describing the use of forced or indentured child labor; the source of the information; the date of the information; the extent of corroboration of the information by appropriate sources; whether the information involved more than an isolated incident; and whether recent and credible efforts are being made to address forced or indentured child labor in a particular country and industry (66 FR 5351).

This notice constitutes an initial determination to revise the E.O. List. Based on available information from various sources, the three Departments have preliminarily concluded that there is no longer a reasonable basis to believe that there is use of forced or indentured child labor in the production of the following products, identified by their countries of origin:

*Product:* Shrimp

*Country:* Thailand

DOL has received recent, credible, and corroborated information from various sources on the use of forced or indentured child labor in shrimp production in Thailand. This information indicates that while children previously worked under forced labor conditions in the production of shrimp, the use of forced child labor appears to have been significantly reduced. Therefore, the three Departments have preliminarily concluded that there is no longer a reasonable basis to believe that shrimp from Thailand is produced by forced or indentured child labor, except in a few isolated instances, and therefore it should not continue to be on the E.O. List.

DOL placed shrimp from Thailand on the E.O. List in 2009, and to date, the listing cites 11 sources dating from 2006 to 2015. Sources indicated that children in Thailand—primarily migrant children—were peeling shrimp in small, unregulated “shrimp sheds.” In more than isolated incidents, these migrant children were engaged in forced child labor. Following international attention and action on labor exploitation in Thailand’s seafood industry, the Royal Thai Government (RTG) and other stakeholders made a series of concerted significant efforts to address child labor and forced child labor throughout the seafood industry, including in the shrimp peeling sector.

The RTG acceded to the ILO’s Maritime Labor Convention and the ILO’s Work in Fishing Convention and passed the Ministerial Regulation Prohibiting Children in Seafood Processing. The RTG also enacted the Royal Ordinance on Fisheries, which enhanced traceability systems of aquatic resources in Thailand, inclusive of shrimp processing, and strengthened migrant worker recruitment regulations through revisions in the Labor Protection Act of 1998 and the Royal Ordinance on Foreign Worker Management (No. 2). Additionally, the RTG collaborated with international nongovernmental organizations to implement projects focused on eliminating forced child labor and child labor in the seafood processing sector, including the *Combatting Unacceptable Forms of Work in the Thai Fishing and Seafood Industry* program funded by the ILO and the European Union; the *FAIR Fish* program funded by DOL; and the *Ship to Shore* project funded by the EU. Private sector entities also acted against forced child

labor by formalizing their supply chains, eliminating nearly all unregulated “shrimp sheds” in which child labor and forced child labor were previously documented. In 2023, Thai government officials, an industry trade group, workers’ associations, international organizations, and nongovernmental organizations reported that incidents of forced child labor in shrimp processing had been reduced to no more than isolated cases. DOL’s review of available information corroborated that forced child labor in the production of shrimp had been significantly reduced to isolated incidents.

*Product: Garments*

*Country: Vietnam*

DOL has also received recent, credible, and corroborated information from various sources on the use of forced or indentured child labor in garment production in Vietnam. This information indicates that while children previously worked under forced labor conditions in the production of garments, the use of forced child labor appears to have been significantly reduced.

Therefore, the three Departments have preliminarily concluded that there is no longer a reasonable basis to believe that garments from Vietnam are produced by forced or indentured child labor, except in a few isolated instances, and therefore it should not continue to be on the E.O. List.

DOL placed garments from Vietnam on the E.O. List in 2012, and to date, the listing cites 18 sources dating from 2008 to 2015. Sources indicated that children in Vietnam—primarily children from rural areas—were being trafficked from their homes to Ho Chi Minh City, where they were coerced to work, and often live, in garment factories. Reports indicated that children working in the sector were underpaid, forced to work long hours, and in many cases were found living in the workshops. Between 2010 and 2014 there were between 20 and 64 children trafficked for these purposes each year, after which the number of children dropped rapidly.

Reporting that exposed this trafficking pipeline was led by data from Blue Dragon Children’s Foundation (BDCF) – a local NGO which functions as a key partner to the Vietnamese police.

According to the U.S. Embassy in Hanoi and its contacts, all forced child labor cases in Vietnamese garment factories go through BDCF for intervention, removal of children from the trafficking situations, and victim services.

Research indicates that following reports of forced child labor in the sector, the police worked quickly and effectively to identify both victims and perpetrators of this trafficking pipeline. The police shut down all responsible criminal enterprises. According to a 2021 BDCF report, BDCF rescue operations for victims of trafficking have not uncovered a child in sweatshop labor since 2017.

Since the addition of garments to the E.O. List in 2012, Vietnam has made efforts in its legal framework, partnerships, and enforcement efforts to eradicate and prevent forced child labor in this sector. Vietnam enacted a Labor Code in 2012 prohibiting unlawful, underage, or forced labor of children, and included regulations on the employment of minors including working hours, working times of day, and types of work allowed for minors. Vietnam specifically prohibited minors from operating fabric and yarn-starching machines, as well as dyeing and dry-cleaning fabric and yarn, criminalized child trafficking, and affirmed the right of children to be protected from labor exploitation. Additionally, Vietnam has conducted two national programs on the reduction of child labor and has conducted a national survey on child labor. The government continues to work with Blue Dragon, as well as other INGOs and NGOs like the ILO, Fair Wear Foundation, and Better Work. Vietnam actively collaborates with stakeholders on programs like ENHANCE, which aims to build governmental capacity to address and prevent child labor; and Fair Wear's programming, which brings together key stakeholders to enhance the rights of garment workers. Reports also indicate that grievance mechanisms exist and are accessible for garment workers.

DOL invites public comment on whether these products (and/or other products, regardless of whether they are mentioned in this notice) should be included in or removed from the revised E.O. List. To the extent possible, comments provided should address the criteria for inclusion

of a product on the E.O. List contained in the Procedural Guidelines discussed above.

Following receipt and consideration of comments, the three Departments will issue a final determination in the **Federal Register**. The three Departments intend to continue to revise the E.O. List periodically to add or remove products as warranted by the receipt of new and credible information.

#### **BACKGROUND:**

E.O. 13126 was signed on June 12, 1999, and published in the **Federal Register** on June 16, 1999 (64 FR 32383). E.O. 13126 declared that it was “the policy of the United States Government . . . that executive agencies shall 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.” The E.O. defines “forced or indentured child labor” as “all work or service (1) exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or (2) performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.” Pursuant to E.O. 13126, and following public notice and comment, the Department of Labor published in the January 18, 2001 **Federal Register** the first E.O. List of products, along with their respective countries of origin, that DOL, in consultation and cooperation with the Department of State and the Department of the Treasury (whose relevant responsibilities are now within the Department of Homeland Security), had a reasonable basis to believe might have been mined, produced or manufactured with forced or indentured child labor (66 FR 5353). This list included 11 goods produced in 12 countries. DOL also published the Procedural Guidelines on January 18, 2001, which provide procedures for the maintenance, review, and, as appropriate, revision of the E.O. List (66 FR 5351).

The Procedural Guidelines provide that the E.O. List may be revised through consideration of submissions by individuals and on the three Departments' own initiative. When proposing a

revision to the E.O. List, DOL must publish in the **Federal Register** a notice of initial determination, which includes any proposed alteration to the E.O. List. The three Departments will consider all public comments prior to the publication of a final determination of a revised E.O. List.

On January 18, 2001, pursuant to Section 3 of E.O. 13126, the Federal Acquisition Regulatory Council published a final rule to implement specific provisions of E.O. 13126 that require, among other things, that Federal contractors who supply products that appear on the list certify to the contracting officer that the contractor, or, in the case of an incorporated contractor, a responsible official of the contractor, has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under the contract and that, on the basis of those efforts, the contractor is unaware of any such use of forced or indentured child labor (48 CFR subpart 22.15).

On September 11, 2009, the Department of Labor published an initial determination in the **Federal Register** proposing to revise the E.O. List to include 29 products from 21 countries. The Notice requested public comments for a period of 90 days. Public comments were received and reviewed by all relevant agencies and a final determination was issued on July 20, 2010. Following the same process, the E.O. List was revised again in 2011, 2012, 2013, 2014, 2019, and 2022. The most recent E.O. List, finalized on July 13, 2022, includes 34 products from 26 countries.

The current E.O. List and the Procedural Guidelines can be accessed at <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-products> or can be obtained from: OCFT, Bureau of International Labor Affairs, Room S-5313, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693-4843; fax (202) 693-4830.

(Authority: E.O. 13126, 64 FR 32383)

Signed at Washington, DC.

**Thea Mei Lee,**

*Deputy Undersecretary for International Affairs.*

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