

January 8, 2015

U.S. Department of Labor (DOL)
Office of Child Labor, Forced Labor and Human Trafficking
Bureau of International Labor Affairs (ILAB)
200 Constitution Avenue, NW
Washington, D.C. 20210

Re. Request for Information and/or Comments on the 2013 Findings in the Worst Forms of Child Labor Report (2013 TDA report) issued by the Bureau of International Labor Affairs (ILAB) on October 7, 2014, Regarding Child Labor in Foreign Countries – Docket No. DOL-2014-0009

Dear Deputy Undersecretary Pier:

The Brazilian footwear industry association, Abicalcados, hereby responds to the Federal Register notice of November 13, 2014 (79 FR 67461-67462). This notice requests information and/or comment on 2013 Findings on the Worst Forms of Child Labor report issued by ILAB on October 7, 2014.

Since this report also informs the DOL in maintaining the list of foreign goods that DOL has 'reason to believe are produced by child labor or forced labor in violation of international standards', as required by the Trafficking Victims Protection Reauthorization Act of 2005 (TVPRA list), published December 1, 2014, Abicalcados, hereby comments on that report as well.

The initial TVPRA list was issued on September 10, 2009, in The Department of Labor's List of Goods Produced by Child or Forced Labor (2009 TVPRA report), along with commentary and references to sources that DOL relied upon in compiling the list of countries/sectors found to meet the criteria of the TVPRA.

The DOL's Procedural Guidelines for the Development and Maintenance of the List of Goods from Countries Produced by Child or Forced Labor (72 FR 73374, December 27, 2007) (TVPRA procedural guidelines) had been issued previously.

Thus, Abicalcados comments on the updates contained in the 2014 TVPRA list and the 2013 Findings on the Worst Forms of Child Labor (TDA report).

According to DOL, 'child labor' under 'international standards' means work performed by a person below the age of 15 (or 14 under certain conditions), as prescribed by International Labor Organization (ILO) Convention 138. It also includes work performed by a person below the age of 18 in work types defined in ILO Convention 182, which include work which is likely to 'harm the health, safety or morals of children.'

Under the TVPRA procedural guidelines, inclusion on the list means that the DOL has determined, *inter alia*, that there is

- (A) A 'significant incidence' of child labor in the sector (i.e., not an 'isolated incidence' but not 'necessarily representing a pattern or practice in the industry as a whole'),
- (B) Experience based, timely (typically information not more than 7 years old), relevant and probative supporting information from sources that are familiar with international labor standards and that have a reputation for accuracy and objectivity and
- (C) 'Corroborated' information from multiple sources.

These guidelines also make clear that ILAB is to remove a listed product from the TVPRA list when it has reason to believe that a child labor problem has been eliminated or reduced to a single company or facility or to an 'isolated' incident.

The 2009, 2010, 2011, 2012, 2013 and 2014 TVPRA lists include footwear from Brazil under the child labor designation.

A fair reading of the evidence, however, supports the conclusion that any 'significant incidence' of the child labor problem in the Brazilian shoe sector (documented in the mid-1990s) was eliminated long ago.

Abicalcados's has demonstrated the absence of child labor in the Brazilian shoe sector in its submissions previously made to DOL dated January 14, 2014, May 20, 2011, June 14, 2010 and April 9, 2010. They present clear evidence that whatever level of child labor that may have existed in the Brazilian shoe sector in the past, it has undeniably been first 'significantly reduced' and now 'virtually eliminated' owing to efforts of sector and the government of Brazil.

Indeed, the 'isolated' instances cited in the 2013 TDA report that purportedly supports the inclusion of the Brazil footwear sector in the 2014 TVPRA list cannot be said to amount to anything like a 'significant incidence' of child labor within the terms of the TVPRA procedural guidelines.

Accordingly, ILAB should remove footwear from Brazil from the TVPRA list.

It is noted that three country sectors were removed from the TVPRA list in the notice published by DOL on October 1, 2013 (78 FR 60317-19). Tobacco from Kazakhstan, charcoal from Namibia and diamonds from Zimbabwe were each removed from the list following desk review and field research by DOL staff.

While no new country sectors were eliminated from the TVPRA list in the 2014 report, it is noted that DOL cited the exceptional work done in several sectors including the Brazilian garment business, as well as Thai shrimp, Benin granite, Cote d'Ivoire coco, and Nicaraguan coffee.

The Brazil footwear sector is eager to have DOL undertake a review and field research for its sector as it did for tobacco from Kazakhstan. It is confident that this procedure will clear it of the undeserved taint on its reputation conveyed by its unjustified inclusion in the TVPRA list.

Brazilian Government Does Not Tolerate Child Labor

As the 2012 TDA report makes clear, the government of Brazil is committed to the elimination of child labor.

'... of the ten countries in the world that received a rating of Significant Advancement, five are in South America. These countries—Brazil, Chile, Colombia, Ecuador, and Peru—made meaningful efforts to combat child labor that go beyond isolated improvements or initiatives. Instead, these countries have implemented comprehensive and concerted strategies through the simultaneous improvement of laws, coordination and enforcement efforts, policies, and social programs. Brazil increased the number of child labor inspections, expanded assistance programs for families in extreme poverty, and trained local government officials to better coordinate anti-poverty efforts.' 2012 Findings of the Worst Forms of Child Labor, September 30, 2013, at p. XIII.

Once again, in the 2013 TDA report, Brazil was mentioned favorably as one of only 13 countries studied in the report to receive a rating of 'Significant Advancement' from DOL.

As a leading industrial component of the Brazilian economy, the Brazil footwear sector is acutely aware of the campaign to eliminate child labor in Brazil by its national and local governments. It has a profound commitment of its own to ensure that no underage persons work in shoe production.

Its resolve is rooted in a determination to comply with all Brazilian laws and regulations and in its compelling motivation to ensure the exemplary reputation of its products and production methods with the Brazilian consuming public.

As noted below, all but a small portion of today's sales of the Brazilian shoe sector are local, where reputation for quality and integrity are powerful selling essentials. Brazilian shoe producers simply cannot risk their reputation by employing underage workers – the risk of detection and exposure is too great.

Thus, the combination of government and shoe sector resolve has produced an environment devoid of underage workers in the Brazil shoemaking sector.

Abicalcados, the Brazilian Footwear Industries Association.

As the umbrella shoe organization in Brazil, Abicalcados represents the entire sector on national and international issues working closely with various regional footwear associations, as well as with Brazilian associations in the components, tanning and other related sectors.

It provides the Brazilian shoe sector with support and leadership on a wide range of activities including projects to enhance the sector's global competitiveness in productivity, design and sustainability. It is the sector's leader in communications, information, statistics and export promotion.

The shoe sector today encompasses some 300,000 direct jobs in Brazil in more than 8,000 companies, and represents some 5% of all Brazilian manufacturing jobs with a total sectorial GDP approaching some \$12.0 billion annually. Despite the large number of companies in the sector, nearly 60% of total production comes from the large factories, those having 1,000 or more workers, which group represents less than 1% of total companies.

Thus, footwear is a leading manufacturing sector in Brazil and Brazil is one of the top three footwear-producing nations globally behind China and India.

Brazil is particularly well known internationally for its high quality women's and men's leather shoes and its high quality injection plastic footwear. Europe and the U.S. are the main export destinations, with growing markets in Latin America and the Middle East.

Despite the global recession and the strong local currency, the real, which has risen dramatically against the U.S. dollar in recent years, the shoe sector in Brazil has kept both production and employment at high levels, largely owing to the fabulous growth of the domestic market. In 2012, local consumption utilized more than 85% of Brazil's shoe production, with the balance exported. Total production reached an all-time high of just short of 900.0 million pair in 2010 and once again achieved 900.0 million pair production levels in 2013.

While exports continue to be an important factor in the sector, its large dependence on exports, as was the case in the 1980/90s, is long past, and down sharply from nearly 25% of production in 2004. While once accounting for some 10% by volume of US shoe imports, Brazil shipped only 0.4% of US shoe imports in 2013.

Footwear production takes place in several major geographical areas. Leading clusters are in:

- The Vale dos Sinos in the State of Rio Grande do Sul, in the south of Brazil, where women's leather shoes for export have traditionally been made (Since shoe exports, like all Brazil exports that are labor intensive, have declined sharply due to the strong local currency, a far lesser percentage of Brazilian shoe production takes place in the South than took place in the past.);

- Two in the State of Sao Paulo, Franca, a largely rural area where men's leather shoes are made, and Birigui, a similar area where children's and infants shoes are made, and;
- Several in the northeast of Brazil, Paraiba, where injected plastic items are made, Bahia, where athletic and other types for domestic consumption are produced, and Ceara, where much of the women's leather product is currently produced.

Shoe production in the state of Bahia now represents the core of the nation's shoe production, especially for the local market, as many entrepreneurs from the south of Brazil have relocated there to take advantage of low wage rates and ample local labor supply.

Absence of Child Labor in Brazilian Shoe Sector.

Perhaps no sector in any country has been more committed, active and successful in eradicating child labor than the Brazilian shoe sector. Indeed, the shoe industry in Brazil, represented by Abicalcados, has since the 1990s been committed to using no child labor anywhere in its supply chain, including their own factories, and any outsourcing entity.

Moreover, the Brazilian government, as acknowledged by DOL in the TDA and TVPRA reports, has done more than any other country to prevent and eliminate child labor within its borders. It has done so by attacking the root causes of such work, poverty and the culture of 'work is a blessing' by its unique programs of tying welfare payments to school attendance and through public education programs designed to change attitudes toward children in the workforce.

The result is clear -- child labor is eliminated from the Brazil shoe industry and the sector is committed to preventing its return through compliance initiatives and to supporting pro-child programs to foster child/adolescent development and to create attractive and effective alternatives to discourage underage employment.

The full extent of the efforts and positive results of the Brazilian shoe sector have been detailed in the four prior submissions to DOL, the dates of which were noted above.

To supplement the evidence of programs undertaken by the Brazil shoemaking sector to prevent underage persons in its shoe production explained in the earlier submissions, Abicalcados undertook a research project in the northeast state of Bahia in July of 2011. The results of the project were summarized in the January 14, 2014 submission to DOL.

Overview of Sources. Abicalcados makes the following observations on the characterization of the Brazilian footwear sector in the 2013 TDA report as a sector in Brazil employing 'children' in hazardous work, as defined in ILO C 182, which bans persons under 18 years of age from working in 'hazardous' jobs.

Neither ILO C 182 nor the Brazilian regulations implementing this norm declare all work in the footwear sector to be 'hazardous.' Brazilian shoe factories have a well-earned reputation for attention to factory

safety and healthy working conditions. This is driven by strict Brazilian regulation and enforcement, as well as strong labor unions that insist workers not be exposed to hazards.

As is detailed below, none of the sources cited in the 2013 TDA report by DOL contain any evidence that there are documented incidents of persons under the age of 18 engaged in 'hazardous' jobs in any footwear factory in Brazil.

1. Footnote 17. Reporting by the US Embassy-Brasilia, February 19, 2014. Since this document is not available to the public, we cannot comment on it. Efforts to obtain it from the embassy have not been successful. The embassy maintains that it is a confidential internal document, unavailable to the public.
 - a. From the way the footnote is placed in the TDA report, it is not clear to which sector or sectors that it applies. It may only apply to garments or to leather, which are listed along with footwear.
 - b. If the report contains probative evidence of significant underage workers in the shoe sector, the information should be made public so that the affected sector has the opportunity to review and comment on it. If it does not have such data, it should not be cited as public evidence of a sector's failure to comply with applicable law.
 - c. In any event, as a secret source, it can be of no value in proving use of child labor in the Brazilian shoe sector.
2. Footnote 25. Melo J. O Trabalho Infantil que Santa Catarina Não Vê: Não é Brincadeira; 2014, 17 min., 01 sec., [cited January 31, 2014]; <http://www.naoebrincadeira.com/#!audio/c1v9s>. This audio is a report by what appears to be a Santa Catarina-based non-governmental organization (NGO). The group apparently exists to disseminate information on child labor in the southern state. At one time during the lengthy audio report, it mentions footwear as a sector that employs child labor. Significantly, the report offers no evidence to support the allegation of such labor. No data or interviews are mentioned to support the allegation. A report without evidence is pure speculation and can have no probative value. Indeed, it is hard to understand why such a report is even included in the evidence against the Brazil shoe sector. It is hard to image how such a report fits the criteria DOL has set for itself for including evidence. This report does not seem to be an experience based analysis from a source that is familiar with international labor standards and that has a reputation for accuracy and objectivity.
3. Footnote 38. Reportagens Retratam Trabalho Infantil em Santa Catarina." reporterbrasil.org.br [online] January 20, 2014 [cited January 31, 2014]; <http://reporterbrasil.org.br/2014/01/reportagens-retratam-trabalho-infantil-em-santa-catarina/>. Like the NGO report in note 25, this web report, done by students for the journalism course at the Santa Catarina Federal University, offers no evidence of child labor in the state's shoe sector. This report also does not seem to be an experience based analysis from a source



that is familiar with international labor standards and that has a reputation for accuracy and objectivity. Such unsubstantiated assertions can have no probative value.

4. Footnote 40. Damázio M. "Acidentes de Trabalho Atingem 8 Mil Crianças e Adolescentes em SP desde 2006." redebrazilatual.com.br [online] October 1, 2013 [cited March 13, 2014]; <http://bit.ly/1gfiQHL>. This news article summarizes the rules in Brazil regarding prohibition of employing persons under 18 years of age in hazardous jobs. It quotes various officials on the law and the accidents such person have suffered in recent years going back to 2006. While the lead-in to the story mentions footwear manufacturing as a sector where such underage workers are employed, it offers no evidence of such workers in the shoe sector. It cites no statistics on the incidence of the issue in the shoe sector in the state of Sao Paulo and offers nothing beyond the bald assertion in the lead-in. Without substantiation, such a report has no probative value.
5. Footnote 41. . Ministry of Social Development and Fight Against Hunger. Programa de Erradicação do Trabalho Infantil (PETI): Redesenho Pactuado na CIT e Aprovado no CNAS em Abril de 2013. Brasilia; 2013. <http://bit.ly/1oQvnpn>. This wide-ranging report on the efforts of the Brazilian government to eradicate work by underage persons is a testament to the commitment of the authorities in Brazil to end the practice and to the progress that has been made. It uses the 2010 Brazilian census data to quantify the extent of child labor still in the society. It makes a passing reference to shoe production as one of an apparently large group of sectors that account for some 7% of the child labor noted in the 2010 census. It fails to specify what percentage is in the shoe sector. It may be that the shoe sector accounts for a very small percentage and that its incidence today is very limited, and really constitutes only occasional 'isolated incidences'.

Conclusion

The evidence of strong preventative measures by government in Brazil to combat child labor and the exemplary record of the Brazil shoe sector to respond proactively to the underage worker issue make clear that it is wrong to include the Brazil footwear sector in the current TVPRA list.

As noted, the Brazil footwear sector welcomes an investigation by DOL to confirm its status as an example of a responsible sector in ensuring the prevention of employment of underage workers.

We look forward to your response to our invitation.

Sincerely,

Heitor Klein

Executive President

