



January 14, 2014

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 Reports Issued by the Bureau of International Labor Affairs (ILAB) on September 30, 2013, Regarding Child Labor and Forced Labor in Foreign Countries –Docket No. DOL-2013-0003

Dear Acting Deputy Undersecretary Pier:

The Brazilian footwear industry association, Abicalcados, hereby responds to the Federal Register notice of December 3, 2013 (78 FR 72714-72715). This notice requests information for use by 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).

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.

The 2013 TVPRA list and the 2012 Findings on the Worst Forms of Child Labor (TDA report) were published September 30, 2013, and it is on these updates that Abicalcados comments.

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, as well as 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, and 2012 TVPRA lists include footwear from Brazil under the child labor designation. The evidence, however, supports the conclusion that the child labor problem in the Brazilian shoe sector (documented in the mid-1990s) was eliminated long ago.

Moreover, the 'isolated' instances cited in the 2012 TDA report that purportedly supports the inclusion of the Brazil footwear sector in the 2013 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.

The Brazil footwear sector is eager to have DOL undertake such a review and field research for its sector. It is confident that this procedure will clear it of the undeserved taint on its reputation conveyed by its seemingly 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. It was one of only ten countries studied in the report to receive a rating of 'Significant Advancement' from DOL in 2012.

'... 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.

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 200,000 thousand 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 \$25.0 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 was down only slightly in 2012.

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 0.6% of US shoe imports in 2012.

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 most 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, also a rural 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 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 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 three prior submissions to DOL, all of which are attached for your ready reference,

- the first dated April 9, 2010, responded to the request for information regarding the 2009 TVPRA list,
- the second dated, June 14, 2010, responded to the request for ‘best practices’ in combatting child labor, and
- the third dated May 20, 2011, responded to the request for information regarding the 2010 TVPRA list.

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 are summarized below.

Prevention of Child Labor in Bahia Shoe Factories

An on the ground investigation of more than a half dozen shoe factories in the State of Bahia during the first week of July 2011 was undertaken by Abicalcados, the Brazilian national shoe industry association, by the Syndicate of Shoe, Component and Artifacts of the State of Bahia and by Global Footwear Partnerships LLC.

The study revealed a heightened awareness of the need and commitment to exclude absolutely from any aspect of the supply chain the utilization of any underage person.

While there are hundreds of shoe factories in Bahia, the random selection process and nature of the shoe enterprises there (all are well-established firms, nearly all of which have relocated from the Rio Grande do Sul) ensure that the results of the investigation are highly representative of the sector at large in the state.

The defining characteristics of the shoe sector in Bahia are as follows.

- To ensure ample labor supply, each town/village supports only one shoe sector enterprise. This has been the approach since the beginning of the factory system some 15 years ago in the northeast of Brazil and it has led to the proliferation of factories in small towns/villages all over Bahia, encouraged by local governments that have vied with one another to attract the investment.
- The single facility system ensures limited competition for workers and allows the factories the ‘pick’ of the workforce.
 - Accordingly, factories routinely only employ workers at least 18 years of age. (While the Henrich document resume asks for parental permission if the applicant is under 18, the factory is, like all the others, regularly using only those

18 or older. Workers at least 16 can legally work in Brazil with certain restrictions.)

- Verifying that candidates were at least 18 years of age was true in all factories visited, each of which insisted on an inclusive range of candidate documents and certifications, proving the person’s age, legal status, work history, etc. (see the attached lists below from the HR departments).
- Given the multiple applicants for each position and the largely absent alternative manufacturing employment opportunities in each locale, factories have no difficulty in securing only persons of 18 years or more and only those with all proper identifications and certifications. (One factory noted that some 700 applicants sought some ten positions in a recent factory expansion.)
- A list of the factories visited follows, as does a representative sample of the rigorous standards that all factories visited use to prevent the employment of any underage workers.

Factory Visits in Bahia July 2011

| Name | City | Pairs per day | Comments |
|--------------|----------------------|---------------|--------------------|
| Dass | | 15,000 | Athletics for Nike |
| Sandalias | Irece | 15,000 | Injections sandals |
| All Foot | Salvador | 250 | Startup women's |
| Malu | Alagoinas | 1,500 | Comfort shoes |
| Castro Alves | Castro Alves | 5,000 | Athletic for Puma |
| Henrich | Conceicao do Almedia | 1,400 | Women's fashion |
| Bibi | Cruz das Almas | 7,500 | Kids, athletic |

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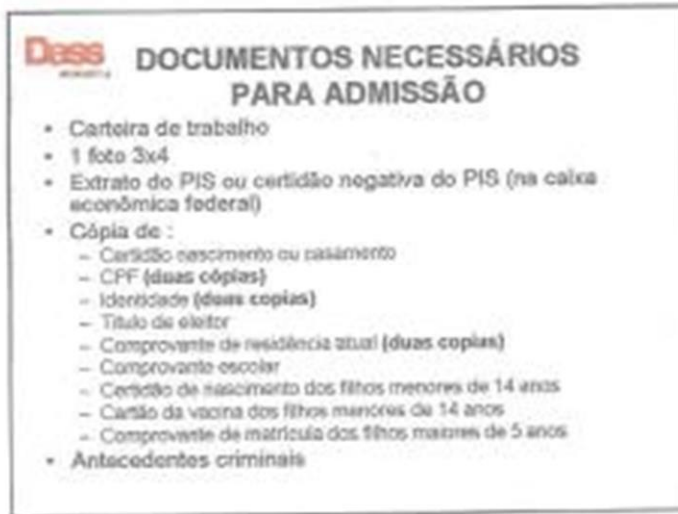
| RELAÇÃO DE DOCUMENTOS PARA ADMISSÃO: |
|--|
| CARTEIRA PROFISSIONAL; IDENTIDADE; CPF; TÍTULO DE ELEITOR; COMPROVANTE DE RESIDÊNCIA; CERTIFICADO DE CONCLUSÃO ESCOLAR; CERTIDÃO DE NASC. FILHOS; CARTEIRA DE VACINA DOS FILHOS; (03) FOTOS 3X4; SE FOR CASADO(A), CERTIDÃO DE CASAMENTO ABERTURA CONTA BANCO - DEPÓSITO SALÁRIO MENORES DE 18 ANOS (TRAZER PAIS OU RESPONSÁVEIS) |

DOCUMENTOS NECESSÁRIOS PARA ADMISSÃO

*Centro dos
F/10*

- EXAME MÉDICO (CLÍNICA ALERTA);
- CPF;
- REGISTRO DE IDENTIDADE;
- TÍTULO DE ELEITOR;
- CARTEIRA DE TRABALHO;
- CERTIDÃO DE CASAMENTO (SE FOR CASADO);
- CERTIDÃO DE NASCIMENTO DOS FILHOS MENORES DE 14 ANOS;
- COMPROVANTE DE ENDEREÇO;
- 2 FOTOS 3 X 4;
- CERTIFICADO DE RESERVISTA (PARA HOMENS);
- CARTÃO DE VACINA DOS FILHOS (ATÉ 7 ANOS) ATUALIZADO;
- CARTÃO DO PIS OU PASEB.

OBS: TODA A DOCUMENTAÇÃO DEVE SER XEROX, MENOS A CARTEIRA DE TRABALHO.



Overview of Sources.

The only references in the 2012 TDA report to underage footwear produced in Brazil are ‘...they also work in the production of garments and footwear.’ and a Ministry of Health statement claiming that minors (*i.e.*, those under 18 years of age) working in the ‘informal’ space making shoes in the state of Sao Paulo suffer occupational injuries. The footnotes are discussed below.

1. Footnote 14. Reporting by the US Embassy-Brasilia, February 15, 2013. 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. It is not clear to which assertion(s) that it applies to in the sentence to which it is attached. It may only apply to garments or to one or more of the numerous sectors other than footwear mentioned in the paragraph in which it is included. As such, it can be of no use in proving use of child labor in the Brazilian shoe sector.
2. Footnote 35. Ilha F. *No Sul, Trabalho Infantil Resiste como Herança Européia*, UOL Notícias, [online] September 9, 2009 [cited April 1, 2013]; <http://bit.ly/YOtEbo>. The only reference to footwear production in this report is based on the study done by Federal University of Rio Grande do Sul, ‘Diagnosis on Child Labor in Novo Hamburgo and Dois Irmaos’. This study was done in 1996. It is so out of date as to be of no value in characterizing the shoe sector in Brazil today. A full discussion of this now ancient study is set out in the Abicalcados submission to DOL dated May 10, 2011.
3. Footnote 43. Government of Minas Gerais. *Trabalho infantil e vida nas ruas: Crianças e Adolescentes em Minas Gerais*. Belo Horizonte; 2007. www.mp.mg.gov.br/portal/public/interno/arquivo/id/13825. The reference to shoe producers using underage workers in this survey is at best an isolated incident in one small shoe producing area of the country.
4. Footnote 44. META Instituto de Pesquisa de Opinião. *Primeira Pesquisa Censitária Nacional sobre Crianças e Adolescentes em Situação de Rua* Direitos da Criança; March 2011. <http://bit.ly/eIWHpM>. There is no reference to footwear production in this document.

5. Footnote 45. Oliveira M. *Dois menores sofrem acidente de trabalho por dia no Brasil*, Globo [online] October 15, 2011 [cited May 2, 2013]; <http://glo.bo/qokXNx>. According to the Ministry of Health, minors who work in shoemaking in the State of São Paulo are among a group of endeavors (including private catering and the retail trade) that suffer more occupational injuries than minors working in other fields. We offer several observations.
- a. There is no indication of how many reported injuries were associated with making shoes. Given the large number of activities likely covered by the reporting, the injuries attributed to shoemaking may in fact represent a small number of mishaps.
 - b. The Ministry of Health's statement says that its data is 'mainly' collected from accidents relating to 'informal work', not work in factories as such. There is very limited footwear work in the informal sector in Brazil today. Factories have no need for such arrangements, as most have now relocated to areas that have ample labor. Moreover, local governments, like that in the State of Sao Paolo, have made it difficult for informal workshops to operate, as there have, in the past, been instances when such venues were used to avoid paying all the requisite taxes.
 - c. The age for working in Brazil is 16, so that injuries suffered by workers 16 but less than 18, while most regrettable, are not a case of child labor according to Brazilian law, unless there is evidence that the work was at night or of a hazardous nature, as prohibited by Brazilian law. There are no statements in the news article that evidence such prohibited work. Indeed, with limited exceptions, most work in making shoes does not involve hazardous activities. This would especially be true in 'informal' settings where there would not likely be much in the way of machinery.

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