ABICALÇADOS
ASSOCIAÇÃO BRASILEIRA DAS INDÚSTRIAS DE CALÇADOS

May 20, 2011.

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 December 15, 2010, Regarding Child Labor and Forced Labor in Foreign Countries

Dear Deputy Undersecretary Polaski,

The Brazilian Footwear Industries Association, Abicalçados, hereby responds to the Federal Register notice of April 25, 2011 (76 FR 22921) requesting 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 first update to the list was published December 15, 2010 (2010 TVPRA report), and it is on that update that Abicalçados 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.

The 2009 and 2010 TVPRA lists include for Brazil, footwear under the child labor designation.

Abicalçados, the Brazilian Footwear Industries Association.

As the umbrella shoe organization in Brazil, Abicalçados 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 365,000 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 $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, the 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.

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 are made,
- 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
- the northeast of Brazil, Paraiba, where injected plastic items are made, Bahia, where athletic and other types for domestic consumption are produced, and Cera, where much of the women's leather export product is produced.

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 historically high levels, largely owing to the fabulous growth of the domestic market. In

2010, 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.

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.

Absence of Child Labor in Brazilian Shoe Sector.

The Brazilian government, as acknowledged by DOL in both TVPRA reports, has done more than any other country to prevent and eliminate child labor within its borders, 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. It has adopted both ILO child labor conventions, 138 (in 2001), and 182 (in 2000, and issued implementing regulations in 2008).

Moreover, perhaps no sector in any country has been more committed, active and successful in eradicating child labor than the Brazilian shoe sector.

The full extent of the efforts and positive results of the Brazilian shoe sector have been detailed in the two prior submissions to DOL, the first dated April 9, 2010, that responded to the request for information to the 2009 TVPRA list, and the second dated, June 14, 2010, that responded to the request for 'best practices' in combating child labor.

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.

The shoe sector has taken its responsibility to prevent and eliminate child labor seriously for nearly two decades by working with NGOs, creating legal arrangements to ensure compliance, enlisting independent auditors to verify compliance, and helping to fund private child and adolescent development programs – principally to supplement public school education -- designed to build stronger, self confident young people, prepared for work and adult life as they mature.

The result is clear -- child labor has been 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.

Overview of Sources.

All Sources Cited by DOL in its TVPRA Report on Brazilian Footwear Sector Are Out of Date and Outside the Scope of 'Timely' Sources Specified by DOL in its TVPRA Procedural Guidelines.

(1) Combating the Exploitation of Child Labor in the Footwear Industry of the Vale dos Sinos, Brazil, IPEC, Brasilia, April 2002 (IPEC report).

This report was issued in April 2002, more than nine years ago, which makes it well outside the 'timely' seven year window specified by the DOL procedural guidelines.

Moreover, there has not been any evidence of child labor in the Brazil shoe sector in any other study cited by DOL in the last decade, surely evidence that the problem, if it existed previously, has now been rectified.

Perhaps even more importantly, the only quantitative data on child labor in the shoe sector referenced by this report was gathered in the first part of 1996, data so old as to render it little more than an historical footnote. (Data for the 'Diagnosis on Child Labor in Novo Hamburgo and Dois Irmaos', prepared by the Federal University of Rio Grande do Sul (UFRGS), was collected in the second semester of 1996, at page 7 (UFRGS report).)

The other information on which the April 2002 IPEC report is based, utilized (1) evaluation reports of its extensive child labor efforts in Brazil, which evaluations were conducted in 1999, and (2) subsequent interviews with persons knowledgeable about the child labor subject in Brazil, which interviews were conducted in 2001. Thus, both sets of additional information relied upon in the IPEC report are more than ten years old.

Given the dated character of all the information on which the IPEC April 2002 report is based, DOL should no longer rely on its content in determining whether or not to include the Brazilian shoe sector in its next update of the TVPRA report.

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While we believe that the report is no longer of any value in assessing the current Brazilian shoe sector, it is pointed out once again (as it has been in the previous submissions) that the report on its face makes a compelling case for the position that any child labor that may have existed in the Brazilian shoe sector in the mid-90s was eradicated by the time the 2002 report was written.

The IPEC report tracks the situation in southern Brazil, the shoe making center of the country, detailing the successful efforts of government, and the commercial and NGO complex that aggressively tackled the child labor issue in the shoe sector in the 1990s.

The report makes the point repeatedly that child labor is nowhere to be found in the shoe sector in Brazil.

The report says categorically that as early as 1997, the hiring of minors 'exists neither in the footwear industry nor in the workshops', at page 14, and, later in the report, 'if there are children working in the municipalities they are no longer operating in the footwear-leather industry sector', at page 23. Further, the report states 'the indications indentified in the research show that child labour exploitation in industries and workshops in the footwear-leather sector is no longer present' at page 27.

Based on extensive interviewing in the Vale dos Sinos, the report concludes that 'it is no longer possible to find children or teenagers working in Footwear industries or workshops or in outsourcing locales', at page 40.

The report also makes clear that despite the conclusion of the IPEC project, 'this result [absence of child labor] continues' in the shoe sector, at page 29.

Again, as noted, this experience is a remarkable achievement and a model, really, for industry wide initiatives for combating child labor in a sector.

In evaluating this success story, it is important to keep in mind the powerful incentives and mechanisms that the shoe sector itself felt and utilized (and indeed still utilizes) that contributed so materially to the positive outcomes.

- The bulk of the shoe business in the Vale dos Sinos was concentrated on exports to the US and Europe. As a result, the very business model of the sector was put at risk from use of child labor in any part of the production supply chain, given the unrelenting and rigid ban on such employment by the international customers, who employed their own auditors to verify compliance.
- Moreover, the panoply of entities -- NGOs, unions, government at all levels, religious, etc. -- engaged in the project made the continued use of any children in any aspect of the production cycle a potentially explosive issue for any company that might even be tempted to outsource to an environment where there was even the possibility of child involvement.
- Also, peer pressure from the close knit shoe making community in the Vale dos Sinos, where the possibility of gaining an unfair advantage by using underage workers could bring exposure by disaffected competitors, provided yet another compelling reason to scrupulously avoid the practice.
- Not surprisingly, factories adhered to codes of conduct (prohibiting the use of child labor), policed out scouring with contracts to prohibit child labor, etc.

Based on the IPEC/ILO assessment and in the face of such powerful industry dynamics, it is hard to imagine why the DOL continues to include the Brazilian shoe sector in its list of child labor entities.

The hearsay based assertions in the IPEC report that child labor may be a 'possibility' in homes as a result of cottage industry outsourcing, surely fails to meet the DOL's own carefully crafted procedural standards for a child labor determination. Indeed, the report makes clear the 'difficulty in identifying and proving that child labor goes on in homes' at page 28, and that 'there is a lack of empirical and theoretical data on this matter' at page 15.

Even the one bit of survey evidence of 'home' based child labor cited in the IPEC report, the 1996 research interviews conducted by the Federal University of Rio Grande do Sul for the UFRGS report, is more than 15 years old and simply cannot be considered as 'timely' or of evidence of any current practice.

It is also worth noting that, in the old UFRGS report, the overall extent of child labor was only about 1% of the children included in the comprehensive survey done of all school children in the 7-13 age bracket in the studied areas -- itself probably not a 'significant' level (442 out of 38,061 school children surveyed, page 54 of UFRGS report). (The report noted that the census data and the school enrollment data were comparable and it found virtually no children working outside the school population.)

Moreover, the UFRGS survey found that the level of child labor in homes was a mere 13% of the total child labor, with all the rest found in micro and small enterprises, the entities that the IPEC evaluation found to be completely without child labor in its 2002 report (IPEC report at pages 13 and 40).

Consequently, the extent, if any, of children working in homes by 2002 was surely miniscule. It was clearly not the level of 'significant' presence stipulated by the DOL procedural guidelines.

Indeed, the whole outsourcing strategy described in the IPEC report, designed to save costs and make the Brazilian shoe sector more competitive with the emerging presence of China in the sector, turned out not to be effective enough and much of the export capacity was moved to the Northeast of Brazil where factory costs were lower. So by 2002 and the IPEC evaluation, the outsourcing by the shoe sector in the Rio Grande do Sul was much altered from the 1996 snap shot taken by the UFRGS -- the extent was reduced due to the exit of factories to other locales and the character improved by the factories policing child labor with codes of conduct, contracts, etc.

Most importantly, the 2002 assessment in the IPEC report makes clear that child labor had been eliminated in all 'outsourcing locales', at page 40, which surely means that those interviewed were not aware of any child labor in homes or anywhere else at that time, regardless of what may have been the case in 1996, when the original research was completed.

(2)Costs and Benefits of Eliminating Child Labour in Brazil, Dr.Ana Lucia Kassouf and Dr. Peter Dorman, ILO, IPEC, 2003.

This weighty economic analysis of the positive social/economic benefits of eliminating child labor in Brazil relies on national Brazilian statistics from 1999, and contains no research on the extent of child labor in the shoe sector. In fact, the footwear sector does not seem to have even been mentioned in the report.

Again the data on which it is based is so out of date as to be irrelevant to any serious appraisal of the current shoe industry in Brazil.

This document cannot seriously be considered to be either 'relevant' or 'corroborative' of the presence of child labor in the Brazilian shoe sector.

Conclusions.

As recognized by DOL, the Brazilian government has done more than any other country to prevent and eliminate child labor within its borders, 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.

In addition, the shoe sector, represented by Abicalcados, has taken seriously its responsibility to prevent and eliminate child labor everywhere in its supply chain, including their own factories, and any outsourcing entity. For nearly two decades, the sector has been working with NGOs, creating legal arrangements to ensure compliance, enlisting independent auditors to verify compliance, and helping to fund private child and adolescent development programs – principally to supplement public school education -- designed to build stronger, self confident young people, prepared for work and adult life as they mature.

The result is clear -- child labor has been eliminated from the Brazil shoe industry.

Furthermore, the sector is committed to preventing its return through compliance initiatives and through support of pro-child programs to foster child/adolescent development and to discourage underage employment.

It is also clear that the evidence cited by DOL to substantiate the inclusion of the Brazil shoe sector in its TVPRA list fails to meet the minimum standards set out in the DOL's own procedural guidelines.

All of the sources cited are out of date, and those cited fail to establish a 'significant incidence' of child labor, and the one most relied upon (the only one dealing with the shoe sector in Brazil), itself, makes a compelling case that child labor has been eradicated from the sector.

Moreover, there is no credible corroborative evidence cited that is relevant to the Brazil shoe sector.

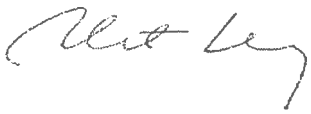
Finally, the sector is proud to point out that the Department of State, in its 2010 Country Report on Human Rights Practices for Brazil (released April 8, 2011), did not list the shoe sector among those sectors identified as involving children.

By leaving the shoe sector out of its report (after including the sector as one using child labor for many years), the Department of State has for the first time separated the exemplary record of the shoe sector from the weak child labor practices of various agricultural sectors and of some low value added rough work sectors like charcoal, bricks, etc.

We respectfully submit that it is time for the DOL to also recognize the record of the Brazilian shoe sector and to remove it from the TVPRA list.

Respectfully submitted,

ABICALCADOS – Brazilian Footwear Industries Association



Heitor Klein

Executive Director

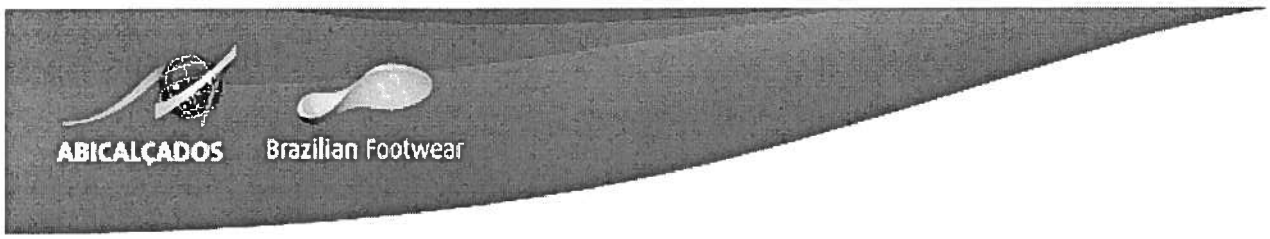
Vitas, Bogdan - ILAB

From: Rigby, Rachel - ILAB
Sent: Friday, May 20, 2011 3:49 PM
To: Wolkomir, Elizabeth D - ILAB
Subject: FW: DOCKET Nº DOL-2011-0002
Attachments: DOL SUBMISSION 20502011.docx

From: McCarter, Tina - ILAB
Sent: Friday, May 20, 2011 3:34 PM
To: Vitas, Bogdan - ILAB
Cc: Velasquez, Pilar - ILAB; Rigby, Rachel - ILAB
Subject: FW: DOCKET Nº DOL-2011-0002

Bogdan please create a folder under the TDA--TVPRA-EO folder for Brazil and save this there.
Thanks, Tina

From: Heitor Klein - Abicalçados [mailto:heitor@abicalcados.com.br]
Sent: Friday, May 20, 2011 3:09 PM
To: McCarter, Tina - ILAB
Subject: DOCKET Nº DOL-2011-0002



To Tina MacCarter
Bureau of International Labor Affairs
United States Department of Labor

Dear Ms. MacCarter,

According to the request for information published at the Federal Register of April 25th, 2011 (vol. 76, n° 79, page 22921) in name of the Brazilian Footwear Industries Association and representing the Brazilian footwear sector, we are glad to transmit the attached document concerning the subject.

We will apreciate a confirmation of good reception.

Sincerely yours,

Heitor Klein

Diretor Executivo
Executive Director

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