Supplemental Comments to Notice of Request for Information on Reports issued by the Bureau of International Labor Affairs (ILAB)

Apparel Brazil

September, 2013

Summary

1. The Brazilian Textile and Apparel Industry Association and the Industry's Outlook

Founded in 1957, the Brazilian Textile and Apparel Industry Association (Abit) represents all sub-sectors of the industry's production chain, which ranges from raw material suppliers to apparel producers, and includes from raw materials to the final products. It represents the largest integrated productive chain of the Western Hemisphere.

Brazil is the fifth largest textile manufacturer in the world and the fourth largest in apparel. It is self-sufficient in, and an exporter of, important raw inputs such as cotton. It is also making significant investments to become self-sufficient in other materials, such as polyester. Through the Brazilian textile and apparel industry was at the forefront of the process of industrialization in Brazil, it is also quite advanced and modern, having invested large amounts in machinery, equipment, technology, design, innovation, sustainability, new inputs, and natural and synthetic materials. In 2010, the sector invested US$ 2 billion. In 2011, investments amounted to US$ 2.4 billion, and in 2012, US$ 2.2 billion[1].

The Brazilian textile and apparel industry includes more than 32,000 companies[2] located throughout the Brazilian territory, with the capacity to meet its domestic demand and also export. Combined production amounts to US$ 58 billion,[3] which accounts for 5.5 percent of total industry in Brazil.

This is a labor intensive industry that creates many direct jobs, employing about 1.65 million people,[4] and over 4 million[5] people when indirect jobs and the income effect are taken into account. Considering that each family may have about 4 or 5 members, we can estimate that there are about 8 million Brazilians

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[1] Sources: Abit, *Instituto de Estudos e Marketing Industrial* (IEMI), Brazilian National Bank for Economic and Social Development (BNDES), and ALICEWEB system from the Brazilian Ministry of Development, Industry and Foreign Trade (MDIC).
[2] Source: IEMI. According to IEMI, active companies are those in business with at least 5 employees. The IEMI – Sectorial Report of the Brazilian Textile Industry is available in **Annex I**.
[3] Source: IEMI.
[4] Source: IEMI, based on data from the Brazilian Institute for Geography and Statistics (IBGE).
[5] Abit's projection based on the matrix "production-employment" created by BNDES in 2004.

who rely most directly on the jobs and income that are created by the textile and apparel industry.

Out of the overall 1.65 million direct jobs in the sector, about 1.2 million are associated with the apparel manufacturing segment. In other words, more than 70 percent of all jobs created along the textile and apparel productive chain are in the apparel segment.

The apparel segment in Brazil is present in each one of the Brazilian states, with producing companies located in almost all of the municipalities in those states. Most recent data from the Brazilian government (The Annual Social Information Record – RAIS) demonstrate that 26 percent of all apparel companies in Brazil are located in the state of São Paulo and a little more than half of which are concentrated in the city of São Paulo.

This is, therefore, one of the main job-creating industry sectors in overall Brazilian manufacturing. It is also located all across the country and employs people from all social backgrounds and educational levels.

2. The relationship between Brazil and the United States

Brazil and the United States have a very healthy and constructive relationship with regards to textile and apparel bilateral trading. Brazil is a relevant business partner with whom the United States had a surplus of US$ 92 million[6] on the textile and apparel sector (except cotton fiber) trade balance in 2012. Abit defends and has made efforts to deepen the relationship with the United States, and believes it is possible to reduce the current trade barriers, including through the signature of a free trade agreement.

The private sectors from both countries believe that a greater cooperation in the area of production and trade will contribute to their relationship and bring mutual benefits. Therefore, it is of common interest to encourage the expansion of trade and investment between Brazil and the United States.

[6] *Sistema ALICEWEB* [ALICEWEB System] - *Ministério de Desenvolvimento, Indústria e Comércio Exterior do Brasil* [Brazilian Ministry of Development, Industry and Foreign Trade]

Hence, in April 2008, Abit signed an MOU (Memorandum of Understanding) with AAFA (American Apparel & Footwear Association) - **Annex II** -, and also signed a MOU with NCTO (National Council of Textile Organizations) – **Annex III**. In these documents, the entities have committed to make efforts to achieve greater cooperation between the textile and apparel sectors from each country, maintaining a regular communication channel to discuss and establish actions related to the following topics: to promote trade by eliminating tariff and non-tariff barriers, investment, encouraging competitiveness, job creation, social inclusion, technological development, fighting against all kinds of illegal and unfair trade, common positions in international trade agreements that are being negotiated by both governments, among others.

Another example of the cooperative action for mutual benefit was the mission recently held (September 16 and 17, 2013) in North Carolina to stimulate innovation, competitiveness and partnership between the two countries. The mission included the participation of Abit and Brazilian academic institutions. Duke University, the University of North Carolina and the North Carolina State University were visited during the mission.

This initiative is expected to boost collaboration between Brazilian and American institutions and companies, stimulate trade between the two countries and help the two governments to better understand how to work with this industry in order to promote innovation and competitiveness.

3. Brazil and the fight against forced labor

Brazil has one of the most comprehensive and strict labor laws in the world. A sector of the Brazilian Judicial Branch is devoted exclusively to labor issues. Brazil also has a Ministry devoted exclusively to topics related to work and employment, a permanent structure to enforce laws and programs aimed specifically at the eradication of any eventual child or forced labor, and a deep engagement of the private sector through labor unions and employer organizations that have their activities regulated by law. Moreover, most of the

ongoing projects being discussed by the Brazilian Congress are focused on labor issues, seeking to modernize and expand the workers' rights and benefits.

3.1 Institutional framework

3.1.1 Judicial Branch

The Brazilian Labor Court rules over individual and collective conflicts between workers and employers. It is composed by labor judges who work in the lower courts (labor courts) and at the *Tribunais Regionais do Trabalho* [Regional Labor Courts] (TRT), in addition to the judges who work at the *Tribunal Superior do Trabalho* [Superior Labor Court] (TST), the highest Brazilian Labor Court. Brazil has 24 (twenty-four) Regional Courts represented in the states through Labor Courts, where judges analyze and resolve labor disputes.

The Structure of the Brazilian Labor Courts

- 1,587 Labor Courts
- 24 Regional Labor Courts
  - Judging Panels
  - S.D.I. - Individual Disputes Section
  - S.D.C. - Collective Disputes Section
- Superior Labor Court - TST
  27 judges appointed by the President and confirmed by the Senate.
- *Supremo Tribunal Federal* [Federal Supreme Court] - STF

The Labor Court organization and the jurisprudence unification are determined by the Superior Labor Court - TST, which operates in conjunction with the *Conselho Superior da Justiça do Trabalho* [Labor Court Superior Council] (CSJT) and the *Escola Nacional de Formação e Aperfeiçoamento de Magistrado do Trabalho* [National School for the Development and Improvement of Labor Judges] (ENAMAT).

3.1.2 The Public Ministry of Labor

The *Ministério Público do Trabalho* [Public Ministry of Labor] (MPT)[7], one of the branches of the *Ministério Público da União* [Federal Public Ministry], has functional and administrative autonomy and acts independently from the Legislative, Executive and Judiciary Branches. The labor prosecutors' role is to protect the diffuse, collective and individual rights concerning illegal practices found in the labor field, such as those related to forced labor, child labor, discrimination, health and workplace safety.

The MPT's structure includes the Attorney General, which is based in Brasília (DF), 24 *Procuradorias Regionais do Trabalho* [Regional Labor Prosecutors Offices], located in each State capital, and 100 *Procuradorias do Trabalho* [Labor Prosecutors Offices], found in the main Brazilian cities.

The Eradication of Slave Labor Program was created by the MPT to eliminate slave-like working conditions through judicial and extrajudicial proceedings in order to punish employers, prevent illegal actions, and ensure the workers' participation in the labor market, enjoying all rights established by Law.

3.1.3 Ministry of Labor and Employment

There is a Ministry that acts exclusively in the area of labor and employment, *Ministério do Trabalho e Emprego* [Ministry of Labor and Employment] (MTE), with a permanent structure that enables the enforcement of laws throughout the country, and specific programs focused on eradicating any child or forced labor.

Regarding specific actions of the Ministry of Labor and Employment, it outstands the work conducted by the *Secretaria de Inspeção do Trabalho* [Secretariat of Labor Inspection] (SIT) through 27 *Superintendências Regionais do Trabalho e Emprego* [Regional Superintendencies of Labor and Employment] - SRTEs, decentralized MTE units found in all 26 states and at the Federal District, in addition to the *Grupo Especial de Fiscalização Móvel*

[7] Public Ministry of Labor - http://portal.mpt.gov.br/wps/portal/portal_do_mpt/mpt_home/

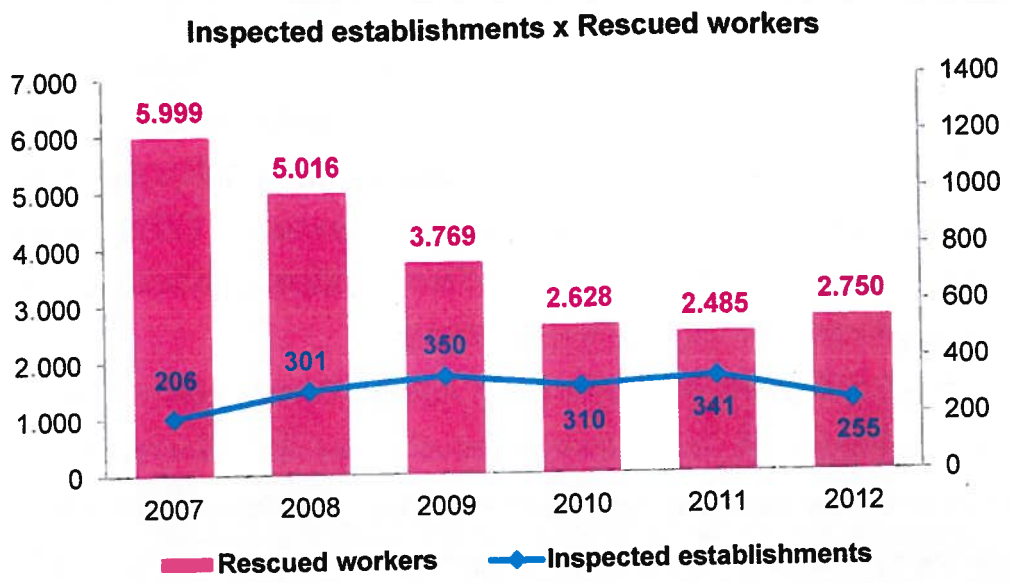
[Special Mobile Inspection Group] (GEFM) formed by auditors - who coordinate field operations - federal police officers and prosecutors from the Public Ministry of Labor. The inspection for the eradication of slave-like working conditions has specific financial allocation and a specific division within SIT's *Departamento de Fiscalização do Trabalho* [Labor Inspection Department] (DEFIT): the *Divisão de Fiscalização para a Erradicação do Trabalho Escravo* [Division of Inspection for the Eradication of Slave Labor] (DETRAE).

The main purpose of the Front Against Slave Labor is to eradicate it through coordinated inspections conducted by the Secretariat of Labor Inspection at the locations previously identified. The labor inspection aims to regularize the workers' employment contracts.

The work done by the tax auditors aims the following topics: rescue people who are found in degrading conditions, ensure that workers receive their labor dues, provide basic documents such as the Employment Record Card, guarantee that the unemployment insurance payment is made, redirect the workers to qualification courses in order to place them in the local labor market, and if necessary, redirect workers to their places of origin.

Data published by DETRAE[8] show that in 2012, 255 establishments were inspected, a 24% increase compared to 2007. In the same year 2,750 workers were rescued from poor working conditions, 54% less than recorded in 2007, as can be seen in the chart below – **Annex IV**. The increase in number of inspections and the reduction of employees under irregular situations demonstrate the result of inspections and punitive actions taken by the Brazilian government.

[8] Ministry of Labor and Employment - http://portal.mte.gov.br/data/files/8A7C812D3DCADFC3013EE7228E9E6B75/Quadro%201995%20X%202012.%20Internet.%20Atualizado%2027.05.2013.pdf



Source: DETRAE Report – Ministry of Labor and Employment

On DETRAE's 2012[9] detailed report, we can see that 22 field actions were conducted in the urban area, and in 17 of these actions 577 employees were rescued, only 32 of whom were rescued from activities in the apparel sector. The state with the largest number of inspect actions was São Paulo, with 8 actions and 213 rescued workers (of all sectors) – **Annex V**.

3.1.4 Commissions

Among the governmental structures that work directly with issues related to forced labor, it is important to mention that there are Commissions in different spheres of government to propose and monitor public policies for the eradication of slave labor.

In 2003, the *Comissão Nacional para a Erradicação do Trabalho Escravo* [National Commission on the Eradication of Slave Labor] (CONATRAE)[10] was created at a national level. CONATRAE is a collegiate body whose nature is deliberative, purposeful and inspective of the actions established in the *Plano Nacional para a Erradicação do Trabalho Escravo* [National Plan to Eradicate Slave Labor] and in its updates. It is linked to the *Secretaria Especial dos*

[9] Repórter Brasil - http://reporterbrasil.org.br/wp-content/uploads/2013/05/DETRAE-RESULTADOS-2012.pdf
[10] Ministry of Justice - https://www.planalto.gov.br/ccivil_03/DNN/2003/Dnn9943.htm - **Annex VI**

Direitos Humanos [Special Secretariat for Human Rights] of the Presidency, which is chaired by the Secretariat's Chief Minister, and comprised of several federal agencies. In addition, representatives from public and private institutions, who have activities related to the fight against slave labor, act as observers.

Several Brazilian States have their own Commissions. In the state of São Paulo, the *Comissão Estadual para a Erradicação do Trabalho Escravo* [State Commission for the Eradication of Slave Labor] (COETRAE/SP)[11] was established in September 2011 aimed at proposing mechanisms for the prevention and combat of slave labor in the state.

In June 2013, the II National Meeting of State Commissions for the Eradication of Slave Labor was held in the state of Maranhão, aimed to exchange experiences and knowledge of successful actions among states.

Municipal initiatives have also been identified. At an open meeting with civil society organizations and government officials, held in January 2013, a plan to create a municipal committee in the city of São Paulo was announced[12].

The mainstreaming of public policies and the joint work of different government areas in Brazil are essential to the advances that have been achieved regarding the eradication of slave-like labor.

3.2 Legal framework

Articles 7 and 8 of the Brazilian Constitution includes a regulation which is exclusively focused on disciplining and ensuring workers' labor and trade union rights, whether urban or rural.

At the Federal level, Decree-Law No. 5452/1943, in force for 70 years under the *Consolidação das Leis do Trabalho* [Consolidation of Labor Laws] (CLT), regulates the individual and collective rights of Brazilian and foreign workers, union organizations and the judicial labor proceedings.

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[11] São Paulo State Government - http://perfil.sp.gov.br/site/legislacaoi.asp?atoid=22148 – **Annex VII**

[12] São Paulo State Government - http://www.justica.sp.gov.br/novo_site/Noticia.asp?Noticia=5752 – **Annex VIII**

In the criminal sphere, through the Criminal Code - Decree-Law No. 2848/40, specifically in Articles 149, 203 and 207, Brazil typifies any action that submits a person to slavery or slave-like conditions, either by imposing forced labor, extensive workdays, degrading conditions, restriction of movement, or by imposing a debt with the employer.

There are Regulatory Standards and Ordinances from the Ministry of Labor and Employment that enforces the legal control of labor relationships. An example is Ordinance No. 3214/1978 which approved the Regulatory Standards (a total of 28) inserted in Chapter V of title II of the CLT, relating to workplace safety and occupational medicine.

Regarding specifically to the employment of foreigners, a Legislation was implemented within the Ministry of Justice and Ministry of Labor and Employment as Normative Resolutions, which regulates the employment of foreigners in Brazil, and controls the entire bureaucratic process to obtain work visas. The *Conselho Nacional de Imigração* [National Immigration Council] (CNI), established in 1980 under the Ministry of Labor, focuses on formulating policies, coordinating and directing immigration activities, and voicing its opinion related to legislative changes on the subject, whenever these are proposed by an agency of the Executive Branch.

In terms of the immigrants' citizenship in Brazil, two advances should be highlighted. Within Mercosur, one of the most significant achievements was the Free Traffic and Residence for Nationals - Decree No. 6964 dated September 29, 2009, which promulgates the Residence for Mercosur Member-States' Nationals Agreement (Argentina, Brazil, Uruguay and Paraguay), Bolivia and Chile (Decree No. 6975 dated October 7, 2009). This allowed Argentines, Bolivians, Chileans, Paraguayans and Uruguayans to live and work legally in Brazil.

Another important achievement was Law No. 11961/2009, called the *Lei de Anistia Migratória* [Migratory Amnesty Law], which granted temporary residence valid for two (2) years for foreigners who were living undocumented in Brazil.

3.3 Governmental actions

Brazil has been recognized in the international community for its significant progress in the fight against forced labor in terms of legislation, enforcement and punishment, and also related to how to treat immigrants who should be legalized and have labor rights just as any Brazilian citizen.

Governmental actions in Brazil are in compliance with the ILO - International Labor Organization - conventions, organization that has been working in the fight against slavery and slave-like labor around the world.

The first Conventions on forced labor were held in 1930 (Convention 29) and in 1957 (Convention 105), reaffirmed by the Declaration on Fundamental Principles and Rights at Work, in 1998. These conventions were endorsed by Brazil, and since then they have been enforced in the country through legislative or socioeconomic measures for the eradication of slave labor. Some of them deserve special attention and will be presented below.

3.3.1 At the Federal level:

National Plan for the Eradication of Slave Labor

Its first version was created in 2003, emphasized on the repression structure – **Annex IX**. Its second version, released in 2008,[13] included the prevention and reintegration of workers, investing in actions that generate income and education, as well as economic punishment of exploiters. The Plan was developed by Conatrae (*Comissão Nacional para a Erradicação do Trabalho Escravo* [National Commission for the Eradication of Slave Labor]), and the parties responsible for the established goals are branches of the Executive, Legislative and Judiciary, together with civil society organizations and the ILO.

[13] Brazilian Secretariat for Human Rights - http://www.sedh.gov.br/acessoainformacao/acoes-e programas/2o_plano_nacional%20combate%20a%20tortura.pdf – **Annex X**

***Proposta de Emenda Constitucional* [Proposal for Constitutional Amendment] (PEC) regarding Slave Labor (No. 57-A/1999)**

The PEC, which is under debate in Congress[14], determines that rural and urban properties in any region of the country where slave labor is identified will be expropriated and destined to land reform and housing programs without any compensation to the owner. The PEC was approved by the House of Representatives in May 2012 and it is currently in the Senate for review. On June 26, 2013 it was approved by the *Comissão de Constituição, Justiça e Cidadania* [Constitution, Justice and Citizenship Committee], and now is currently waiting for the elaboration of two bills that will regulate the PEC so it can be forwarded for voting in a plenary session.

***Lista suja* [Blacklist]**

There is a structured and permanent work developed by the Brazilian government related to this topic, such as the fines imposed by the Ministry of Labor and Employment (MTE), the convictions arising from the Public Ministry of Labor and the Ministry of Labor Justice's actions, the criminal trials and proceedings, and the boycott that can be practiced by companies and banks through restrictions to employers included in the "Blacklist". The Employer Offender Register, better known as "Blacklist", was created in 2004 by the MTE with the publication of Ordinance No. 540, and has been a major tool in the fight against worker exploitation – **Annex XII**. The list is public and contains the names of employers caught exploiting workers under slave-like conditions. In addition to sustaining legal action, employers are restricted of access to public and private funding. The employer's name remains on the list for two years, and during this period he must ensure that all pending issues with the government and the workers are settled before his name can be erased from the list.

This registration is published by the federal government at the Ministry of Labor and Employment's website[15]. In addition to the transparency of such

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[14] Federal Senate: http://www.senado.gov.br/atividade/materia/detalhes.asp?p_cod_mate=105791 – **Annex XI**

[15] Ministry of Labor and Employment - http://portal.mte.gov.br/trab_escravo/portaria-do-mte-cria-cadastro-de-empresas-e-pessoas-autuadas-por-exploracao-do-trabalho-escravo.htm

information, the ILO, the Ethos Institute and the NGO *Repórter Brasil* developed a simplified system to search the registration records, allowing anyone to verify whether a company is included on the list. According to *Repórter Brasil*, this tool is very important because it allows a quick verification of which companies should be excluded from their supplier lists[16].

Comissão Parlamentar de Inquérito [Parliamentary Investigation Commission] (CPI) regarding Slave Labor – House of Representatives

The CPI was created and established on March 28, 2012, by House of Representatives, and its purpose is to investigate slavery or slave-like labor in rural and urban activities throughout the national territory – **Annex XIII**.

Senate Bill No. 290 - Brazil

The new Senate Bill No. 290, introduced in July 2013 by Senator Vital do Rêgo, provides the cancellation of the *Cadastro Nacional da Pessoa Jurídica* [National Register of Legal Entities] (CNPJ) of the establishments that market products where manufacturing process or its raw material production involved behaviors related to slave-like conditions – **Annex XIV**. The Project was distributed to the *Comissão de Assuntos Sociais* [Social Affairs Committee] and to the *Comissão de Direitos Humanos* e *de Legislação Participativa* [Human Rights and Participative Legislation Committee], which is responsible for the final decision (without being submitted for voting in a plenary session). This initiative was inspired by Law No. 14946/2013 from state of São Paulo, which will be discussed below.

Pronatec and its extension to immigrants

The *Programa Nacional de Acesso ao Ensino Técnico e Emprego* [National Program for Access to Technical Education and Employment] (Pronatec) is a federal program whose purpose is to provide professional education to students, workers, people with disabilities and beneficiaries of

[16] Repórter Brasil - http://www.reporterbrasil.org.br/pacto/listasuja/info/pt

federal income transfer programs. The program is part of a national development strategy which seeks to integrate the workers' professional qualification by expanding their school level, thus becoming an instrument for encouraging professional development, inclusion and promotion of citizenship.

Pronatec's initiatives include the *Bolsa-Formação Trabalhador* [Worker Education Grant], whose goal is to promote the provision of *Formação Inicial e Continuada* [Initial and Continuing Education] (FIC) with a minimum course load of 160 hours. In order to direct Pronatec's Worker Education Grant, the Ministry of Education developed a guide which, in its latest version, includes 518 courses to choose from, distributed into 13 technological fields, according to their scientific and technological features.

Pronatec's FIC Course Guide is updated periodically and serves as a tool that coordinates course offers, contributing to the establishment of a public policy whose main purpose is to bring the labor market closer to the Education universe.

Pronatec's courses are offered by schools from the Federal Network for Professional and Technological Education (Federal Institutes, *Centro Federal de Educação Tecnológica* [Federal Center for Technological Education] - CEFET, and Technical Schools linked to Federal Universities), by entities from the National Learning Systems (Senai[17], Senac[18], Senat[19] and Senar[20]), and by the State Public Education System, with support from the Ministry of Education.

Among the courses offered by these schools is the apparel production: 500 course vacancies will be exclusively dedicated to immigrant workers until the end of 2013. At the end of the course, these students will receive an Employment Record Card which will enable them to enter the labor market in a formal way, reducing the vulnerability of these people who have been the target of slave-like labor conditions.

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[17] *Serviço Nacional de Aprendizagem Industrial* [National Service for Industrial Learning]
[18] *Serviço Nacional de Aprendizagem Comercial* [National Service for Commercial Learning]
[19] *Serviço Nacional de Aprendizagem do Transporte* [National Service for Transport Learning]
[20] *Serviço Nacional de Aprendizagem Rural* [National Service for Rural Learning]

3.3.2 At the São Paulo State level:

Law No. 14946/2013 – State of São Paulo

One of the most significant and recent advances in the fight against forced labor was the adoption of the Bill No. 1034/2011 by the *Assembleia Legislativa do Estado de São Paulo* ["São Paulo House of Representatives"] (Alesp), which was signed by Governor Geraldo Alckmin on January 28, 2013 (Law No. 14946) – **Annex XV**. The project aims to suspend the registration of the companies if they are caught using labor under slave-like situation. The Bill anticipates that companies that directly or indirectly benefit from this kind of labor will be prevented from exercising the same type of economic activity, or from opening a new company, for a period of 10 years.

The law has determined that the State Commission for the Eradication of Slave Labor - COETRAE/SP is responsible for "coordinating with the agencies of the Judicial Branch and relevant administrative authorities to investigate and determine the practice of any activity that takes a person to slave-like labor conditions, submitting to the Department of Finance all the information necessary to initiate administrative proceedings to suspend the company's enrollment in the ICMS taxpayer registration list, pursuant to Law No. 14946 dated January 28, 2013"[21]. This is one of Brazil's most stringent laws against forced labor within the economic sector, and it sets an example for the rest of the country and the world.

During an event, in June 2013, State Representative Carlos Alberto Bezerra Junior, who wrote the Bill, commented on the international impact the legislation has made. "After its implementation we have received partnership proposals from NGO *Free The Slaves* to implement similar measures in Africa and Asia. **We also signed a cooperation agreement with the U.S. Ambassador of the Office to Monitor and Combat Human Trafficking, for the creation of a binational forum based in São Paulo and California,**

[21] Decree No. 59171 dated May 13, 2013 (SP) - http://perfil.sp.gov.br/site/legislacaoi.asp?atoid=22290 – **Annex XVI**

where experts and researchers join forces to sponsor more initiatives to combat contemporary slavery and to defend Human Rights"[22].

3.4 Public-private and private sectors actions

The private sector is extremely active in promoting and adopting best labor practices in partnership with or complementing the actions of the public sector. Actions involving the private sector have great potential to generate structural changes that benefit the entire production chain. The investigations and fines imposed by the government often result in the development of positive actions by the companies.

Following are a few examples of the industry's advances in incorporating socially responsible practices.

3.4.1 At the Federal level:

The UN's Global Compact

The Global Compact[23] is an initiative developed by the UN which seeks to mobilize the international business community to adopt fundamental and internationally recognized values regarding several topics through 10 principles, one being "the elimination of all forms of forced or compulsory labor". It is a voluntary initiative that provides guidelines for promoting sustainable growth and citizenship through business leaders committed to those ideals. As representative of the entire textile and apparel industry, Abit believes that this is an important initiative to contribute to the improvement of business practices, and therefore signed the Pact in May 2012 – **Annex XVIII**.

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[22] Congressman Carlos Bezerra Jr.'s website - http://www.carlosbezerrajr.com.br/noticias/bezerra-jr-participa-de-encontro-nacional-para-erradicacao-do-trabalho-escravo - **Annex XVII**

[23] The Brazilian Network Global Pact - http://www.pactoglobal.org.br/default.aspx

National Pact for the Eradication of Slave Labor

The agreement's[24] objective is to implement tools to ensure that the business sector and the Brazilian society do not market products from suppliers that use slave labor. In 2004, after conducting a major study to identify production chains with incidence of this type of work, the Ethos Institute, the International Labor Organization (ILO) and *Repórter Brasil* coordinated meetings with the companies identified by the study as being involved with such violations. The conversations evolved, leading to the launch, in 2005, of the National Pact for the Eradication of Slave Labor in order to fight against slave labor in the country. Due to its importance, the Pact was incorporated into the 2nd National Plan (2008) for the Eradication of Slave Labor, thus becoming a public policy.

According to the agreement's website, 220 companies, associations and civil society organizations have already joined the initiative, whose representation coverage accounts for more than 20% of the Brazilian GDP. With the support of a committee created by the Pact, they have complied with all their commitments, by declining to do business with companies that use slave labor, adopting contractual clauses related to the topic, implementing measures to track products, and enabling their employees and business partners to combat the problem. Abit has signed the Pact and promotes the initiative since 2005 – **Annex XIX**.

The *Qual* Seal

Brand compliance of the Brazilian Program for Self-Regulation of Professional, Military, School Apparel and in general, certifies apparel manufacturing companies that are socially and environmentally responsible and follow quality rules and standards. The certification is granted by *organismos de certificação de produto* [product certification agencies] (OCP) accredited by INMETRO (*Instituto Nacional de Metrologia, Qualidade e Tecnologia* [National Institute of Metrology, Quality and Technology]) after it evaluates specific items and conducts periodic tests on samples, and also evaluates management

[24] National Pact for the Eradication of Slave Labor - http://www.pactonacional.com.br/

systems related to quality, the environment and social responsibility. It is a market differential that adds value to the product, and enables competitive advantages offered to companies that demonstrate good administrative and commercial practices, ensuring consumers (buyers and users) and society that the production compliance requirements have been reached.

The Program was created in 2006, coordinated by Abit and supported by ABDI (*Agência Brasileira de Desenvolvimento Industrial* [Brazilian Industrial Development Agency]) – **Annex XX**. It is based on the certification model recommended by the Conformity Assessment Committee of the International Standardization Organization ISO/Casco, which establishes the certification grant, maintenance and renewal.

Among other practices, the use of *QUAL* SEAL certifies that the product manufacturer does not use undocumented, forced and/or child labor in its production process, and that the company complies with environmental standards by not discarding waste that pollutes the environment, in addition to being socially responsible.

In the beginning, this certification focused on professional apparel, but currently it has been extended to any type of apparel, and the other segments of the textile productive chain.

Qualification Program for Retail Suppliers - Associação Brasileira do Varejo Têxtil [Brazilian Association of Textile Retail] (Abvtex)

The Program was created in 2010, and addresses issues related to the labor conditions in the textile retail supply chain, through the qualification of suppliers and their subcontractors, promoting a unified control of this qualification – **Annex XXI**. That is, a supplier or subcontractor qualified by the Program would be able to participate in the supply chain of any of the retailers included in the Program, as they would be considered to be compliant with the requirements related to the working conditions of their facilities.

The companies conduct an impartial and independent audit in order to verify its and suppliers and its subcontractors compliance with the requirements established by the Program. The audit enables retailers to develop a unique qualification, which allows those who participate in the Program to manage their

suppliers and subcontractors regarding compliance with social responsibilities and labor relationships.

The program covers practices, commitments and management aspects related to the following topics: child labor, forced or slave-like labor; undocumented foreign labor; discrimination; abuse and harassment; health and safety; monitoring and documentation; compensation for hours worked; benefits; monitoring of the production chain; environment and others.

3.4.2 At the São Paulo State level:

Pact Against Precarious Work and for Decent Labor and Employment in state of São Paulo - Apparel Manufacture Production Chain

The Pact[25] was signed in 2009 by the Ministry of Labor and Employment through its Regional Office in city of São Paulo, and by several other agencies and entities, including Abit – **Annex XXII**. Its goal is to improve the working conditions of immigrants who work in the apparel sector in state of São Paulo in any function of the production chain. The Pact involves three items:

- ✓ Promoting life and work quality from an economic and social standpoint, establishing minimum criteria regarding legislation, health and safety in the workplace;
- ✓ Accountability in cases of non-compliance with labor standards and other irregularities;
- ✓ Establishment of the *Observatório do Imigrante* [Immigrant Observatory], an independent entity created to monitor the immigrants' condition in state of São Paulo, and provide information to these communities.

On the other hand, companies, shops, apparel manufacturers, immigrant associations and representatives have committed to accept assistance and guidance to correct any irregular situation. The Ministry of Labor and Employment (MTE) and other agencies have been prioritizing inspections in companies that chose to stay outside the pact and legality.

[25] Repórter Brasil - http://www.reporterbrasil.org.br/pacto/noticias/view/169

From the moment the Pact was signed, SRTE/SP has intensified the inspections to identify hiring frauds, degrading and/or forced labor, and cases of job precariousness due to illegal hiring of foreign workers.

3.5 Civil society organizations

In addition to all public and private actions already implemented in Brazil, civil society organizations are constantly working in the fight against slave work and in providing support to immigrants, which is the most vulnerable group. Some of these organizations are highlighted below:

***Centro de Apoio ao Migrante* [Migrant Support Center] - CAMI:** Created in 2005, the Migrant Support Center is considered a reference in the promotion and protection of migrants' human rights. It offers expert legal advice and assistance in regularizing migrant status. It also promotes activities aimed at strengthening the migrant's citizenship and social and digital inclusion.

Migrant Pastoral Center - Peace Mission: Provides reception, instruction, and socio-religious integration for migrants under the guidelines of the Congregation of Missionaries and Scalabrinians, operating in Brazil closely connected with the Department of Human Mobility of the Episcopal Commission for the Service of Charity, Justice and Peace - CNBB (*Conferência Nacional dos Bispos do Brasil* [National Conference of Brazilian Bishops]) and the Pastoral Service for Migrants.

***Centro de Direitos Humanos e Cidadania do Imigrante* [Center for Human Rights and Immigrant Citizenship] - CDHIC:** An organization whose goal is to promote, organize, and conduct joint actions aimed at building a migration policy that respects human, economic, social, cultural and environmental rights of migrants and their families in Brazil. The organization has an outstanding record in promoting direct actions on advice for migratory regularization, and wide experience related to training activities, also been a relevant information

channel, focused on the sustainability of the immigrants' ventures and on ensuring decent working conditions for everyone.

Ethos Institute / Uniethos - Training and Development of Socially Responsible Management: A civil society organization of public interest that provides services to companies in order to develop business sustainability. It counts on the participation of stakeholders and the establishment of partnerships that contribute to expand market competitiveness and generate value for society. Uniethos works with the Ethos Institute with a joint strategy to promote changes in the economy and in business practices.

Repórter Brasil: Source of specialized information on slave labor, founded in 2001 by journalists, social scientists and educators in order to encourage reflection and actions regarding the violation of the fundamental rights of people and workers in Brazil. It performs reports, investigations, researches and applies educational methodologies regarding slave labor in the country.

International Labor Organization - ILO in Brazil: Agency of the United Nations, whose mission is to promote opportunities for men and women to have access to a decent and productive job, under conditions where they can enjoy freedom, equity, security and dignity. ILO has been present in Brazil since the 1950s. In addition to the permanent promotion of International Labor Standards, employment, improvement of working conditions and the expansion of social protection, ILO's role in Brazil has been defined in recent years by its nationwide support for promoting decent work in important areas such as the fight against forced labor, child labor and human trafficking for sexual and commercial exploitation, promoting equal opportunities and treatment (race and gender) in workplace, and the promotion of decent work for young people, among others.

4. Conclusion

On September 26, 2012 the U.S. Department of Labor published its annual report entitled "List of Goods Produced by Child Labor or Forced Labor". To our surprise, this publication states that "there is reason to believe that there is forced labor" in the apparel production in Brazil. We understand that this statement was based primarily on news reported by the media, which mention cases found during investigations conducted by the Brazilian government.

The comprehensive, intensive and successful work conducted by the Brazilian government with cooperation from the private sector resulted in the identification and punishment of a few isolated cases of abusive practices related to immigrants' labor relationships in the apparel production in the city of São Paulo.

Clearly these few isolated cases are linked to irregular activities headed by people who are taking advantage of the good period that the domestic apparel market is going through, and the migration of people seeking a better life in Brazil. These few cases within the context of an industry of 32,000 companies and 1.65 million direct workers cannot, under any circumstances, be confused with the concept followed by the DoL in its report regarding the "significant incidence" of forced labor in the sector. Neither can the good work being done by the Brazilian government and its transparency to Brazilians and the international community, serve as a parameter to reach a conclusion of a "significant incidence" of forced labor in the apparel segment.

A misconception of this magnitude may have been responsible for the inclusion of the Brazilian apparel sector in such list, which does not correspond to reality. That places us in the same classification as countries that may not apply the same efforts to identify and combat such practices, which are not transparent, which control and manipulate the media, and probably have a "significant incidence" of forced labor.

The Brazilian democracy values its transparency when it comes to information regarding cases of forced labor and the actions taken to combat this practice. Brazil is strongly opposed to any form of human rights violation.

We follow our labor and environmental rules, which are just as strict, if not stricter than any other countries, including the more developed ones.

Possible violations of the law may occur (as they occur throughout the world). However, in the Brazilian case, these violations - which are not frequent - have been properly identified and punished according to our legislation. The incidents involving the apparel segment, concentrated in the city of São Paulo, do not reflect the reality of the sector as a whole, which as previously mentioned, is present in all regions of the country and has 1.65 million direct workers.

The public and private sectors will continue to work so that practices such as these are extinct, fulfilling their responsibility towards the Brazilian and international communities. We have been working continuously on the following fronts:

- ✓ Full institutional framework with structures (the Judicial Branch, the Public Ministry, the Ministry of Labor and Employment and commissions) dedicated exclusively to labor issues;
- ✓ Strict labor laws being constantly updated, to ensure that the workers' rights are guaranteed, to identify slavery and slave-like labor conditions and to provide punishments;
- ✓ Advancement of the actions taken by the Brazilian government towards combating forced labor in terms of investigation, punishment and treatment of immigrants;
- ✓ Encouragement to the private sector to promote and adopt the best labor practices in partnership with or in addition to the actions of the public sector;
- ✓ Constant work performed by civil society organizations in the fight against slavery and in providing support to immigrants, which is the most vulnerable group.

We trust that the DoL will use the information presented here to conduct a review of its findings and actually enforce the purposes for which the report was developed. It does not seem reasonable to us that some countries are listed as violators of the rules regarding labor protection due to their transparency and actions developed to combat abusive practices, and others are benefited by manipulating and hiding information, in addition to not applying the proper efforts against forced and/or child labor.

Annexes

Annex I – IEMI – Sectorial Report of the Brazilian Textile Industry

Annex II - Memorandum of Understanding with AAFA (American Apparel & Footwear Association)

Annex III - Memorandum of Understanding with NCTO (National Council of Textile Organizations)

Annex IV – General overview of inspection operations to eradicate slave labor – SIT/SRTE – 1995 to 2012

Annex V - Fiscal actions and workers rescued in 2012 - *Divisão de Fiscalização para Erradicação do Trabalho Escravo* [Division of Inspection for the Eradication of Slave Labor] – DETRAE

Annex VI - Decree for the creation of CONATRAE

Annex VII - Decree for the creation of COETRAE/SP

Annex VIII – Announcement of the plan to create a municipal committee for the eradication of slave labor in São Paulo

Annex IX - 1st National Plan for the Eradication of Slave Labor

Annex X - 2nd National Plan for the Eradication of Slave Labor

Annex XI - *Proposta de Emenda Constitucional* [Proposal for Constitutional Amendment] (PEC) regarding Slave Labor (No. 57-A/1999)

Annex XII - Ordinance establishing the Registration of Employers who have submitted workers to slave-like conditions – *Lista Suja* [Blacklist]

Annex XIII - *Comissão Parlamentar de Inquérito* [Parliamentary Investigation Commission] (CPI) regarding Slave Labor

Annex XIV – Senate Bill No. 290, from 2013

Annex XV – Law No. 14946/2013 – São Paulo: adopts provisions concerning the annulment of the registration of companies that pay the *Imposto sobre Circulação de Mercadorias e Serviços* [Tax on Goods and Services] (ICMS) and were caught using labor derived from slavery or slave-like conditions.

Annex XVI – Decree No. 59171/2013 (SP) which regulates Law No. 14946/2013

Annex XVII – News: "Mr. Bezerra Jr. attends national meeting to eradicate slave labor"

Annex XVIII - Signing of the UN Global Pact

Annex XIX - National Pact for the Eradication of Slave Labor

Annex XX – The *Qual* Seal Guidebook

Annex XXI - Regulation for the Qualification Program for Retail Suppliers - Abvtex

Annex XXII – Pact Against Precarious Work and for Decent Labor and Employment in São Paulo - Apparel Manufacture Productive Chain

Annex XXIII - Main public and private Brazilian institutions that are active regarding the topic of "forced labor"

Annex XXIV - Main public and private Brazilian actions conducted in the fight against "forced labor"