



February 1, 2013

To: Karrie Peterson
U.S. Department of Labor
OCFT, Bureau of International Labor Affairs
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Re: Comment on Notice of Request for Information on Reports issued by the Bureau of International Labor Affairs (ILAB)

Dear Ms. Peterson,

The Brazil Industries Coalition (BIC), hereby submits these public comments on behalf of the Brazilian Textile and Apparel Industry Association (ABIT) in reference to Federal Register Notice Vol. 77, No. 277, published Monday, November 26, 2012.

If there is a need for additional information or clarification on this submission, please direct your inquiries to Celia Feldpausch at celia@bic-org or (202) 471-4020. We look forward to a continued dialogue with the Bureau of International Labor Affairs at the U.S. Department of Labor on these matters.

Respectfully,

Brazil Industries Coalition
Brazilian Textile and Apparel Industry Association

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

Founded in 1957, the Brazilian Textile and Apparel Industry Association (Abit, in Portuguese) represents all sub-sectors in the industry's production chain, which ranges from raw material suppliers to garment producers, and includes from raw materials to the final product. It represents the largest integrated productive chain in 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. The Brazilian textile and apparel industry was at the forefront of the process of industrialization in Brazil, but 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 billion¹, and in 2012, US\$ 2.2 billion.

The Brazilian textile and apparel industry includes more than 30,000 companies² located throughout the Brazilian territory, with the capacity to meet its domestic demand and also export. Combined production amounts to US\$ 57 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 1.7 million people,⁴ and over 4 million⁵ 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 who rely most directly on the jobs and income that are created by the textile and apparel industry.

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 the IEMI, active companies are those in business with at least 5 employees.

³ Source: Abit's projection.

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.

Out of the overall 1.7 million direct jobs in the sector, about 1.2 million are associated with the apparel manufacturing sub-sector. In other words, more than 70 percent of all jobs created along the textile and apparel productive chain are in the garment sub-sector.

The garment sub-sector in Brazil is present in all 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) demonstrates that 26 percent of all apparel companies in Brazil are located in the state of São Paulo, 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.

Brazil-U.S. Relations

Brazil and the United States share a healthy relationship with regard to trade in textiles and apparel. We are an important trading partner to the United States, which currently has a surplus in the textile and apparel trade balance. Abit views positively, supports and makes efforts to strengthen our relations with the United States and believes that it is possible to reduce existing trade barriers, including through a free trade agreement.

The private sectors of the two countries believe that through greater cooperation efforts in both production and trade, they will be able to contribute to a mutually advantageous relationship. Therefore, it is in our common interest to encourage increased trade and investments between Brazil and the United States.

To that end, in April 2008, Abit, the American Apparel & Footwear Association (AAFA), and the National Council of Textile Organizations (NCTO) have signed two Memorandums of Understanding (MOU - Abit-AAFA and Abit-NCTO), in which they pledge to undertake efforts to increase cooperation between the textile and apparel industries in both countries.

Request for Removal from the “List of Goods Produced by Child Labor or Forced Labor”

On September 26, 2012, the United States Department of Labor (DOL) published its annual report “List of Goods Produced by Child Labor or Forced Labor”. To our surprise, Brazil was

included in the report as a country where “there was ‘reason to believe’ that forced labor was occurring” in the production of garments.

The comprehensive, intensive and successful work carried out by the Brazilian government, with cooperation of the private sector, has in fact resulted in the identification, and punishment of a few isolated cases of abusive labor practices in the production of garments, involving immigrants in the city of São Paulo.

It is clear that these few isolated cases are associated with illegal activities led by individuals who are benefiting from the current positive conditions in the Brazilian garment market and taking advantage of the flow of immigrants coming into Brazil in search of a better life. These few cases, in the context of an industry that includes 30,000 companies and 1.7 million workers cannot, under any circumstances, be confused with the concept followed by the DOL in its report in the sense that there is “significant incidence” of forced labor in this economic sector. Neither should the good work carried out by the Brazilian government and its transparency vis-à-vis the Brazilian society and the international community serve as a parameter to conclude that there is “significant incidence” of forced labor in the apparel sub-sector.

This grave misunderstanding may have resulted in the Brazilian garment sector’s inclusion in the report. We view this action as an absolutely unjust and unacceptable that put us on the same category as countries that do not have equivalent activities to identify and combat such practices. Such countries are not transparent and manipulate data and the media, and do, in fact, have a “significant incidence” of forced labor.

In view of the foregoing, Abit hereby submits this document in response to Federal Register / Vol. 77, No. 227 / Monday, November 26, 2012 / Notices (70473), pertaining to “a request for information and/or comment on reports issued by the Bureau of International Labor Affairs (ILAB) September 26, 2012, regarding child labor and forced labor in foreign countries”.

It is important to highlight that this document only outlines the main pieces of information that Abit is currently compiling to support its request for review of the addition of garments to the list. As soon as possible, we will submit a more detailed and deeper analysis of the material that is being gathered, in light of the fact that any party may at any time file a request

for review to the ILAB, requesting the addition, or removal of a good and/or country from the List (72 FR 247, 2007, pp. 73374 - 73379).

Brazil and its Work to Combat Forced Labor

Brazil has one of the most comprehensive and rigorous labor laws in the world. We have an entire justice system within the Judicial Branch exclusively dedicated to labor issues. We have a Ministry in charge of labor and employment. We have a structure in place to enforce the laws and specific programs aimed at eliminating any possible instance of child and/or forced labor. The government is deeply engaged with the private sector through labor unions and trade associations, the activities of which are regulated by the law. In addition, many of the bills currently being discussed and under consideration in the Brazilian Congress are associated with the labor area.

Government Actions

One of the most recent and significant advances to combat forced labor was the approval of Bill of Law 1034/2011 by the Legislative Assembly of the State of São Paulo (ALESP), which was enacted by Governor Geraldo Alckmin on January 28, 2013. The bill provides for the cancellation of the Federal ID number—used for sales taxes (ICMS) purposes—of companies that are caught using slave labor or other forms of forced labor. The bill also has provisions to the effect that companies that benefit from the direct or indirect exploitation of forced labor are prevented from doing business in the industry, or even open a new company in the same line of business for a 10-year period. After the law was enacted, new regulations are being implemented. This is one of the strictest laws against forced labor in Brazil associated with specific economic consequences, and should serve as a model for the rest of the country.

The law is a new addition to the systematic, ongoing and rigorous work carried out by the Brazilian government in this area, such as the application of fines by the Ministry of Labor and Employment, convictions resulting from charges brought by the Office of Labor Prosecutors and by Labor Courts, civil and criminal law suits, in addition to boycotts against

companies and banks that create restrictions to employers included in the “Dirty List”,⁶ which is public.

The most prominent actions by the State of São Paulo include the work of the Regional Superintendence of Labor and Employment (SRTE/SP), which is carried out by special labor inspectors and auditors who are constantly conducting inspection in various garment workshops. At the national level, it is worth noting, for instance, that in 2012 about 757,000 audit and inspection actions were carried out, 241 of which were aimed at combating slave labor.⁷

Other advances associated with this issue include consideration by the National Congress of a Draft Constitutional Amendment (PEC) on Slave Labor, which provides for the expropriation of urban and rural lands where the existence of slave labor has been proven. The PEC was approved in the House of Representatives is now expected to be taken up by the Senate in 2013.

It is also worth noting that a Congressional Investigatory Commission (CPI) on Slave Labor was created in the House of Representatives in February 2012. The CPI was convened and instituted on March 28, 2012 for the purpose of investigating the exploitation of slave labor and other forms of forced labor in both rural and urban business activities all over Brazil.

Regarding the situation of immigrants who account for the largest share of those involved in forced labor in the few cases that were identified and stopped in the Brazilian garment industry, we should highlight the laws that provided for regularization, freedom of movement and legal residence for these people in Brazil, such as Immigration Amnesty Law (Law No. 11.961/2009).

Brazil has been making significant progress, which was recognized by the international community, with regard to combating forced labor. This has been made with regard to legislation, inspection and punishment, including improvements in the treatment extended to immigrants who are expected to receive legal papers and be entitled to labor rights like any other Brazilian citizen.

⁶ The “Dirty List” is maintained by the Brazilian Ministry of Labor and Employment.

⁷ Directive no. 120, of January 24, 2013. Office of the Labor Minister, Ministry of Labor and Employment.

Actions by the Private Sector and Public-Private Actions

The private sector is extremely active in promoting and adopting better labor practices in partnership with, or in addition to, the actions of the public sector. An example of this partnership is the UN Global Pact, signed by Abit in 2012, which mobilizes the international business community and the National Pact for the Eradication of Slave Labor, of 2005, which was also signed by ABIT.

Among the actions specifically aimed at the garment sub-sector, we can highlight the *Pact against the Worsening [of Labor Conditions] and for Decent Employment and Labor in São Paulo – Apparel Productive Chain*, signed in 2009 by the Ministry of Labor and Employment, through its Regional Superintendence in São Paulo and several other agencies and entities, including Abit. Its goal is to improve labor conditions for immigrants who work in the apparel industry in São Paulo, performing any duties in its production chain.

The private sector has also worked very hard to disseminate the adoption of programs certification. Voluntary certification is a global trend in production sectors. Raising the level of organization within a company increases efficiencies in its processes, adds higher value to the product, and results in increased competitiveness. By implementing technical requirements for quality, safety, the environment, and social responsibility, the Brazilian apparel industry is constantly improving to better face the challenges of globalized markets, where quality and efficiencies are essential.

In this regard the *Selo QUAL* and the Program to Qualify Suppliers for Retail (ABVTEX) should be highlighted. The first was developed under the leadership of ABIT and has the goal of creating, regulating and implementing the certification of professional garments in Brazil, through the adoption of a set of practices that are socially and environmentally responsible. In the beginning, this initiative focused only on professional garment. It is now being expanded to other segments in the garment industry. The second was created in 2010 and seeks to ensure labor conditions that are appropriate to workers employed by suppliers and their subcontractors, with the aim of increasing qualification in the supply chain of retail companies and promoting a unified way to control this qualification. Once qualified, suppliers and their subcontractors may be included in the supply chain of any retail companies that participate in the Program.

Actions that engage the private sector are more likely to lead to structural changes that will benefit the entire chain. Inspections and citations by the government will often result in the development of positive actions on the part of companies. The examples cited above illustrate the advances made by the industry in incorporating labor practices that are socially responsible.

Conclusion

Abit continues with its work of holding discussions with all stakeholders and has gathered information that will support our complete and detailed request for removal from the list prepared by the U.S. government.

We have held meetings with the U.S. Embassy in Brasilia, the U.S. Consulate in São Paulo, the Ministry of Labor, the Regional Superintendence of Labor and Employment (SRTE/SP), *Repórter Brasil*, apparel producing companies and retail companies. We have held ongoing talks with the Brazilian Ministry of Foreign Affairs and the U.S. Labor Department through our representation in Washington, the Brazilian Industries Coalition (BIC).

Once the appropriate information is compiled, reiterating the injustice of adding Brazilian garments to the list of forced labor, we will forward the entire package to the DOL.

The Brazilian democracy values transparency, including information on forced labor cases and the actions that are taken to combat this practice. Brazil is strongly against each and every form of human rights violations.

We are a country that has and enforces rules that are at least as rigorous as those of any other nation, including the developed countries. These rules apply not only to labor but also to other areas, such as the environment.

It is possible that some violations of pertinent legislation will occur, as is the case anywhere else in the world. However, in the case of Brazil, these violations, albeit infrequent, have been duly identified and punished in accordance with Brazilian law. The incidents involving the garment industry in the city of São Paulo do not reflect the realities of the entire sector, which—as we have already mentioned—is present in all the regions of Brazil and directly employs 1.7 million workers.

The Brazilian public and private sectors will continue to work towards the complete elimination of such practices, fulfilling its responsibilities with Brazilian society and the international community.

We are confident that the Department of Labor will use the information provided herewith, which will be expanded and supplemented soon, for the review we hereby request and to ensure that the purposes for which the Report was conceived are effectively met. We do not believe it is reasonable that some countries should be punished for their transparency and good work in combating abusive labor practices, while others are rewarded for manipulating and hiding information, while not making the efforts that are required against forced and/or child labor.