



Novo Hamburgo, Brasil, April 9, 2010

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 Regarding Initial List of Goods under Section 105 (b) (1) of the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005

Dear Deputy Undersecretary Polaski,

The Brazilian footwear industries association, Abicalçados, hereby responds to the Federal Register notice of February 24, 2010 (75 FR 8402) requesting information for use in maintaining the list of goods that DOL has 'reason to believe are produced by child labor or forced labor in violation of international standards' (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 (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 and 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).

'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 TVPRA list includes for Brazil, footwear under the child labor designation.

Government Efforts in Brazil to Eliminate Child Labor. No country in the world has done more to eliminate child labor within its borders than Brazil. As the TVPRA report makes clear on page 31

The Government of Brazil has taken an exemplary, multifaceted approach to the elimination of child and forced labor. It has improved its legislative framework, enforced these laws effectively, established targeted action plans to combat child labor, forced labor, and trafficking in persons, supported private institutions working to combat these problems, carried out public awareness campaigns, and provided direct assistance to victims. The government participates in bilateral and multilateral programs to combat these problems in Brazil and with its neighboring countries. The government makes current labor inspection data publicly available and published a special supplement on child labor as part of its 2006 Household Survey. ***

Brazil has also achieved notable success in voluntary, private sector efforts to tackle child labor in specific industries. Collective bargaining agreements between employers and unions often include clauses against child labor, and the government has joined employers and unions in industry wide agreements. The Brazilian NGOs Ethos and the Abrinq Foundation award child labor free labels to companies that have eliminated child labor from their production chains and contributed to other efforts to end child labor. Finally, the Brazilian Association of Supermarkets exerts pressure on producers to adhere to labor standards.

Specifically , the Government of Brazil adopted several national programs including adoption of ILO conventions 138 and 182, laws banning work by person under 16 (except for apprentices), and under 18 for hazardous work, a national All Children in School program, as well as two programs designed to deal with one of the root causes of child labor -- poverty

- 'bolsa escola' in 2001 provided some \$1.2 billion in payments to families with children of school age, 6-15, provided the family keeps the children in school (although the child could also work in addition to school and still receive the payments), and

- a similar program, the child labor eradication program (PETI), that provided payments to families of school aged children, 7-14, engaged in the worst forms of child labor conditioned on the child attending school and not working.

It has also established a 'dirty list' of forced labor cases following investigations by its 'mobile inspection unit'.

The Government of Brazil has not determined footwear production to be a hazardous activity within the meaning of ILO Convention 182. Thus, in Brazil and consistent with the ILO conventions, persons under the age of 16 cannot work in the shoe sector, unless enrolled in a government approved factory apprentice program, and persons in such programs cannot be treated as workers but rather as ones in a training course.

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 320,000 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
- two in the northeast of Brazil, Paraiba, where injected plastic items are made, and Ceará 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 very high levels, largely owing to the fabulous growth of the domestic market. In 2009, local consumption utilized some 85% of Brazil's shoe production, with the balance exported.

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.

The Commitment of the Brazilian Footwear Sector to the Elimination of Child Labor.

Building on the work of the Government of Brazil, the private footwear sector in the mid-1990s, led by the entrepreneurs in the nation's top shoe producing area around Novo Hamburgo in the Vale dos Sinos of the State of Rio Grande do Sul, helped launch and sustain an aggressive effort to eliminate child labor in the region. Similar efforts were also undertaken in both Franca and Birigui. The commitment to the elimination of child labor in the shoe sector continues at a high level to this day, and has been most successful.

The sector undertook a major campaign, working with state and local governments, many local and national NGOs as well as the ILO's International Programme on the Elimination of Child Labor (IPEC), local universities, church groups and its own business associations, especially, Abicalçados. A summary of the key business initiatives follows

- The shoe sector undertook to adhere to NGO **codes of ethics** that oblige company owners not to contract child labor and gives them responsibility for enforcing this ban in any workshop subcontracted by them (with the latter typically being enforced by teams of 'inspectors' that make periodic visits to workshops and subcontractors to check for working children). To ensure fair competition, virtually all company owners agreed to the code process. By its terms the codes are enforced by agreements between companies and their suppliers, which establish control and punishment mechanisms for entities that use child labor (See Annex 1 for examples of the arrangements with leading NGOs).
- Thus, many in the shoe sector partnered with a leading national Brazilian NGO, dedicated to eliminating child labor, the Abrinq Foundation, which over 85% of local shoe firms in the Novo Hamburgo region joined, while others partnered with similar NGO programs in Franca and in Birigui. Complying companies were authorized to use a 'Company Friend of the Child' stamp on their products and were honored publically with recognition of their success in ending child labor.

Perhaps the most important element of the overall effort in the Rio Grande do Sul was the success the shoe business had in stimulating aggressive and funded work by state and local governments and by local NGOs.

- The Association for the Well Being of Minors in Novo Hamburgo (ASBEM), a long standing local NGO, became the focal point for organizing involvement of local government, church groups, the local university, as well as partnering with IPEC on a \$200,000 project to bring all parties together to tackle the problem.

- It is clear that only the full involvement of government and NGOs at all levels coupled with the serious and sustained commitment of the shoe sector (somewhat, as a matter of survival in the international marketplace which would not tolerate child labor) could bring about, what is now the elimination of child labor in the sector.
- In fact, the principal ILO report cited by the DOL in the TVPRA report states that child labor no longer exists in the footwear industry factories or in its workshops.

It is indeed disconcerting for Brazil's highly conscientious shoe industry, that despite all its immense progress and exemplary efforts, it is still cited for child labor by the DOL in its TVPRA report.

This apparently is because the ILO did not verify in its 2003 study that there is no child labor in homes, which may have at sometime been used by some footwear subcontractors of factories.

As is made clear below, the NGOs that the sector works with, in the leading cluster areas, cover in their audits all levels of the supply chain, including any outsourcing and even home activity, in their programs to eliminate all child labor in any part of the Brazilian shoe sector. From the reports noted below, there is no evidence of persons under 16 working illegally in factories, workshops or even in homes.

As the code of conduct from the 'Pro-Criança' Institute of Franca in Annex 1 makes clear, the use of child labor by subcontractors, including any work done in homes, is prohibited, and the use thereof can result in the loss of Pro-Child labeling privileges. With regular inspections by the NGO under the program, it is a stretch to imagine that the shoe producer would go to all the bother and expense of participation in the program only to use outsourcing that guarantees disqualification.

Indeed, the most recent audit of this program undertaken by professionals retained by the Municipal Council of Children and Adolescents' Rights of the City of Franca, for the third quarter of 2009, makes clear that the program is in high gear and is working according to plan.

The audit extended to both factories, where the minimum age of work at 16 was verified, and to outsourcing locations, including cottage industries including some homes, where the same work standard is applied. The audit covered 19 factory entities, 109 outsourcing entities, and seven schools, where 14 children were interviewed, which according to the universe of outsourcing entities with children in the 11-15 age bracket represented an adequate sampling.

In the factories the audit found that no entity used persons under 16 to work, and that the only persons under 16 in the factories were those duly authorized under law in the apprentice program for those at least 14 years of age, which persons are not treated as employees under the legal provisions of the program.

As to the outsourcing audits, the finding confirmed that there were no persons under the age of 16 working, and interviews with the children of outsourcing entities confirmed that all children regularly attended school, were performing well there and that none reported helping his/her parents with work conducted in the entity.

Similarly, the Entrepreneurial Institute of Support Formation For Children and Adolescents, the not for profit NGO in Birigui, the children's shoe capital of Brazil (referred to herein as Pro Criança de Birigui), retained the local university, the Faculdade de Ciencias e Tecnologia de Birigui, to do its extensive audit of 250 companies in November 2009. The Pro Criança de Birigui commitment document is included in Annex 1.

The audit findings are similar to those in Franca. No workers under 16 were found in any factory, and those under 16 were duly enrolled in the professional apprentice program operated by SENAI-Birigui, an arm of the Brazilian government's training program.

It determined that only 19% of the firms did any outsourcing at all, and that everyone that did use outsourcing communicated directly with the outsourcing entity with the detailed requirements of the Pro-Criança program, and that outsourcing to homes accounted for only 1.65% of such work.

The shoe industry in Brazil, represented by Abicalçados, has for more than a decade been committed to using no child labor anywhere in its supply chain, including their own factories, and any outsourcing entity. The result is clear -- child labor has been eliminated from the Brazil shoe industry.

Sources Cited as Documentation of Significant Incidence of Child Labor in Brazil Footwear Sector.

Overview of Sources.

Combating the Exploitation of Child Labor in the Footwear Industry of the Vale dos Sinos, Brazil, IPEC, Brasilia, April 2002. This ILO assessment of the situation in southern Brazil, the shoemaking center of the country, makes a compelling case for the success of the efforts of the entire government, 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 factories and workshops 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 identified in the research show that child labor 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 NGOs, unions, government, religious, etc. entities 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.

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

The hearsay based assertions 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.

Indeed, even the one bit of evidence of 'home' based child labor cited in the report, the 1997 research interviews conducted by the Federal University of Rio Grande do Sul, is more than 13 years old and simply cannot be considered as evidence of any current practice.

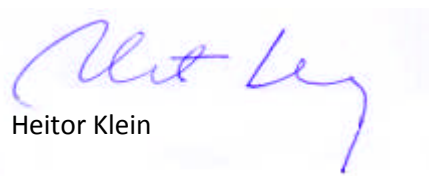
Costs and Benefits of Eliminating Child Labor in Brazil, Dr. Ana Lucia Kassouf and Dr. Peter Dorman, ILO, IPEC, 2003. This weighty economic analysis of the positive social/economic benefits of eliminating child labor in Brazil relies on national Brazilian statistics from 1999, and contains no research on the extent of child labor in the shoe sector.

Brazil-Eliminating Child Labor in Brazil. World Bank, December 6, 2001. This report is no longer available electronically from the World Bank, and is also so dated as to have no relevance to the current situation on child labor in the Brazilian shoe sector.

Conclusion.

On behalf of the Brazilian shoe industry, Abicalçados appreciates the opportunity to submit its views to the DOL in conjunction with its deliberations in maintaining the TVPRA list. We look forward to working with the DOL as it considers our views and to the eventual exclusion of the Brazilian footwear sector from future TVPRA designations as a child labor sector.

Respectfully submitted,



Heitor Klein

Abicalçados Executive Director



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**CHILDREN'S WORK PREVENTION AND ERADICATION PROGRAM OF THE FOOTWEAR SECTOR
"PRÓ-CRIANÇA" LABEL**

I, _____, CPF _____ president director of the Company

Company name

that operates in the Footwear Industrialization field, at _____, nr. _____,

tel.: _____, District _____ in the city of Franca, State of São Paulo, come to request CREDENTIALS at the Entrepreneurial Institute of Formation Support for Children and Adolescents "PRÓ-CRIANÇA", in the quality of participant of the **CHILDREN'S WORK PREVENTION AND ERADICATION PROGRAM OF THE FOOTWEAR SECTOR**, granting the right to the Usage of the "Pró-Criança" Label on its products. Therefore, I compromise:



- 1st) NOT TO USE THE WORK OF CHILDREN LESS THAN 16 YEARS OLD, RESPECTING THE LAW THAT FORBIDS THE SAME – 7th ARTICLE, XXXIII, FEDERAL CONSTITUTION.
- 2^o) NOT CONTRACT SERVICES OF THIRD PARTIES THAT USE THE WORK OF CHILDREN LESS THAN 16 YEARS OLD.
- 3rd) ENCOURAGE THE PRODUCTION CHAIN NOT OT USE THE WORK OF CHILDREN LESS THAN 16 YEARS OLD. ;
- 4th) BE A CONTRIBUTOR PARTNER OR MEMBER OF THE INSTITUTE "PRO-CRIANÇA".
- 5th) HIRE ONLY THIRD PARTIES THAT HAVE THE ID "PRÓ-CRIANÇA" IDENTIFYING THEM AS COMMITTED TO:

5.1. Not to use the work of children less than 16 years old, respecting the law that forbids the same – 7th article, XXXIII, Federal Constitution.

5.2. Be a contributing partner of the Institute "Pró-Criança".

5.3. Respect the usage regulation of the Label "Pró-Criança".

5.4 Accept semester audits for proving the fulfillment of the procedures which they compromised to fulfill.

5.5 Present the Pró-Criança ID at the industry to which renders service, proving its participation in the Children's Work Prevention and Eradication Program of the Footwear Sector.

5.6 Keep the children in school at least until they complete fundamental education.

6th) RESPECT THE REGULATION OF USAGE OF THE "PRÓ-CRIANÇA" LABEL. ;

7th) ACCEPT TRIMESTRAL AUDITS IN THE INDUSTRY TO VERIFY THE FULFILLMENT OF THE PROCEDURES TO WHICH I OBLIGED MYSELF.

8th) REQUEST A BIMESTRAL AUDIT TO BE MADE AT LEAST AT 10% OF THE SERVICE RENDERERS FOR PROVING THAT THEY ARE FULFILLING THE COMPROMISE OF NOT USING THE WORK OF CHILDREN LESS THAN 16 YEARS OLD.

9th) KEEP A COPY OF THE "PRÓ-CRIANÇA" ID OF SERVICE RENDERERS TO PRESENT AT THE SEMESTRAL AUDITS OF THE CHILDREN'S WORK PREVENTION AND ERADICATION PROGRAM OF THE FOOTWEAR SECTOR.

10th) DELIVER TO THE AUDITOR DURING THE TRIMESTRAL AUDITS A RELATION WITH THE NAME AND ADDRESS OF THE SERVICE RENDERERS.

11th) PAY SPECIAL ATTENTION TO THE VISITS PERFORMED TO THE WORK LOCATIONS, TRYING TO OBSERVE THE ISSUE RELATIVE TO THE USE OF WORK OF CHILDREN UNDER THE AGE OF 16 YEARS, AND, IF FOUND, COMMUNICATE THE SAME TO THE INSTITUTE "PRÓ-CRIANÇA".

12th) INCLUDE THE SUBJECT OF THE CHILDREN'S WORK PREVENTION AND ERADICATION IN AGENDAS OF MEETINGS HELD WITH EMPLOYEES AND SERVICE RENDERERS.

We sign the present instrument in two copies of equal content.

Franca, SP, / /2.010

Signature:

A CHILD'S PLACE IS IN SCHOOL!

Pro-Criança de Birigui Contract Terms follows.

NINON HARLA WILD

Sworn Translator – English

Commerce Board Register nr. 1012981
Tax Return nr. 011.129.450/91



Translation 112/2010

STATEMENT

I, _____ ID. nr. _____
_____ C.P.F./M.F. _____, service renderer to the
footwear industries, with private address at
_____ nr. _____,
District _____, telephone _____, in the city of _____,
State of _____, proprietor of the Company
_____ located
at _____,
nr. _____, District _____, telephone _____,
in the city of _____, State of _____,
CNPJ nr. _____, Municipal Enrollment nr. _____

DECLARE that I am associating to the **ENTREPRENEURIAL INSTITUTE OF SUPPORT FORMATION FOR CHILDREN AND ADOLESCENTS - "Pró-Criança"**, to participate of its "**Children's Labor Prevention and Eradication Program**" of the Footwear Sector – "Pró-Criança" Label, comprising:

1. NOT TO USE THE WORK OF CHILDREN LESS THAN 16 YEARS OLD, RESPECTING THE LAW THAT FORBIDS THE SAME – 7TH ARTICLE, XXXIII, FEDERAL CONSTITUTION.
2. TO BE A PARTNER OF THE INSTITUTE "PRÓ-CRIANÇA", CONTRIBUTING MONTHLY TO IT
3. RESPECT THE USAGE REGULATION OF THE "PRÓ-CRIANÇA" LABEL.
4. ACCEPT A YEARLY AUDIT TO VERIFY THE FULFILMENT OF THE PROCEDURES TO WHICH I OBLIGED MYSELF.
5. PRESENT THE "PRÓ-CRIANÇA" CERTIFICATE AT THE INDUSTRY TO WHICH I RENDER SERVICE, TO PROVE MY PARTICIPATION IN THE CHILDREN'S WORK PREVENTION AND ERADICATION PROGRAM OF THE FOOTWEAR SECTOR.
6. KEEP THE CHILDREN IN SCHOOL AT LEAST UNTIL THEY COMPLETE FUNDAMENTAL EDUCATION.

For everything to be true and necessary to happen, I sign the present Instrument in two copies of equal content.

Birigui, SP, ___/___/___

Signature:

Ninon Harla Wild

CHILD'S PLACE IS IN SCHOOL!

RUA DAVID CANABARRO 130 – ZIP CODE 93510-020 – NOVO HAMBURGO – RS – BRAZIL
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