

# NATIONAL LEGISLATION ON HAZARDOUS CHILD LABOUR

Minimum Age Convention, 1973 (No. 138)  
and  
Worst Forms of Child Labour Convention, 1999 (No.182)

## BRAZIL

### RATIFICATIONS

Convention No. 138	28 June 2001
Convention No. 182	2 February 2000

1) *Country Overview*

2) *Decree No. 6.481 approving the list of the Worst Forms of Child Labour (List TIP) ((12 June 2008)*

*Original language:* Portuguese – ILO Summary (*Unofficial English translation*).

Article 2: **are prohibited from working under eighteen years in the activities described in the TIP list**, except in cases provided for in this decree.

3) *Constitutional Amendment No. 20 of 15 December 1998.*

*Original language:* Portuguese – ILO Summary (*Unofficial English translation*).

Article 7 XXXIII **prohibiting hazardous work for persons less than 18 years and all types of work for persons under 16 years** (except for apprenticeship).

4) *Law on guidelines and bases of education No. 9394 of 1996 (Part I).*

*Original language:* Portuguese – ILO Summary (*Unofficial English translation*).

Article 4 **provides for free and compulsory education until the secondary level.**

- 5) *CEACR, 2011 Observation and Direct Request, Convention No. 182 and CEACR, 2011 Observation and Direct Request, Convention No. 138*
- 6) *CRC, Concluding Observations of the Committee on the Rights of the Child, November 2004*

# BRAZIL

## Country Overview

International Conventions and selected Laws on child labour and education		Working children by sector, aged 5-14 years										
C138, Minimum Age	✓	<table border="1"><thead><tr><th>Sector</th><th>Percentage</th></tr></thead><tbody><tr><td>Agriculture</td><td>56.4%</td></tr><tr><td>Services</td><td>33.7%</td></tr><tr><td>Manufacturing</td><td>7%</td></tr><tr><td>Other</td><td>2.9%</td></tr></tbody></table>	Sector	Percentage	Agriculture	56.4%	Services	33.7%	Manufacturing	7%	Other	2.9%
Sector	Percentage											
Agriculture	56.4%											
Services	33.7%											
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Other	2.9%											
C182, Worst Forms of Child Labour	✓											
CRC	✓											
General Minimum age for admission to employment	16											
Minimum Age for Hazardous Work	18											
Compulsory Education Age	17											
List of hazardous work (*)	Yes											
Free Public Education	Yes											
(*) The list of hazardous work includes: Agriculture (production and manufacturing process of tobacco, sugar cane); driving and operation of tractors, textile industry (weaving) and in dyeing and stamping, among others.												

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## Decree No. 6.481 of 12 June 2008 where it is approved the list of the Worst Forms of Child Labour (List TIP), in the form of Annex.

### Original language

Portuguese.

### Abstract

**Annex List of the Worst Forms of Child Labour (List TIP) establishing work prohibited to children under the age of 18 years.**

### Text of loose translation

#### ➤ List TIP

#### ***"1. Work harmful to health and Safety***

#### **Activity: Agriculture, Livestock and forest Exploitation**

Description of work:

1. In the direction and operation of tractors, agricultural machines and grinders, motorized and when moving
2. In the production process of tobacco, cotton , sisal, sugar cane and pineapple;
3. At harvest of citrus, chilli pepper and similar
4. In the processing of tobacco, sisal, cashew nuts and sugar cane
5. In spraying, handling and application of pesticides, adjuvants, and related products, including equipment cleaning, decontamination, disposal and return of empty containers
6. In local storage or processing where there is dust free detachment of cereals and vegetables

7. In barns, stables, corrals, stables or barns, without adequate sanitation
8. Within or adjacent to storage silos forage or grain with toxic, explosive or oxygen deficient atmospheres
9. With flag on the aerial application of products or pesticides
10. Extraction and logging
11. In mangroves and mudflats

#### **Activity: Fishing**

12. In search of waterfowl decoys
13. In search of clams
14. Requiring diving equipment with or without
15. Hyperbaric conditions

#### **Activity: Mining and Quarring**

16. In stonework and preparing gravel
17. Extraction of stone, sand and clay (removal, cutting and separation of stones, use of blunt-cutting instruments, transport and storage of stones)
18. Extraction of marble, granite, precious stones, semi-precious and other minerals
19. In excavations, underground, quarries, mines, underground mines and open pit
20. In places where there is free detachment of mineral dust
21. In saline

#### **Activity: Manufacturing Industry**

22. Sandpaper or felt hat in the factories
23. Blasting in general, except in enclosed processes
24. Gilding, silver plating, nickel plating, electroplating, anodizing aluminum, metal baths or detachment of metal fume
25. Industrial recycling operation of paper, plastic and metal
26. In preparing feathers and horsehair
27. Industrialization in smoke
28. Industrialization of sugarcane
29. In foundries in general
30. In weaving
31. In the processing of marble, granite, precious stones, semi-precious and other minerals
32. In charcoal production
33. Contact residues decayed animals, glands, viscera, blood, bones, hides, hair or animal waste
34. In the production, processing and handling of explosives, flammable liquids, gaseous or liquefied
35. In the manufacture of fireworks

36. Direction and operation of machinery and electrical equipment large
37. In tanneries, industrialization and manufacturing of leather skins and furs
38. In slaughterhouses or abattoirs in general
39. In mechanized processing or packaging of meat
40. In the manufacture of cassava flour
41. In ceramics industries
42. Brick kilns or ovens in areas with excessive moisture exposure
43. In the manufacture of buttons and other artefacts of nacre, horn or bone
44. In the manufacture of lime or cement
45. In the manufacture of mattresses
46. In the manufacture of corks, crystals, enamels, tow, plaster, crockery, glasses or varnish
47. In the manufacture of porcelain
48. In the manufacture of rubber products
49. In alcohol distilleries
50. In the manufacture of alcoholic
51. Inside coolers, engine rooms, or near heaters, furnaces or blast furnaces
52. In sawmills
53. In furniture industries
54. In wood processing
55. With exposure to vibrations localized or whole body
56. Of dismantling or demolition of ships and boats in general

#### **Activity: Production and Distribution**

57. In generation, transmission and distribution of electricity

#### **Activity: Construction**

58. And heavy civil construction, including construction, restoration, renovation and demolition

#### **Activity: Trade (Repair of Personal and Household Objects Motor Vehicles)**

59. At tire stores or places where resurfacing or retired tires are made

#### **Activity Transport and Storage**

60. Transportation and storage of alcohol, explosives, flammable liquids, gaseous and liquefied
61. In the basement or the deck of ship
62. In transporting people or small animals

#### **Activity: Health and Social Services**

- 63. Handling or applying chemicals, including cleaning equipment, decontamination, disposal and return of empty containers
- 64. Contact with animals carrying infectious diseases and vaccination posts of animals
- 65. In hospitals, emergency departments, wards, clinics, vaccination centers and other institutions for the care of human health, as it has direct contact with patients or handle objects of use of patients not previously sterilized
- 66. In laboratories for the preparation of serum, vaccines and other similar products

**Activity: Services Collective, Social, Personal and other**

- 67. In industrial laundries
- 68. In dyeing and stamping
- 69. Into sewers
- 70. In the collection, sorting and processing waste
- 71. In cemeteries
- 72. On external services, involving in handling and postage values that endanger their safety (Office-boys, messengers, continuous)
- 73. In streets and other public places (street vending, car keeper, junior guards, tour guides, transport of persons or animals, among others)
- 74. In crafts
- 75. Care and supervision of children, elderly or infirm

**Activity: Domestic Service**

- 76. Domestic

**Activity: All**

- 77. Maintenance, cleaning, washing or greasing of vehicles, tractors, engines, components, machinery or equipment, which are used in organic and inorganic solvents, diesel oil, acid or basic degreasers or other products derived from mineral oils
- 78. With use of instruments or tools punctures and cuts without proper protection can control the risk
- 79. In cold
- 80. With lifting, transportation, loading or unloading of weights, when performed rarely exceed 20 pounds for males and greater than 15 pounds for the female gender; and more than 11 pounds for males and over 7 pounds for females, often performed when
- 81. Outdoors without adequate protection against exposure to sunlight, rain, cold
- 82. At heights over 2.0 (two) meters
  
- 83. With exposure to continuous or intermittent above the level provided in the

relevant legislation noise or impact noise

84. With exposure or handling of arsenic and its compounds, asbestos, benzene, coal, phosphorus and its compounds, hydrocarbons, other carbon compounds, heavy metals (cadmium, lead, chromium and mercury) and its compounds, silicates, oxalic acid, nitric , sulphuric, hydro bromic, phosphoric, picric, caustic alkalis or substances harmful to health as classified by the World Health Organization (WHO)
85. In confined spaces
86. Tool grinding and metal instruments in grinder, grinding or grinding without collective protection against particles fly
87. Direction, operation of vehicles, machinery or equipment when motorized and moving (rolling machines, forging and cutting, bakery machines such as mixers and dough rollers, slicing machines, woodworking machines, circular saws, band saws and cutters, grinders, mills, cutters and mixers, equipment for paper mills, cranes or similar)
88. With exposure to ionizing radiation and non-ionizing (microwave, ultraviolet or laser)
89. Maintenance and repair of machinery and electrical equipment when energized

## **II. Works Harmful to Morality**

1. Those provided anyway in brothels, nightclubs, bars, cabarets, discos, massage parlors, saunas, motels, rooms or places of obscene spectacles, gambling halls and similar establishments
2. Production, composition, distribution, printing or trade sex objects, books, magazines, videotapes or pornographic movies and cds, writings, posters, drawings, engravings, paintings, emblems, images, and any other pornographic objects that could damage the moral training
3. Sales, retail, liquor
4. With exposure to physical, psychological or sexual abuse



# BRAZIL

## Constitutional Amendment No. 20 of 15 December 1998

### Original language

Portuguese

### Abstract

**Constitutional Amendment of Article 7 XXXIII to prohibit hazardous work to persons less than 18 years and to establish the minimum age for admission to work at 16 years (except for apprenticeship).**

### Text of loose translation

➤ **Article 1**

“The Federal Constitution becomes effective with the following changes:”

➤ **Article 7**

“XXXIII – Prohibition of night work, hazardous or unhealthy work for minors under eighteen year old and any type of work for minors under sixteen years old, except under the condition of apprenticeship, from the age of fourteen.”

# BRAZIL

## Law on guidelines and bases of Education (part I), No. 9.394 of 1996

### Original language

Portuguese

### Abstract

**Article 4** provides for free and compulsory education until the secondary level.

### Text of loose translation:

#### ➤ Article 1

"Art. 4 The duty of the State with regards to public education shall be fulfilled by ensuring:

I - compulsory and free basic education from four (4) to seventeen (17) years of age, organized as follows: (Amended by Law 12,796, 2013)

a) pre-school; (Included by Law 12,796, 2013)

b) primary education; (Included by Law 12,796, 2013)

c) secondary education; (Included by Law 12,796, 2013)

II - free early education to children up to five (5) years of age; (Amended by Law 12,796, 2013)."

# BRAZIL

## COMMITTEE OF EXPERTS ON THE APPLICATION OF CONVENTIONS AND RECOMMENDATIONS (CEACR) - Worst Forms of Child Labour Convention, 1999 (No.182) - Minimum Age Convention, 1973 (No. 138)

### ➤ 2011 Observation, Convention No. 182

- Article 7(2) - Effective and time-bound measures.

**Clauses (a) and (b) - Preventing the engagement of children in the worst forms of child labour and assistance for their removal from these worst forms of child labour and for their rehabilitation and social integration. Trafficking and commercial sexual exploitation.**

The Committee previously requested the Government to provide information on the time-bound measures taken, within the context of the National Policy and the National Plan to Combat the Trafficking of Persons.

The Committee notes the information from ILO–IPEC that its project entitled “Integrated action to combat trafficking of girls and boys for commercial sexual exploitation in Brazil” came to an end in September 2008, and that the ILO–IPEC project entitled “Combating trafficking in persons in Brazil” came to an end in October 2008. The Committee also notes the information in the ILO–IPEC report for the project entitled “Support to national efforts towards a child labour-free state, Bahia” of September 2011 that, as part of the National Plan to Combat the Trafficking of Persons, the Ministry of Justice has undertaken activities to provide training to persons who work with victims of this worst form of child labour. The Committee further notes the information in the Government’s report of January 2011 available on the UNODC website, entitled “Facing the trafficking in persons – Report of the National Plan” that, as part of the National Plan to Combat the Trafficking of Persons, a survey was conducted in 2007 and 2008 on the best practices and experiences of services aimed at preventing the trafficking of children, in partnership with the ILO. This report also indicates that, in September and October 2009, a survey was conducted on special social protection service units, by the Ministry of Social Development and Combating Hunger, to

determine which units provide services to persons at risk of trafficking or sexual exploitation, and which units provide services to child and adolescent victims of these worst forms of child labour. In addition, the Committee also notes the information from the International Organization for Migration (IOM) that it is operating a regional project which provides assistance to victims of trafficking in the tri-border area of Argentina, Brazil and Paraguay.

**The Committee requests the Government to continue to provide information on the measures taken within the framework of the National Plan to Combating the Trafficking of Persons, to prevent children from becoming victims of trafficking, and to provide rehabilitation services to children removed from these worst forms of child labour.** The Committee also requests the Government to supply information on the results achieved, including the number of children who have received appropriate services for their rehabilitation and social reintegration.

**Clause (d) - Identifying and reaching out to children at special risk. Child domestic workers.**

The Committee previously noted the indication from the ITUC that, according to the 2004 ILO–IPEC study, there were over 500,000 child domestic workers in Brazil, many vulnerable to exploitation and working under conditions prohibited by the Convention. These children, particularly girls, do not attend school, and over 88 per cent of them begin well before the minimum age for admission to employment, normally at five or six years of age. However, the Committee noted that the List of the Worst Forms of Child Labour (Decree No. 6.481 of 12 June 2008) included child domestic work as one of the types of activities prohibited to any person under 18 years of age. It also noted that, according to the 2008 ILO–IPEC report on the *Time-Bound Programme*, a sectoral plan on domestic workers (PLANSEQ) was being implemented to support this category of workers and inform them of their rights.

Referring to its 2011 comments made under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Committee notes the continued implementation of the PLANSEQ. The Committee also notes the Government’s statement that, under section 6 of the Normative Instruction 77/2009 of the SIT, the inspectorate combats child domestic work by advising the general public in the course of their duties and forwarding complaints to the competent authorities, in addition to awareness-raising measures. The Committee further notes the information in the ILO–IPEC report for the project “Support to national efforts towards a child labour-free state, Bahia” of September 2011 that initiatives regarding child domestic workers are ongoing in Bahia. Lastly, the Committee notes the Government’s indication in its report that, according to the 2008 National Household Sample Survey, 15.1 per cent of child labourers in the 5–13 year age group are domestic workers (approximately 192,050 child

domestic workers between the ages of 5 and 13).

**Noting that a significant number of children are engaged in domestic work, the Committee urges the Government to pursue its efforts to ensure that persons under 18 are not involved in this prohibited type of work, in conformity with Decree No. 6.481 of 12 June 2008.** It requests the Government to provide information on the impact of the specific measures taken in this regard, including through the PLANSEQ, particularly with regard to the number of child domestic labourers under 18 years of age removed from this type of work.

➤ **2011 Observation, Convention No. 138**

- **Article 1 of the Convention and Part V of the report form - National policy and practical application of the Convention.**

In its previous comments, the Committee noted the ILO–IPEC information that the operation of a ***Time-bound Programme***, as well as other programmes of action, had created a favourable environment for combating child labour in the country. It also noted that the federal Government, as well as the state and municipal governments, have been collaborating with ILO–IPEC since March 2008, to strengthen the national policy for the elimination of child labour and the worst forms thereof and that a subcommittee of the National Council for the Elimination of Child Labour (CONAETI) was established to review the National Plan for the Prevention and Elimination of Child Labour and Protection of Young Workers. Lastly, the Committee noted that, within the context of the Bahia Decent Work Agenda, the Brazilian authorities and ILO–IPEC had begun implementing a project to make Bahia the first state in the country without child labour.

The Committee notes the Government’s statement that the subcommittee finalized the new National Plan for the Prevention and Elimination of Child Labour and Protection of Young Workers and that this National Plan was approved by CONAETI in April 2010, and by the National Council for Children’s Rights (CONANDA) in May 2010. The Government indicates that the new version is awaiting signature by the Ministers of State concerned by the Plan prior to publication. The Committee notes the information in the ILO–IPEC report on the project “Eliminating the worst forms of child labour in Brazil – Support for the ***Time-bound Programme*** on the elimination of the WFCL (Addendum)” of August 2011 that the revised National Plan for the Prevention and Elimination of Child Labour and Protection of Young Workers sets up time-bound targets and assigns national institutions specific responsibilities for implementing programmes and activities.

The Committee also notes the information in the Government's report that it has a specific inspection scheme regarding the elimination of child labour, which is part of the Programme for the Elimination of Child Labour (under the direction of the Ministry of Social Development and Combating Hunger). The Government indicates that, between 2003 and the first half of 2010, a total of 56,460 young persons have been reached through labour inspections. In 2007 and 2009, labour inspections resulted in the regularization of 18,776 children and young persons, who were removed from premature employment and placed under the Child and Youth Protection Network, which includes the possibility of participating in income transfer initiatives, such as the *Bolsa Família* programme. The Government indicates that, although it has steadily increased the number of labour inspections carried out (from 981 inspections in 2007 to 1,109 in 2008 and 1,240 in 2009), the number of working children detected has decreased, as a result in the overall decline in the number of working children.

With regard to initiatives in Bahia, the Committee notes the information in the ILO–IPEC report for the project “Support to national efforts towards a child labour-free state, Bahia” of September 2011 that the Ministry for the Social Development and Combating Hunger and the Labour Prosecutor's Office are jointly implementing a mechanism that actively searches and monitors potential child labourers. Measures have also been taken to raise awareness among key partners and to train identification agents in municipalities where the active identification of children in child labour is necessary. This ILO–IPEC report indicates also that 11,993 children in child labour have been identified thus far, and the project has reached 172 per cent more beneficiaries than initially targeted for withdrawal, including 6.02 per cent of all the child labourers in the state of Bahia.

Lastly, the Committee notes the detailed statistical information provided in the Government's report from the 2008 National Household Sample Survey, conducted by the Brazilian Geographical and Statistical Institute. The Committee notes with **interest** that child labour has declined steadily in recent years. Between 1992 and 2008, the rate of child labour dropped from 3.6 per cent to 0.9 per cent for children between the ages of 5 and 9 years, and from 21.9 per cent to 9.6 per cent for children between the ages of ten and 15 years. In this respect, the Committee welcomes the measures taken by the Government to abolish child labour, which it considers to be an affirmation of its political will to develop strategies to combat this problem. However, despite the significant progress achieved, the Committee observes that important challenges remain. For example, in 2008, approximately 2,144,770 children aged 5–15 continued to be engaged in child labour (1,447,750 boys and 697,020 girls). The 2008 Household Sample Survey also indicates that, while the percentage of working girls decreased by 25 per cent between 2006 and 2008, the percentage of working boys decreased more slowly (by 18.6 per cent) over this same period. In this regard, the Committee notes that 67.5 per cent of working children in Brazil are

boys. **The Committee therefore strongly encourages the Government to pursue its efforts to combat child labour in Brazil.** It also encourages the Government to pursue its efforts to make Bahia the first state in Brazil without child labour. It requests the Government to continue to provide information on the measures taken in this respect, as well to continue to provide statistical information on the results achieved, particularly with regard to decreasing the number of boys working under the minimum age. Lastly, it requests the Government to provide a copy of the National Plan for the Prevention and Elimination of Child Labour and Protection of Young Workers, once published.

- **Article 2 (1) of the Convention - Minimum age for admission to employment or work. Work performed in streets and public places.**

The Committee previously noted that section 405(2) of the Consolidated Labour Act states that work performed by a minor between 14 and 18 years of age in streets and other public places must be subject to prior authorization by a juvenile court. The Committee observed that this appeared to permit work in streets or other public places from the age of 14, although the specified minimum age for admission to employment or work is 16 years. It requested the Government to indicate the measures taken or envisaged to ensure that no minor under 16 years of age is admitted to employment or work in the streets or other public places.

The Committee notes with *satisfaction* the Government's statement that, as work on the street or other public places is identified on the List of the Worst Forms of Child Labour (Decree No. 6.481 of 12 June 2008), the minimum age for this type of work is 18 years. In this regard, the Committee notes that item 73 of Decree No. 6.481 prohibits persons under 18 from working in the streets or other public places, listing the examples of street vendors, car attendants, tour guides and work involving the transportation of persons or animals.

## ➤ 2011 Direct request, Convention 182

- **Article 7(2). Effective and time-bound measures.**

**Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education.**

The Committee previously noted that, according to UNICEF statistics for 2007, the net attendance rate in primary education was 95 per cent for boys and girls, and the rate in secondary education was 42 per cent for boys and 50 per cent for girls.

The Committee also noted the information in the 2008 *Education for All – Global Monitoring Report* (published by UNESCO) indicating that, while Brazil was making steady progress towards achieving the goal of education for all by 2015, major disparities (to the detriment of boys) persisted and the goal of gender parity by 2025 would probably not be achieved. It noted, however, that the Government had established a cash-transfer program (the school bursary program) benefiting 16 million children and that the “Plan for the development of education” had been under way since 2007.

The Committee notes the information in the Government’s report that 19 per cent of children and young persons who work do not attend school. The Government’s report also indicates that children who work and attend school had impaired school performance. The Committee also notes the information from the UNESCO Institute for Statistics that the net enrolment rate for secondary school has risen from 66 per cent in 1999 to 82 per cent in 2008. However, the net enrolment rate of boys, of 78 per cent, lagged behind that of girls, of 85 per cent. The Committee further notes the information in the 2011 UNESCO report *Education For All – Global Monitoring Report* that the net enrolment rate in primary education has risen from 91 per cent in 1999 to 93 per cent in 2007. However, this UNESCO report also indicates that there remain 901,000 out-of-school children between the ages of 7 and 10. This UNESCO report further indicates that education indicators (such as low secondary enrolment rates and high late enrolment rates) are significantly worse in poorer states in the north and north-east of the country, despite redistributive funding from the central Government to these states. Moreover, the Committee notes that the United Nations Committee on Economic and Social Rights, in its concluding observations of 12 June 2009, expressed concern that 43 per cent of children between 7 and 14 years of age do not complete the eighth grade of basic education at the proper age, despite the Government’s efforts to ensure the provision of compulsory elementary education free of charge and governmental programs to encourage parents and caregivers to enroll young children in primary school (E/C.12/BRA/CO/2 paragraph 31).

**In view of the fact that education contributes to preventing the engagement of children in the worst forms of child labour, the Committee urges the Government to strengthen its efforts to improve the functioning of the education system in the country and pursue its efforts to facilitate access to free basic education for children from poorer areas and states.** In this regard, it requests the Government to supply information on the effective and time-bound measures taken, to increase the secondary school enrolment rate, reduce drop-out rates and reduce the number of out-of-school children, paying special attention to boys.



## ➤ 2011 Direct request, Convention 138

### ○ **Article 2 (1) - Scope of the Convention.**

The Committee previously noted that the Government had declared the minimum age for admission to employment or work of 16 years, as established in article 7, paragraph XXXIII, of the Federal Constitution and section 403 of the Consolidated Labour Act. However, the Committee also noted that, under section 402 of the Consolidated Labour Act, children who have not yet reached the minimum age for admission to employment or work may work in workshops in which only the child's family members are employed and which are managed by their father, mother or guardian, with the exception of night work (section 404) and hazardous work (section 405). The Government indicated that section 402 of the Consolidated Labour Act excludes from its scope, work by children and young persons in family enterprises, i.e. in economic activities for the purpose of family subsistence and maintenance. Nonetheless, in response to the Committee's request to ensure the protection provided for by the Convention to all children, the Government indicated that the functions of the Special Mobile Inspection Group (GEFM) had been modified and the labour inspectors' scope of action extended to combating child labour. The aim of this reinforcement of the labour inspection system was to remove children and young persons from illegal work, in both the formal and informal economies, and to orientate them towards a social protection network. The Government further indicated that an information system on locations where child labour occurs (SITI) had been set up. The Committee requested the Government to indicate the number of working children under 16 years of age who work on their own account or in the informal economy, who had been withdrawn from their activities and to indicate whether the reinforcement of the labour inspection services enables inspectors to carry out inspections in family enterprises.

The Committee notes the Government's statement that work within families is not, strictly speaking, subject to labour inspection. The Government also indicates that the SITI system does not record a child's particular employment status (that is, whether the child is self-employed or not), so it is not possible to provide information on the number of children without an employment contract removed from work. Nonetheless, the Committee observes that the Government's report provides detailed statistics on the employment status of working children, indicating that there were approximately 167,975 self-employed children in 2007 and 130,505 self-employed children in 2008. Regarding children performing unpaid work, the Committee notes the information in the Government's report that 47.3 per cent of children between the ages of 5 and 17 do not receive any remuneration. The Government's report indicates that the majority of children between the ages of 5 and 15 who were performing unpaid work worked in family businesses. The Government further indicates that only 579,299 children between the ages of 5 and 15 were employees.

Noting that the majority of children working under the minimum age are working either on a self-employed basis or on an unpaid basis in a family enterprise, the Committee encourages the Government to pursue its efforts to ensure that children working outside of an employment relationship, such as those who work on their own account or in the informal economy, benefit from the protection provided for in the Convention. The Committee requests the Government to continue to provide information on the measures taken in this regard and on the results achieved.

○ **Article 2 (1&3) - Minimum age for admission to hazardous types of work.**

The Committee previously noted the adoption of Decree No. 6.481 which approves a detailed list of over 90 activities in which it is prohibited to employ young persons under 18 years of age. However, the Committee noted that, pursuant to section 2(1) of Decree No. 6.481, the prohibition on employing young persons under 18 years of age in hazardous work may be lifted under specific conditions. Section 2(1)(1) of Decree No. 6.481 states it is possible to employ a minor aged 16 or over with the authorization of the Ministry of Labour and Employment, further to consultation with the employers' and workers' organizations concerned, provided that the health, safety and morals of the young persons are fully guaranteed. Pursuant to section 2(1)(2) of Decree No. 6.481, this authorization must be accompanied by a detailed technical notice, signed by a professional person legally authorized to act in occupational safety and health matters certifying that the young persons will not be exposed to risks which could endanger their health, safety or morals. This technical notice must be filed with the decentralized unit of the Ministry of Labour and Employment of the district in which the work will take place.

The Committee notes the Government's indication that the filing of the technical notice with the decentralized unit of the Ministry of Labour and Employment is important as it allows, should there be disagreement as to the effective protection of the young persons involved in a activity, the decision to be reviewed by the labour auditor-inspector, who will then take the appropriate legal measures. The Committee once again observes that section 2(1) of Decree No. 6.481 does not indicate whether young persons over 16 years of age must have received adequate specific instruction or vocational training in the relevant branch of activity to receive authorization of the Ministry of Labour and Employment, as specified in *Article 3(3)* of the Convention. The Committee once again reminds the Government that, under *Article 3(3)* of the Convention, young persons over 16 years of age may be authorized to perform dangerous work provided that: (a) their health and safety are fully protected; and (b) they have received adequate specific instruction or vocational training in the relevant branch of activity.

The Committee therefore requests the Government to indicate if specific instruction or vocational training is considered in the technical notice by the professional person legally authorized to act in occupational safety and health matters, or in the subsequent review of this notice by the labour auditor inspector, in conformity with Article 3(3) of the Convention.

Lastly, the Committee notes the information in the Government's report that the subcommittee on bringing the national legislation into conformity with Conventions Nos 138 and 182 commissioned a survey to identify possible gaps in Brazilian legislation on child labour and the protection of young workers with a view to harmonizing legislation with Conventions Nos 138 and 182. The Government indicates that this survey was completed and presented to the subcommittee, which is currently considering options for follow-up steps. The Government indicates that this may include a new bill for submission to National Congress.

The Committee expresses the firm hope that any legislation drafted as a result of this survey will take into consideration the Committee's comments on discrepancies between national legislation and the Convention. It requests the Government to continue to supply information on all progress made in this respect.

# BRAZIL

## COMMITTEE ON THE RIGHTS OF THE CHILD Concluding Observations 3 Nov. 2004

### ➤ Education, leisure and cultural activities

**58.** The Committee welcomes the efforts undertaken by the State party to improve school attendance and the positive results regarding the access of girls to school. The Committee also takes note of the steps made to include issues related to personality development, human rights and citizenship into school curricula. However, it remains concerned about the remarkable disparities of access, regular attendance, dropouts and retention of children in schools across the country affecting particularly the poor, the *mestizo* children, those of African descent and children living in remote areas. The Committee is further concerned about the low quality of education in many schools to the extent that there are many children who, despite several years of school attendance, cannot read and write or do basic calculations.

### ➤ Economic exploitation

**60.** The Committee welcomes the Programme to Eradicate Child Labour (PETI), however it is deeply concerned at the high rates of informal employment of children, in particular in domestic labour.