URGENT APPEAL

Unprecedented Attacks to the Brazilian System for the Fight Against Contemporary Forms of Slavery

October 16th, 2017

** RISK OF IRREPARABLE DAMAGE **

To the following United Nations Special Procedures:

Ms. Urmila Bhoola, Special Rapporteur on contemporary forms of slavery, including its causes and consequences

Mr. Philip Alston, Special Rapporteur on extreme poverty and human rights

Mr. Surya Deva, Chair of the Working Group on the issue of human rights and transnational corporations and other business enterprises

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Summary

This urgent appeal aims at requesting several UN Special Procedure Mandates an urgent action against imminent irreparable damage arisen out of recent Ministerial Order (N° 1129, of 13 October 2017) in Brazil. This instrument can be considered as the most violent attack ever made against the system of fight against slave labor in Brazil coming from the government. The Ministerial Order circumvents the Brazilian Criminal Code on the definition of contemporary forms of slavery, creates several restrictions for the characterization of slave labor and seriously undermines public accountability over the process of the inclusion of an employer in the widely recognized ‘Dirty List’.

If allowed to remain in force, this measure will most likely have the effect of hampering the
actions to free workers from conditions analogous to slavery. It adds to other measures taken by the current Administration to dry out all the resources (financial, technical, human and political) necessary for the continuity of the policies to fight contemporary forms of slavery in Brazil.

This Urgent Appeal is based on the irreparable nature of the damages arisen out of the new regulation on slave labor, whose negative effects are incalculable to a large vulnerable sector in Brazil.

1. The Ministerial Order N° 1129 of 13 October 2017: an unprecedented attack to the Brazilian system of fight against slave labor

On 13 October 2017, the Labor Ministry published the Ministerial Order N° 1129/2017. With the alleged intent of disciplining the provision of unemployment benefits to the victims of slave labor, the instrument causes unprecedented damage to the policies against slave labor in Brazil.

Full of unconstitutional and illegal provisions, the Ministerial Order N° 1129/2017:

- reinvents and redefines the boundaries of the concept of slave labor that exists since 2003 in Brazilian legal system;
- restricts the situations of slave labor to extreme circumstances, which are not the reality of the majority of the cases where employers are submitted to slavery-like labor conditions both in rural and urban areas;
- creates serious obstacles for the inspection of slave labor; and
- undermines public accountability over the procedures for the inclusion of employers in the ‘Dirty List’ of slave labor, an internationally recognized instrument for the protection of workers against contemporary forms of slavery.

1.1. Illegal redefinition of the concept of ‘slave labor’ and restrictions to the characterization and inspection

In 2003, the Brazilian Criminal Code was amended to provide a new definition of ‘work analogous to slavery’. The new definition criminalized submitting a worker to four different types of working practices: (i) forced labor, (ii) severe working hours (degree of work exploitation that imposes risks to workers’ lives and health); (iii) degrading working conditions (depriving workers from their dignity, also risking their lives and health); as well as (iv) to restrict workers’ locomotion because of debt bondage. Thus, by including severe working hours and degrading working conditions, the new text of the Brazilian Criminal Code does not require neither evidence of deprivation of liberty nor the absence workers consent to the typification of work analogous to slavery - adjusting itself to the new social and economic realities.1

Accordingly, the Ministerial Order N° 1153/2003 regulated the procedure that Labor Inspectors should observe to identify workers submitted to contemporary forms of slavery. It prescribes the information that should be described in the labor inspection form, including the absence of a Work and Social Security Card, the recruitment procedure that the employer adopted, non-payment of wages, the debt bondage regime, the existence of armed security personnel, the use

1 The Code also provides that the same penalty shall apply to employers who, with the purpose of keeping their workers in the workspace, 1) limit their means of transportation; 2) keep ouvert surveillance; and 3) retain workers’ official documents.
of violence and threats by the employer or its agents, geographic isolation of the workspace from other villages, the availability of public transportation, failure to provide the workers with potable water, and failure to provide adequate housing and general health and safety conditions. Therefore, it did not require information on restrictions of the right to movement or lack of workers consent.

In complete violation to the principle of legality and in disregard to the definition provided by the Brazilian Criminal Code, the Ministerial Order Nº 1129/2017, issued on 13 October 2017, included ‘deprivation of liberty’ and ‘lack of consent’ as elements essential to the recognition of slave labor, thus restricting - in clear conflict with the Criminal Code - the situations that may characterize as slave labor. Pursuant to the newly-enacted Ministerial Order, severe working hours means to submit workers to working practices that do not meet legal requirements against their will and to limit their freedom of movement. Degradation of working conditions, in turn, require deprivation of liberty, whether by moral or physical means, depriving workers from their dignity. The restriction to the freedom of movement is not relevant in the law (Criminal Code) for the determination of a situation of slavery-like labor in the hypotheses of ‘severe working hours’ and ‘degrading work conditions’. Hence, these ‘innovations’ are absolutely illegal, as they invade the competence of the law, and are aimed at subverting the current concept of slave labor that has led Brazil to acquire international recognition.

The Ministerial Order provides that its definition of slave labor should apply not only to the grant of unemployment benefits to the victims of slave labor, but also to any inspections carried out by the Labor Ministry, including those referring to the ‘Dirty List’ of slave labor (more information about the changes to the ‘Dirty List’ below). Therefore, the Ministerial Order changes the entire system of inspection, protection and reparation against slave labor in Brazil, which had become a global reference in good practices after the Brazilian Criminal Code adopted its new terminology in 2003.

An example of this drastic change is the requirement of the Ministerial Order that slavery-like would need to be characterized necessarily by cumulative criteria that are not currently required by law: (i) maintenance of an armed security personnel in the workplace (other than personnel for the guardianship of private property, (ii) restraining the employee to that environment and (iii) debt bondage. These conditions ignore other forms of coercion and will restrict to very extreme cases the characterization of conditions analogous to slavery. The requirement that the armed security personnel is not used strictly for vigilance of the property is malicious. If an employer makes use of armed security forces and is still found employing labor in conditions analogous to slavery, it will always make a justification that they are not harassing employees, leaving the burden of the proof to the inspection.

It is also important to mention that there are several legislative bills under consideration in the Brazilian Congress seeking to introduce the requirement of deprivation of liberty to the Brazilian Criminal Code’s definition of work analogous to slavery and the weakening of the concept’s elements that address worker’s dignity - that is, severe working hours and degrading conditions. None of them were yet voted, but the United Nations already stressed that approval of these proposed laws would undermine the role of Brazil as a model in the fight against slavery. These laws also faced severe opposition from organized civil society, members of the private sector and from other stakeholders that act in this system.

According to the coordinator of the program to combat forced labor of the International Labor Organization in Brazil, Mr. Antônio Carlos de Mello, the Ministerial Order ends with the

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concept of contemporary slave labor, recognized by the International Labor Organization as an advance to recognize contemporary forms of slavery.\textsuperscript{3}

1.2. Undermining of public accountability and other serious attacks to the ‘Dirty List’ mechanism

The ‘Dirty List’, one of the most innovative instruments to combat contemporary forms of slavery, was frontally attacked by the Ministerial Order N° 1129 of 13 October 2017. The new document revokes or modifies key aspects of the regulatory framework governing the list, including: (i) dubious language concerning the need of a discretionary act by the Labor Ministry to include an employer in the ‘Dirty List’; and (ii) weakening of substantive and transparency requirements associated with the signature of the ‘Term of Adjustment of Conduct’ (‘Termo de Ajustamento de Conduta’, in Portuguese; TAC), a legal instrument that acts as a pressure tool to change the behavior of the employer involved in the practice of slave labor.

In order to understand the irreparable damage the new Ministerial Order causes to the ‘Dirty List’, it is important to understand the recent evolution of the instrument. The procedures for the inclusion of an employer in the ‘Dirty List’ have been progressively improved in recent years mostly as a reaction by former Administrations to judicial actions pursued by associations of employers against the instrument.\textsuperscript{4} Each time the ‘Dirty List’ regulation was reviewed, the employers were benefited with more clarity and predictability about the requirements that would be observed by the inspection authorities.

The last revision of the list occurred in May 2016. The Joint Ministerial Order N° 4/2016, issued by the Labor Ministry and the Secretary of Human Rights, made meaningful changes to the ‘Dirty List’ in at least two central aspects. First, the instrument required that inclusion in the ‘Dirty List’ would be conditional upon the authorities registering the situation under a specific form that would explicitly mention that the employer was found using slave-like labor. Until then, characterization of ‘conditions analogous to slavery’ for the purposes of inclusion in the list could simply make reference to any of the circumstances set forth in article 149 of the Criminal Code, which defines the crime of ‘submitting someone to conditions analogous to slavery’ in the Brazilian legal system. Such provision lists as circumstances analogous to slavery (i) forced labor, (ii) debt bondage, (iii) degrading working conditions and (iii) severe working hours. This change was an explicit concession to the business sector, which argued in court that previous regulations were filled with legal uncertainty, as employers were ‘not aware’ that degrading working conditions or severe working hours would be deemed as an equivalent to slave labor for the purposes of inclusion in the ‘Dirty List’ and other legal consequences.

The second meaningful change promoted by the Joint Ministerial Order N° 04/2016 was the provision that the employer could opt for entering into an administrative or judicial agreement with the federal government, the ‘Term of Adjustment of Conduct’ (TAC). This instrument created a ‘cooling off’ period of up to 2 years, during which the employer would not be included in the ‘Dirty List’ if it agreed and abided by a series of conditions. Such conditions included substantial compensatory and preventive measures (Article 6).


\textsuperscript{4} On December 2014, Brazil’s Supreme Court issued an interim relief suspending the effects of the so-called ‘Dirty List’. In an oral statement to the Human Rights Council, dated 13 March 2015, Conectas and Reporter Brazil warned that such a relief was ‘a concerted action by industry segments often included in the list was successful, through the back door’.

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In addition to the above-listed requirements, the 2016 ‘Dirty List’ Regulation also required that the agreement signed between public authorities and the employer needed to contain a mandatory provision establishing that non-compliance would trigger the application of fines and other penalties. It also ensured that a valid and existing agreement would not constitute an obstacle for the adoption of necessary judicial and administrative measures by state authorities in cases where the employer committed other violations.

The 2016 Regulation further provided that, if the employer agreed to abide by those requirements, it would be entitled to not have its name included in the ‘Dirty List’. It provided as well that inclusion in the list would only happen if the terms of this preliminary agreement were breached. The Regulation also established that a list containing the names of the employers that signed an agreement would also need to be disclosed, simultaneously with the disclosure of the ‘Dirty List’.

All these improvements to the procedures for inclusion in the ‘Dirty List’ were evidently performed with the purpose of better reconciling it with fundamental rights and guarantees, such as the due process. In recognition of the efforts made by Regulation N° 4/2016, in May 2016 the Supreme Court terminated the case filed by associations of employers questioning the List’s constitutionality.

The Ministerial Order N° 1129 of 13 October 2017 repealed all the substantive regulation of the ‘Term of Adjustment of Conduct’. With no substantive requirements, all the agreements entered into by the government and the employers found using slave labor are now completely unregulated. There is nothing in the law according to which such agreements will have to abide to in order to be deemed valid and effective. Even more concerning is the repeal of the provision that required the list of employers that signed an agreement to be disclosed. This seriously undermines public accountability over the agreements signed between public authorities and employers. It violates the basic tenets of the right to an effective remedy according to the ‘Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law’\(^5\), including its guarantees of non-repetition, rehabilitation and full remediation.

The regulatory framework enacted by the Ministerial Order N° 1129, of 13 October 2017, further weakens current procedures\(^6\) of the ‘Dirty List’ in the following aspects:

- **Increase of discretion**: According to the new Ministerial Order, the inclusion of an employer in the ‘Dirty List’ will depend on an express act of the Labor Ministry, after a final administrative decision recognizing the origin of the infraction notice proving the existence of work analogous to slavery. The previous understanding was that the mere existence of the final administrative decision was enough for inclusion in the ‘Dirty List’.

- **Weakening of supervision**: Eliminates the obligation to notify the Labor Public Prosecutor’s Office (MPT) of the negotiations for the conclusion of the Term of Adjustment of Conduct or judicial agreement. This notification was intended to enable the MPT to follow the negotiations involving the Union and the company that could be included in the ‘Dirty List’.


\(^6\) According to Interministerial Order N° 4.
● **Reduced accountability**: It extinguishes the need to make public the conclusion of a TAC or judicial agreement between the Union and an employer that can be included in the ‘Dirty List’. The normative framework that had hitherto existed required that the list of employers that signed TACs would be disclosed just below (sic) in the same document or means of disclosure, containing the employer’s name, registration number, year of the inspection in which the assessments took place and the number of persons found in a condition similar to that of a slave, in addition to the date of signing of the commitment with the Union. The new Ministerial Order also eliminated the obligation to send a copy of the TAC or judicial agreement signed to executive control bodies, including the Attorney General, the Division for the Eradication of Slave Labor of the Labor Ministry and the National Commission for the Eradication of Slave Labor.

● **Incentive to postponement**: Before the new Ministerial Order, the employer accused of submitting workers to conditions analogous to those of slave could celebrate a TAC or a judicial agreement only between the time of inspection by the Labor Inspection and the delivery of a final administrative decision. There is now no limit to the time when the commitment to the Union can be entered into, which allows employers not in *bona fides* to delay their inclusion on the ‘Dirty List’.

● **Possibility of 'pro forma' agreements**: The new Ministerial Order eliminated the need for minimum commitments for the conclusion of the TAC or judicial agreements on the part of the employer accused of subjecting workers to conditions similar to those of slave labor. The repealed legal framework provided for the following criteria: (i) waiver of any action, in the administrative or judicial sphere, aimed at challenging, invalidating or circumventing the effectiveness of the legal force of the penalty applied to the employer; (ii) full payment of labor and social security debts; (iii) the payment of compensation for individual moral damages, in an amount not less than 2 (two) times their contractual salary and the reimbursement to the State of all costs incurred in the process of freeing workers and applying penalties, including unemployment benefits as required by law; (iv) to contribute to programs of psychosocial assistance and monitoring, educational progress and professional qualification of workers rescued from slave-like conditions; to hire workers who attended qualification programs (after being freed from slave labor); to contribute to programs for the assessment of vulnerabilities in communities identified as targets by employers that use slave labor, including actions to promote local development and alternative sources of income generation; (v) the development and implementation of an audit system for the continuous monitoring of the respect for labor and human rights of all employees, whether employed directly or outsourced, and to promote decent work; (vi) the development of evaluation and control mechanisms of audit systems, to assess their effective implementation and results, as well as to promote its continuous improvement, with periodic reports; (vii) an obligation to immediately sanction and remediate any violations of the rights of workers, either directly employed or outsourced, when such violations are identified through internal audit or through the inspection activities of the Labor Inspectorate or by any other competent state bodies, such as the Labor Public Prosecutor's Office, as well as to inform, in written, to competent authorities, about violations to labor rights; (viii) the presentation of a time-frame for the implementation of the obligations, including semiannual reports.

The Ministerial Order N° 1129/2017 further undermines the autonomy and authority of the inspectorate of the Labor Ministry to exercise oversight over the employers by requiring that the police necessarily participates in the rescue operation. Labor inspections usually are held by the Labor Ministry in partnership with other stakeholders - for instance, representatives from the Labor Public Prosecutor’s Office. This depends, among other issues, on the assessment of the situation. Inspections are held by Labor Inspectors - Federal Government agents working under the Labor Ministry competence - and they are guaranteed a much needed autonomy to proceed...
in their fiscalization. Although their work can be done along with other partners, it may not be restricted by their absence.

The new Ministerial Order requires a validation from a present police officer accompanying a Labor Inspector during the fiscalization. If the inspection report is not presented to the Labor Ministry with a copy of the police report, among other required documents, it will not be considered by the Secretary of Labor Inspection. It is intriguing that the police force is not there to arrest the employer - although it can proceed accordingly if it so wishes. The officer is there to merely validate the Labor Inspector’s actions and the inspection per se. According to specialists, this decision may work to delay the process - considering there are more documents for the inspectors to provide to the authorities and the need to coordinate inspection operations with police personnel availability. Additionally, it is implicit in this new procedure a malicious idea advertised by conservative and retrograde sectors that Labor Inspector are not honest in their assessments, which lacks any empirical evidence.7

2. Budget cuts affecting policies and actions to tackle contemporary forms of slave labor

Over the past year, the government has progressively reduced the resources for the inspection of slave labor. On August 21st, the chief of the ‘Division for the Eradication of Slave Labor’8 of the Labor Ministry declared that the government failed to deliver the promised funding to the ‘Special Groups on Mobile Inspection’, and that its pre-existing funds have run out. Therefore, inspection and enforcement activities have been completely halted. The Special Group is formed by public prosecutors, the Labor Ministry, and the federal police force. Since 1995, it has freed over 50,000 laborers from contemporary forms of slavery. Currently, the Special Group is unable even to respond to direct complaints.

The decision to not direct funds to the Special Group is part of a broader context of weakened institutional capacity to fight slavery in Brazil. In March, Conectas reported that the deficit of labor specialists working on this topic exceeded 1,000 inspectors.9 This context aggravates the challenges to eradicate slavery all over the country, notably in rural areas, where there are repeated cases of human trafficking, retention of personal documents, degrading working conditions, debt bondage, and violence against workers, and fewer inspector able to cover the ground.

With less inspections, the rescue numbers are falling dramatically - from a monthly average of 63 workers released from the enslavement in 2016 to 15 in 2017. Labor inspection has also diminished, from around 350 operations in 2011, to 210 in 2016 and 70 in 2017 [data until 06/20/2017]10.

3. The unjustified dismissal of the chief of the slave labor combat department

In an action that was widely interpreted as an attack to the continuity of the fight against slave labor in the country, the government ousted the head of the Division to Eradicate Slave Labor of

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8 O GLOBO. Após crítica por falta de verba, governo decide trocar chefia no Ministério do Trabalho. Available in (Portuguese only): https://glo.bo/2yt4g40. Last access: October 16th 2017.
the Labor Ministry, André Esposito Roston, on 10 October 2017 - barely a week before the Labor Ministry issued the new Ministerial Order.

The decision occurred after Mr. Roston reported the lack of resources to combat slave labor in a public hearing held in the Senate\textsuperscript{11}. His dismissal has been linked to negotiations in the Chamber of Deputies to block a new complaint against President Michel Temer.\textsuperscript{12}

Mr. Roston’s dismissal, regarded by observers as motivated by political intentions\textsuperscript{13}, negatively affects Brazilian state obligation to permanently advance in the fight against slave labor, as imposed by the ruling of the Inter-American Court of Human Rights, which recently condemned Brazil in a case of slave labor, and undermines a public policy that until recently was assumed as a priority by the Brazilian State.

The National Union of Labor Inspectors (SINAIT)\textsuperscript{14} publicly condemned Mr. Roston’s dismissal. The Union manifested its rejection of appointment of political allies to the Secretariat of Labor Inspection, a position that should be taken as technical in nature. The Union declared that Mr. Roston’s dismissal was an ‘attempt to interfere in the Labor Inspector, in one of the most sensitive and most relevant areas, which is the fight against contemporary slave labor in Brazil’\textsuperscript{15}.

It becomes more and more evident that the most conservative sectors of Brazilian society, such as groups entrenched in Congress connected to agribusiness, construction and garment sectors, are pushing the government to dry out all the resources from the Labor Inspection and to pass clearly illegal administrative acts to promote changes that could only be made by law and that cannot be passed without meaningful public debate. \textbf{In a context of next to zero levels of popularity and increasing pressure to block corruption investigations against the major parties, the current President is trading human rights for political support.} As noted by SINAIT, the groups that benefit from the odious use of slave labor now ‘claim one of the most strategic positions in the fight against slave labor, which threatens the National Policy for the Eradication of Slave Labor, in progress for more than 22 years’\textsuperscript{16}.

5. On the Relevant International Law

The prohibition of slavery is a norm of \textit{jus cogens},\textsuperscript{17} and freedom from slavery is therefore an inderogable right. It is universally accepted that the practice of slavery constitute a crime against


\textsuperscript{13} InPACTO. Nota de repúdio. Available in (Portuguese only): http://www.impacto.org.br/pb/2017/10/nota-de-repudio/. Last access: October 16th 2017.


\textsuperscript{15} Id.

\textsuperscript{16} Id.


See also Bassiouni, M. Cherif. ‘International crimes: jus cogens and obligatio erga omnes.’ Law & Contemp. Probs. 59 (1996): 68: ‘The legal literature discloses that the following international crimes are jus cogens: aggression, genocide, crimes against humanity, war crimes, piracy, slavery and slave-related practices, and torture.’
humanity\textsuperscript{18}, including its contemporary forms.\textsuperscript{19} It has also been asserted by numerous international norms and treaties, including the Universal Declaration of Human Rights (article 4); the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the International Covenant on Civil and Political Rights (article 8); the Rome Statute of the International Criminal Court (article 7); and the American Convention on Human rights (article 6). These treaties have all been ratified by Brazil.

**Inter-American System**

On October 2016, the Inter-American Court of Human Rights determined the international responsibility of the Brazilian State for violating such prohibition, finding that the country had failed to protect 85 individuals from the right to be free from slavery.\textsuperscript{20} Exactly one year after the ruling, instead of strengthening the protections against slavery, Ministerial Order N° 1129/2017 directly contradicts the requirements made by the Inter-American Court.

According to the Inter-American Court, the concept of slavery is constituted by two elements: (i) the status or condition of the individual; and (ii) the exercise of any attribute of ownership over the individual. The first element clarifies that the condition of slavery is not dependent on the existence of a formal document, since both the situation \textit{de jure} and \textit{de facto} are relevant. The second element establishes that \textit{slavery is characterized whenever there is a situation of control over the worker which significantly restricts his or her personal autonomy.} The Court further clarifies that this situation of control is generally obtained through means of violence, fraud \textbf{and/or} coercion.\textsuperscript{21}

Moreover, the Inter-American Court recalled that until 2003, Brazilian courts used to consider that the defining element of slavery was the deprivation of liberty. However, in 2003, the Criminal Code was amended, and today the concept of slavery is broader, as explained in the previous section. Therefore, in accordance to article 29 of the American Convention on Human Rights, the more protective concept established by the Criminal Code should prevail. In accordance to the prohibition of regression, the Court required the Brazilian state not to recede such protection.\textsuperscript{22}

Therefore, by retroceding to a more restrictive concept of slavery, Brazil directly violates the determinations made by the Inter-American Court of Human Rights.

**The International Labour Organization (ILO)**

\textsuperscript{18} See The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Final Declaration (September 2001): ‘We further acknowledge that slavery and the slave trade are a crime against humanity and should always have been so, especially the trans-Atlantic slave trade.’


Within the ILO, Brazil has ratified the 1957 Abolition of Forced Labour Convention (ILO Convention No. 105), which constitutes the organization's core instrument in this matter. Brazil has also ratified the Forced Labour Convention (ILO Convention No. 29).

The latter defines forced or compulsory labour as ‘all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily’. According to the ILO, this definition encompasses ‘traditional practices of forced labour, such as vestiges of slavery or slave-like practices, and various forms of debt bondage, as well as new forms of forced labour that have emerged in recent decades.’

Therefore, although the ILO emphasizes that forced labour is a more restrictive concept than sub-standard or exploitative working conditions, the organization rejects a traditional and outdated definition. In this regard, some of the indicators it uses to ascertain when a situation amounts to forced labour include: ‘restrictions on workers’ freedom of movement, withholding of wages or identity documents, physical or sexual violence, threats and intimidation or fraudulent debt from which workers cannot escape.’

Making reference to the ILO system, in 2016, the UN Country Team in Brazil expressed its concerns at the risks of dismantling the protection scheme already in place. They recommended:

- ‘to maintain the legal concept of slave labor under Art. 149 of the Penal Code, since it is in accordance with the international instruments ratified by Brazil, including ILO Conventions No, 29 and 105;’ and

- the reactivation of the National Registry of Employers caught in the crime of slavery (‘Dirty List’).

Nevertheless, those actions were disregarded by the Executive and Legislative, mainly due to an extreme pressure of the rural caucus at the Congress and its considerable influence at Presidential and Ministerial levels.

**United Nations System**

The League of Nations Slavery Convention of 1926 defined slavery as ‘the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.’ Thirty years later, the Supplementary Convention on the Abolition of Slavery reaffirmed this concept and expanded the obligations of States in this regard, establishing that they should also abolish ‘servile status.’

This definition has largely remained unchanged within the United Nations System. Therefore, the elements of control and ownership are central to identifying the existence of slavery. However, they must be understood in light of modern world circumstances and the conditions of the enslaved person. In accordance to a report published by the Office of the United Nations High Commissioner for Human Rights, the following aspects should be considered:

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‘(i) the degree of restriction of the individual’s inherent right to freedom of movement;

(ii) the degree of control of the individual’s personal belongings; and

(iii) the existence of informed consent and a full understanding of the nature of the relationship between the parties.’²⁸

In this report, OHCHR also provides examples of contemporary situations which involve the abovementioned elements, emphasizing that ‘[t]he migrant worker whose passport has been confiscated by his or her employer, the child sold into prostitution or the ‘comfort women’ forced into sexual slavery – all have the element of choice and control of their lives taken from them, either by circumstance or through direct action, and passed to a third party, either an individual or a State.’²⁹

Thus, the definition of slavery must encompass a modern concept of ‘control’. Rather than being restricted to traditional elements associated to ‘chattel’ slavery, in the modern world, control is complex and does not necessarily involve direct restrictions on freedom of movement. Freedom is also endangered by indirect restrictions enabled by fraud, threats, and lack of information.

**Latest Visit of the Special Rapporteur on Contemporary Forms of Slavery to Brazil (2010)**

The UN Rapporteur on the Contemporary Forms of Slavery, during her visit to Brazil noted that joblessness, landlessness and poverty lie at the root causes of contemporary forms of slavery in Brazil.³⁰ The Rapporteur well depicted the situation of workers under slavery situation:

> The vast majority of workers in slave labour are in debt bondage. *Gatos* entice labourers from very poor areas of the Brazilian north-east to work in distant towns in return for an advance on their wages and promises of attractive salaries. The workers are recruited by verbal contract, and taken by bus to plantations and ranches, usually located in another state of Brazil. Once they arrive, they are told that they have to pay back any advance given and pay for their transport, food and accommodation. The attractive salaries promised to workers are reduced, and their salaries rarely cover their costs. Workers become indebted to their employers from the outset. They usually do not have any access to information about how their debt is calculated, nor do they receive their wages in cash. In some cases, the workers become more and more indebted, since they have to buy everything they need at inflated prices from the estate shop. Workers’ debts increase to such an extent that they can never be paid off; the workers are thus forced to continue working.³¹

While commending the efforts of Brazil to eradicate slave labour, it was noted that the ‘Dirty List’ had led to few criminal prosecutions and only one conviction; that the Special Mobile Inspection Group faced resource constraints³², and, worryingly, that ‘the Group’s work is also

³⁰ Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Gulnara Shahinian, Mission to Brazil (2010), UN Doc. A/HRC/15/20/Add.4, paras. 23-25. At para 28: ‘Workers are generally recruited from a state characterized by extreme poverty, illiteracy and rural unemployment.’
³¹ Id., para. 31.
³² Id., para. 69.
heavily undermined by political attacks and public criticism.\textsuperscript{33} The attacks on the Group and the Dirty List, even if noted along the last decade, were intensified in the last couple of years. The Rapporteur recommended:

The ‘Dirty List’ should be strengthened by incorporating it into law. Additionally, it should be extended to other sectors, such as the garment industry.\textsuperscript{34}

Not only the ‘Dirty List’ was not incorporated into law, nor extended to other sectors, but undergoes a serious dismantling, as explained throughout this document.

**Relevant Treaty-Bodies Concluding Observations on Brazil**

In 2005, the Human Rights Committee recommended that Brazil reinforced its capacity to prosecute and punish acts of slave labour, as well as to ensure protection and redress to the victims. It also recommended the government to reinforce international cooperation mechanisms.\textsuperscript{35} Likewise, the Committee on Economic, Social and Cultural Rights, in 2009, reinforced the need to put efforts in order to bring those perpetrators to justice.\textsuperscript{36}

**4. Conclusion and requests**

The petitioner herewith request the above-mentioned UN human rights mandates:

I. Declare that Ministerial Order Nº 1129, of 13 October 2017 is not in accordance with the relevant international standards;

II. Declare that the unjustified budget cuts to the policies and governmental agencies in charge of carrying out actions against contemporary forms of slavery in Brazil violates the principle of non-retrogression;

III. Request the Brazilian State to revoke incontinenti the Ministerial Order Nº 1129, of 13 October 2017 and to declare it void of legal effects;

IV. Request the Brazilian State to allocate the necessary material and human resources for the continuity of the inspection operations to combat contemporary forms of slave labor.

**Signatures**

The present urgent appeal is submitted by the following organizations:

**Conectas Direitos Humanos**  
**Comissão Pastoral da Terra**

\textsuperscript{33} Ibid.  
\textsuperscript{34} Id. para. 108.  
\textsuperscript{35} HRCtee, Concluding Observations on Brazil. UN Doc. CCPR/C/BRA/CO/2, para. 14.  
\textsuperscript{36} CESCR, Concluding Observations on Brazil. UN Doc. E/C.12/BRA/CO/2, para. 15.
Portaria MTB Nº 1129 de 13/10/2017 (‘Ministerial Order Nº 1129’)

Defines the concepts of forced labor, exhaustive working journey and conditions analogous to that of slave labor, for the purpose of granting unemployment insurance to the worker who is to be rescued in inspections realized by the Labor Ministry, pursuant to Article 2-C of Law N. 7,998, of January 11, 1990; as well as amends provision of PI MTPS/MMIRDH N. 4 of May 11, 2016.

The Minister of State for Labor, in the use of the attribution conferred by art. 87, sole paragraph, item II, of the Federal Constitution, and

Considering Convention No. 29 of the International Labor Organization (ILO), promulgated by Decree No. 41,721 of June 25, 1957;

Considering ILO Convention 105, promulgated by Decree No. 58.822 of July 14, 1966;

Considering the Geneva Slavery Convention, promulgated by Decree No. 58,563, of June 1, 1966;

Considering the American Convention on Human Rights, promulgated by Decree No. 678 of November 6, 1992; and

Considering Law No. 7,998 of January 11, 1990, as well as Law 10,608 of December 20, 2002,

Resolve:

Article 1. For the purpose of granting unemployment benefit to the worker who is identified as being subjected to forced labor or reduced to a condition analogous to that of a slave, under the terms of Ministerial Order Nº 1,153 of October 13, 2003 , as a result of the supervision of the Labor Ministry, as well as to include the name of employers in the Register of Employers who have submitted workers to the condition analogous to that of slave, established by PI MTPS / MMIRDH nº 4, of May 11th, 2016, defines:

I - forced labor: that exercised without the consent of the worker and that withdraws the possibility of expressing his will;

II - exhaustive journey: the submission of the worker, against his will and with deprivation of the right to come and go, to work outside the legal dictates applicable to his category;

III - degrading condition: characterized by commissive acts of violation of the fundamental rights of the person of the worker, consubstantiated in the restriction of the freedom of movement, either by moral or physical means, and which imply in the deprivation of his dignity;

IV - condition analogous to slavery:

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37 All the legal instruments have been freely translated and are not official reproductions of the norms in force in Brazil.
a) the submission of the worker to work required under threat of punishment, using coercion, performed involuntarily;

b) the restriction of the use of any means of transport by the worker, in order to keep him in the workplace due to debt contracted with the employer or agent, characterizing geographic isolation;

c) the maintenance of armed security for the purpose of retaining the worker in the workplace due to debt contracted with the employer or agent;

d) retention of personal documentation of the worker, in order to retain the worker in the workplace;

Article 2. The concepts established in article 1 shall be observed in any inspections carried out by the Labor Ministry, including for the purpose of including employers in the Register of Employers who have submitted workers to the condition analogous to that of slave, established by PI MTPS / MMIRDH nº 4, of May 5th, 2017.

Article 3. Once the tax audit is drawn up by the Labor Inspector, based on PI MTPS / MMIRDH nº 4, of May 5th, 2017, the employer will be assured the exercise of the contradictory and due process regarding the conclusion of the Labor Inspection of finding work in conditions analogous to that of slave labor, in the form determined by Law No. 9,784, of January 29, 1999, and by Ministerial Order MTE 854, of June 25, 2015.

Paragraph 1 - It must compulsorily be stated in the indictment to identify forced labor; the exhausting journey; degrading condition or submission to the condition analogous to slavery:

I - express reference to this Ministerial Order and to PI MTPS / MMIRDH nº 4, of November 5th, 2016;

II - copies of all documents that demonstrate and prove the conviction of the occurrence of forced labor; of the exhaustive journey; degrading condition or working under conditions analogous to slavery;

III - photos showing each irregular situation found, different from noncompliance with labor standards, in accordance with Ministerial Order MTE 1.153, of October 14, 2003;

IV - a detailed description of the situation found, with a mandatory approach to the following items, in accordance with Ministerial Order MTE 1.153, of October 14, 2003:

a) existence of armed security other than protection of the property;

b) impediment of displacement of the worker;

c) debt bondage;

d) The existence of forced and involuntary labor by the worker.

Paragraph 2 - The same administrative proceeding shall include all notices of infraction that establish the occurrence of forced labor; exhausting journey; of degrading conditions or in conditions analogous to slavery, if they are drawn up under the same supervision, in accordance with Ministerial Order MTE 854 of June 25, 2015.
Paragraph 3. In the face of the final administrative decision on the proceeding of the indictment or the set of records, the Minister of Labor shall determine the registration of the employer convicted in the Register of Employers who submit workers to a condition analogous to those of a slave.

Article 4. The Employer’s Registry provided for in PI MTPS/MMIRDH n. 4, of May, 11th, 2016, will be disclosed on the official website of the Labor Ministry, containing the list of individuals or legal entities assessed in a fiscal action that has identified workers submitted to conditions analogous to slavery.

Paragraph 1. The organization of the Registry shall be the responsibility of the Secretariat of Labor Inspection (SIT), whose disclosure shall be made by express determination of the Minister of Labor.
Paragraph 2. The inclusion of the employer will only occur after the proffering of an definitive administrative decision from the record of the infraction or of the set of infraction notices.

Paragraph 3. In order to receive the process by the judicial body, the Labor Fiscal shall promote the gathering of the following documents:

I - Inspection report signed by the group responsible for the inspection in which the practice of forced labor, exhaustive working journey, degrading conditions or conditions analogous to slavery was identified, detailing the object of the inspection and containing, compulsorily, a photographic record of the action and identification of those involved on site;

II - Police Report drawn up by the police authority that participated in the inspection;

III - Proof of receipt of the Inspection Report by the assessed employer;

IV - Sending of official letter to the competent Federal Police Station communicating the fact for purposes of instituting.

Paragraph 4. The absence of any of the documents listed in this article, will imply the return of the process by SIT for the Labor Fiscal in order to instruct it correctly.

Paragraph 5. The SIT may, on its own initiative or at the request of the employer, dismiss the proceedings in due diligence, whenever there is contradiction, omission or obscurity in the instruction of the administrative proceeding, or any kind of restriction to the right of ample defense or contradictory.

Article 5. The updating of the Register of Employers who have submitted workers to the condition analogous to that of a slave shall be published on the website of the Labor Ministry twice a year, on the last working day of June and November.

Single paragraph. The definitive administrative decisions of the infraction notice, or set of infraction notices, prior to the date of publication of this Order shall be valid for the Cadastre after analysis of the adequacy of the hypothesis to the concepts established herein.

Article 6. The Union may, with the necessary participation and consent of the Secretariat of Labor Inspection and Legal Counsel with the Labor Ministry, observing the indispensable authorization, participation and representation of the Attorney General of the Union for the practice of the act, to celebrate Term of Conduct Adjustment (TAC), or judicial agreement with the administration subject to be included in the Register of Employers, with the purpose of repairing the damages caused, sanitation of irregularities and adoption of preventive and promotional measures to avoid the future occurrence of new cases of work in conditions
analogous to that of slave, both in the scope of the performance of the administered and in the labor market in general.

Paragraph 1. The analysis of the conclusion of the Term of Adjustment of Conduct (TAC) or judicial agreement shall occur upon presentation of a written request by the administrator.

Paragraph 2. The Term of Adjustment of Conduct (TAC) or judicial agreement can only be concluded between the moment of the Labor Inspection, the submission of workers to conditions analogous to those of slave and the delivery of an unappealable administrative decision of the origin of the order of tax assessment.

Article 7. The Labor Inspection Secretariat shall discipline the inspection procedures referred to in this Administrative Rule, through normative instructions to be issued within 180 days.

Article 8 - Articles 2, paragraph 5, 6, 7, 8, 9, 10, 11 and 12 of PI MTPS / MMIRDH no. 4, of May 11th, 2016, as well as their provisions to the contrary, are hereby revoked.

Article 9. This Ordinance shall enter into force on the date of its publication.

Portaria Interministerial MTPS/MMIRDH N° 4 DE 11/05/2016 (‘Interministerial Order N° 4’)

The Minister of State for Labor and Social Security and the Minister of State for Women, Racial Equality, Youth and Human Rights, in the use of the attribution conferred on them by art. 87, sole paragraph, item II, of the Federal Constitution, and in view of the provisions of arts. 3, items I and II, and 7, items VII, letter b, of Law 12,527, of November 18, 2011, and

Considering Convention No. 29 of the International Labor Organization (ILO), promulgated by Decree No. 41,721 of June 25, 1957;

Considering ILO Convention 105, promulgated by Decree No. 58,822 of July 14, 1966;

Considering the Geneva Slavery Convention, promulgated by Decree No. 58,563, of June 1, 1966, and

Considering the American Convention on Human Rights, promulgated by Decree No. 678 of November 6, 1992,

Resolve:

Article 1 Establish, within the scope of the Labor Ministry and Social Security (MTPS), a Register of Employers who have submitted workers to conditions analogous to that of slave, as well as disposing of the rules that apply to them.

Article 2 - The Register of Employers shall be disclosed on the official website of the Labor Ministry and Social Security (MTPS), containing the list of individuals or legal entities assessed in a tax action that has identified workers subject to conditions analogous to that of a slave.

§ 1 The inclusion of the employer will only occur after the delivery of an unappealable administrative decision on the origin of the tax assessment notice drawn up in the tax action due to the finding of labor exploitation under conditions analogous to that of slave.
Paragraph 2 - In the administrative proceeding of the infraction notice, the administrator shall be assured the exercise of the contradictory and ample defense regarding the conclusion of the Labor Inspection of finding work in conditions analogous to that of slave, in the form of art. 629 to 638 of Decree-Law No. 5,452, dated May 1, 1943 (Consolidation of Labor Laws) and MTPS Ordinance No. 854, dated June 25, 2015.

Paragraph 3. The organization and dissemination of the Cadastre shall be carried out by the Inspection Division for the Eradication of Slave Labor (DETRAIE), within the scope of the Labor Inspection Secretariat (SIT) of the Labor Ministry and Social Security.

Paragraph 4. The list to be published will contain the name of the employer, its registration number in the National Register of Legal Entities (CNPJ) or in the Individuals Registry (CPF), the year of the inspection in which the assessments occurred, the number of persons found in a condition analogous to that of a slave, and the date of final decision rendered in the administrative process of the notice of infraction drawn up.

(Revoked by Portaria MTB Nº 1.129 of October 13th, 2017):

Paragraph 5. The updating of the relationship may occur at any time, but such action may not occur in a period of more than six (6) months.

Article 3. The name of the employer shall remain in the Register for a period of two (2) years, during which the Labor Inspection shall carry out monitoring in order to verify the regularity of the working conditions.

Single paragraph. During the period provided for in the caput of this article, there has been a recurrence in the identification of workers subject to conditions analogous to slavery, with the presentation of an unappealable administrative decision of the new tax assessment notice drawn up, the employer will remain in the Register for another two (2) years, counted as of his reinclusion.

Article 4. The data disclosed in the Register of Employers do not affect the right of the interested parties to obtain other information related to the fight against labor in conditions analogous to that of slave labor, in accordance with Law 12,527 of November 18, 2011 (Access to Information Law).

(Revoked by Portaria MTB Nº 1129 of 10/13/2017):

Art. 5 The Union may, with the necessary participation and consent of the Secretariat of Labor Inspection of the Labor Ministry and Social Security, and observing the indispensable authorization, participation and representation of the Attorney General of the Union for the practice of the act, celebrate a Term of Conduct Adjustment (TAC), or a judicial agreement with the employer subject to be included in the Register of Employers, with the purpose of repairing the damages caused, correcting irregularities and adopting preventive and promotional measures to avoid future occurrence of new cases of work in conditions similar to that of slave, both within the scope of the performance of the administered and in the labor market in general.

Paragraph 1. The analysis of the conclusion of the Term of Conduct Adjustment (TAC) or judicial agreement shall occur upon presentation of a written request by the employer.

Paragraph 2. Once the request has been received, the Public Prosecutor's Office (MPT) will be notified by means of a communication to the Office of the Attorney General of Labor (PGT), which will be facilitated in the follow-up of the negotiations with the employer, as well as the optional participation in the Term of Conduct Adjustment (TAC) or court settlement.
Paragraph 3. The employer who enters into a TAC or judicial agreement in the manner disciplined in this article will not integrate the disciplined relationship in art. 2 of this Ordinance, but a second relation, located topically just below the first, both of which must be part of the same document and means of disclosure.

Paragraph 4. The relationship referred to in paragraph 3 of this article shall contain the name of the employer, the CNPJ or CPF number, the year of the inspection in which the assessments occurred, the number of persons found in a condition analogous to that of a slave, and the date of commitment to the Union assignment.

Paragraph 5. The Term of Adjustment of Conduct (TAC) or judicial agreement can only be concluded between the moment of the Labor Inspection, the submission of workers to conditions analogous to those of slave, and the delivery of an unappealable administrative decision of tax assessment.

(Revoked by Portaria MTB Nº 1129 of 10/13/2017):

Article 6. In order to achieve the objectives and generate the effects expressed in article 5, the conclusion of the Term of Conduct Adjustment (TAC) or judicial agreement, shall contain at least the following provisions and commitments on the part of the administered:

I - waiver of any action, in the administrative or judicial sphere, aimed at challenging, invalidating or evading the effectiveness of the legal effects of the infraction notices recorded in the tax action in which work analogous to that of a slave was found;

II - as a sanitation measure, the payment of any labor and social security debts established during the audit process and not yet removed;

III - as a measure of reparation to workers found by the Labor Inspection in a condition analogous to that of slave, the payment of compensation for individual moral damages, in an amount not less than 2 (two) times their contractual salary;

IV - as a material reparation measure, reimbursement to the State of all costs involved in executing the tax action and in the redemption of workers, including unemployment insurance due to each of them, pursuant to art. 2º-C of Law no. 7,998, of January 11, 1990, for the situation in conditions analogous to those of slave;

V - as a preventive and promotional measure, the cost of a multidisciplinary program that is intended for psychosocial assistance and accompaniment, educational progress and professional qualification of workers rescued from work in slave-like conditions, or especially vulnerable to this type of illicit;

VI - as a preventive and promotional measure, the hiring of workers graduated from the qualification program in accordance with item V, in an amount equivalent to at least 3 (three) times the number of workers found in conditions similar to those of slave labor by the Inspection of the Work, giving them the necessary preference in filling open positions compatible with their professional qualification.

VII - as a preventive and promotional measure, the costing of a program whose objective is to diagnose vulnerabilities in communities identified as suppliers of labor exploited under conditions analogous to slavery, followed by the adoption of measures to overcome such vulnerabilities, such as progress educational and implementation of actions favoring access to public programs and the development of alternative income generation in accordance with local economic vocations, including the structuring of sustainable family economy;
VIII - as a preventive and promotional measure, the elaboration and implementation of an audit system for the continuous monitoring of the respect for labor and human rights of all employees who provide services to the employees, whether they are hired directly or outsourced, and whose objective is not only to eliminate the worst forms of exploitation, such as work analogous to a slave, but encourage and promote decent work;

IX - creation of evaluation and control mechanisms on the audit system, for measuring its effective implementation and results, as well as to promote its continuous improvement, with periodic reports;

X - agreement that under no circumstances may the performance or results of the auditing system described in point VIII, establish or induce the administration or any service providers to adopt discriminatory positions in relation to workers who are identified as victims effective or potential labor conditions under conditions analogous to those of slave labor.

XI - assumption by the employer of responsibility and duty to immediately sanction and repair any violations of the rights of the workers who provide him or her services, be they his employees or outsourced workers, as evidenced in his own audit or through the inspection activities of the Labor Inspection or by any other competent state bodies, such as the Public Prosecutor’s Office;

XII - need to prove, within 30 (thirty) days, the adoption of the necessary sanitation and repair measures whenever any violation of the right of a worker who provides services is found, in accordance with item XI;

XIII - sending a written communication whenever, through its audit system, or by any other means, the man or woman is disrespected of the labor or human rights of the workers who provide the service, within thirty (30) days, accompanied by proof of the respective sanitation and repair measures;

XIV - presentation of a schedule to fulfill the obligations assumed, in particular the obligations to do defined in items VI, VIII and IX;

XV - submission of semiannual reports to render accounts on the fulfillment of the obligations assumed, including the schedule of obligations to be defined in items VI, VIII and IX;

XVI - obligation to submit information in writing, accompanied by supporting documents that may be requested, to any question raised by the Union or by a member of the National Commission for the Eradication of Slave Labor (CONATRAE) regarding compliance with the terms of the TAC or maximum term of 30 (thirty) days;

XVII - express provision that the fulfillment of the obligations to give, established for sanitation and repair, will represent a restricted discharge to the titles expressly delimited in the TAC or judicial agreement, not implying general discharge, nor the recognition by the State of repair to any other damages, individual or collective, which may arise from the conduct of the employer;

XVIII - express provision that the TAC or judicial agreement shall not in any way obstruct the administrative or judicial action of the State in the event of other damages caused and not repaired by the employer or of other violations of the administration administered to the legislation;

XIX - imposition of a fine for the eventual non-fulfillment of each contractual clause, in an amount equivalent to the economic content of the obligation or, when this measurement is impossible, in value to be fixed between the parties;
XX - provision that all communications regarding the execution of the Term of Adjustment of Conduct (TAC) or judicial agreement should be sent in writing to the Attorney General's Office, the Labor Inspection Secretariat and CONATRAE;

XXI - expressly stated that, as verified violation by the administration of the clause of the TAC or judicial agreement, it will have 30 (thirty) days to present a challenge or prove the recovery of the irregularity, when possible. The TAC or judicial agreement will not be enforced, and the provisions of § 3 of art. 10 of this Ordinance;

Single paragraph. The multidisciplinary psychosocial assistance and follow-up program, educational progress and qualification described in section V of the caput of this article should meet the following requirements:

I - consider the special needs of the participants to be readapted, such as their previous experience and the educational level;

II - offer a cycle of assistance, psychosocial monitoring and monitoring of the worker for at least one (1) year, given their condition of special vulnerability;

III - offer a cycle of educational progress and professional qualification not less than 3 (three) months, assuring the cost of all necessary expenses for the insertion and effective adhesion of the employees qualified as the target public, including those with food, transport, educational material, as well as a guaranteed monthly income of not less than one minimum wage for the duration of the program;

IV - be executed preferably in the worker's localities of origin;

V - to develop in line with the worker's professional aspirations and, in the end, to promote their inclusion in the labor market, either by establishing employment contracts or by establishing other forms of insertion, such as family economy or entrepreneurship;

VI - take on the commitment to present accountability to the administration, the Federal Attorney General's Office, the Labor Inspection Secretariat and the National Commission for the Eradication of Slave Labor (CONATRAE), regarding the use of resources received;

VII - make a commitment to provide information to the administration, the Federal Attorney General's Office, the Secretariat of Labor Inspection and the Secretariat of Human Rights, through CONATRAE, regarding the execution and results of the multidisciplinary program.

(Revoked by Portaria MTB Nº 1129 of 10/13/2017):

Article 7. When the conclusion of a Term of Conduct Adjustment (TAC) or judicial agreement involves a microenterprise, a small business, an individual entrepreneur or a domestic employer, the one administered, upon prior presentation of a complete statement of assets and income, to be sent to the Federal Revenue Service, if the agreement is effectively agreed upon, may request that the Union, in accordance with the principles of reasonableness and proportionality, and considering its economic size, the resources at its disposal, the economic activity exploited, the degree of fragmentation of the productive chain, and the ability to employ labor, assess the suitability of:

I - Limit compliance with item IV of art. 6º to reimbursement to the State of the costs of unemployment insurance due to each of the workers found in a situation similar to that of slave in the tax action, under the terms of art. 2º-C of Law No. 7,998, of January 11, 1990;

II - To waive compliance with items VIII, IX and X of art. 6th;
III - Dispensing, alternatively, compliance with item V or VII of art. 6th;

IV - Reduce the number of workers hired from the qualification program provided for in item VI of art. 6, in number never inferior to the total of workers found in conditions similar to those of slave labor Inspection.

(Revoked by Portaria MTB Nº 1129 of 10/13/2017):

Article 8. Copy of the Term of Conduct Adjustment (TAC) or legal agreement entered into, shall be submitted to the Federal Attorney General's Office, the Division for the Eradication of Slave Labor (DETRAE) and the National Commission for the Eradication of Slave Labor (CONATRAE).

(Revoked by Portaria MTB Nº 1129 of 10/13/2017):

Article 9 Terms of Conduct Adjustment or judicial agreements signed before the Public Prosecutor's Office (MPT) may generate regular effects for the elaboration of the two relations disciplined by art. 2 and 3 of art. 5 of this Ministerial Order, provided that:

I - a formal request from the administrator to the Federal Attorney General’s Office and to the Office of Inspection of Labor, accompanied by a copy of the Term of Conduct Adjustment (TAC) or judicial agreement, judicial process or investigative procedure, and a document prove the express consent of the celebrant Labor Prosecutor; and

II - its terms comply with the conditions set forth in this Administrative Rule.

(Revoked by Portaria MTB Nº 1129 of 10/13/2017):

Article 10. Employers who enter into a Term of Adjustment of Conduct (TAC) or judicial agreement pursuant to this Ordinance shall remain in the relationship provided for in paragraph 3 of art. 5 for a maximum period of two (2) years, counted from their inclusion, and may request their exclusion after one (1) year.

Paragraph 1 - The request for exclusion, which will be appraised in up to 30 (thirty) days, shall be instructed with the periodic reports provided for in item XV of art. 6 of this updated Ordinance, and its deferral is conditional on the non-existence of a finding of noncompliance with any of the obligations assumed by the administration.

Paragraph 2 Copy of the Term of Adjustment of Conduct (TAC) or judicial agreement entered into pursuant to this Ordinance shall be accessible to the public through a link inserted in the disclosure document provided for in paragraph 3 of art. 5th.

Paragraph 3. In the event of default by the manager of any of the obligations assumed during the period of two (2) years, counted from its inclusion in the relation provided in paragraph 3 of art. 5, it shall be immediately integrated into the relationship published in accordance with art. 2 of this Ordinance, subject to the rules of inclusion and exclusion applicable thereto.

(Revoked by Portaria MTB Nº 1129 of 10/13/2017):

Article 11. During the period in which they remain in the relationship provided for in § 3 of art. 5, employers shall also be subject to inspection of the Labor Inspection and, in the case of a repeat offense of identification of workers subject to conditions analogous to those of slave labor in this interstice:
I - The Union will not conclude with the new Term of Conduct Adjustment (TAC) or judicial agreement;

II - The employer will be integrated to the relationship published according to art. 2 of this Order immediately after the delivery of a new administrative decision that can not be dismissed as a result of the notice of infraction drawn up in the face of the finding of work in conditions analogous to those of slave labor.

(Revoked by Portaria MTB Nº 1129 of 10/13/2017):

Art. 12. Under no circumstances shall the time in which the employer remain in the relationship of those who have signed a TAC or judicial agreement be counted in the count of the period determined by art. 3º.

Art. 13. The Secretariat of Human Rights is responsible for monitoring, through the National Commission for the Eradication of Slave Labor (CONATRAE), the procedures for inclusion and exclusion of names of the Employers' Registry.


Art. 15. This Ordinance shall enter into force on the date of its publication.

MIGUEL SOLDATELLI ROSSETTO

Minister of State for Labor and Social Welfare