

**Haitian Hemispheric Opportunity  
through Partnership Encouragement  
Act of 2008**

**2023 USTR Annual Report on the Implementation of the Technical  
Assistance Improvement and Compliance Needs Assessment and  
Remediation (TAICNAR) Program and Assessment of Producer Eligibility**

The Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (HOPE II) affords preferential treatment for imports of apparel, textiles, and certain other goods from Haiti. To be eligible for preferential treatment under HOPE II, Haiti must first have: (i) implemented the Technical Assistance Improvement and Compliance Needs Assessment and Remediation (TAICNAR) program; (ii) established a Labor Ombudsperson's Office; (iii) agreed to require producers of articles for which preferential tariff treatment may be requested to participate in the TAICNAR program; and (iv) developed a system to ensure participation by such producers, including by establishing a producer registry.

On October 16, 2009, the President certified to Congress that Haiti had taken these actions. Further, to remain eligible for preferential treatment, Haiti must also have established or be making continual progress towards establishing the protection of internationally recognized worker rights.<sup>1</sup> On June 29, 2015, the President signed the Trade Preferences Extension Act of 2015, which included the extension of Haiti's preferential tariff treatment until September 30, 2025.

HOPE II calls for the President to transmit an annual report to Congress by June 18, regarding the establishment and operation of the Labor Ombudsperson's Office and implementation of the TAICNAR program. The President has delegated the production and transmittal of this report to the United States Trade Representative. This report is to include an explanation of the efforts of the Government of Haiti, the President, and the International Labor Organization (ILO) with respect to the Labor Ombudsperson's Office and the TAICNAR program; a summary of reports prepared by the ILO, as the operator of the TAICNAR program, during the preceding one-year period; and, on a biennial basis, a list of the producers that the President has identified as failing to comply with core labor standards<sup>2</sup> and with the labor laws of Haiti that directly relate to and are consistent with core labor standards.<sup>3</sup>

**TAICNAR program:** In accordance with 19 U.S.C. § 2703a(e)(3), the TAICNAR program coordinates with the Labor Ombudsperson and appropriate representatives of Haitian

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<sup>1</sup> HOPE II defines internationally recognized worker rights to include: the right of association; the right to organize and bargain collectively; a prohibition on the use of any form of forced or compulsory labor; a minimum age for the employment of children; and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health. 19 U.S.C. § 2703a(d)(1)(A)(vi). There are also additional HOPE II eligibility requirements not directly related to the TAICNAR program.

<sup>2</sup> HOPE II defines the core labor standards as follows: freedom of association, the effective recognition of the right to bargain collectively, the elimination of all forms of compulsory or forced labor, the effective abolition of child labor and a prohibition on the worst forms of child labor, and the elimination of discrimination in respect of employment and occupation. 19 U.S.C. § 2703a(a)(3).

<sup>3</sup> 19 U.S.C. § 2703a(e)(5)(B).

Government agencies, employers, and workers to:

- assess compliance by producers of products eligible for benefits under HOPE II (“producers”) with core labor standards and the labor laws of Haiti that directly relate to and are consistent with core labor standards, and Haitian laws on acceptable conditions of work;
- issue public reports on compliance with such worker rights;
- assist producers with addressing deficiencies in worker rights compliance;
- provide training for workers and management to promote such compliance; and
- provide assistance to Haiti’s government to improve its capacity to inspect producers’ facilities, enforce national labor laws, and resolve disputes.

The factory-level compliance assessment and assistance, as well as the public reporting requirements of the TAICNAR program are being implemented through the ILO and the International Finance Corporation’s Better Work program, which promotes improved labor standards in global supply chains. Since 2008, the U.S. Department of Labor (DOL) has provided the Better Work Haiti program (BWH) a total of \$18.6 million to support project activities through 2023. DOL also provided \$2.4 million over three years for a separate ILO project providing technical assistance to the Government of Haiti that focused on improving labor inspection and other aspects of labor law enforcement. Although this program ended in December 2017, BWH has continued the ILO’s efforts to support capacity building of the labor ministry in Haiti.

**Labor Ombudsperson:** HOPE II called for Haiti to establish the Office of the Labor Ombudsperson within the national government to: (i) develop and maintain a registry of producers whose articles are eligible for the preferential tariff treatment; (ii) oversee the implementation of the TAICNAR program; (iii) receive and investigate comments regarding compliance with core labor standards and relevant Haitian labor laws; and (iv) assist producers in meeting the requirements of HOPE II. 19 U.S.C. § 2703a(e)(2). In addition, the Ombudsperson is required to coordinate, with the assistance of the ILO, a tripartite committee, described below, to evaluate the progress of the TAICNAR program and consult on improving core labor standards and working conditions in the textile and apparel sector. 19 U.S.C. § 2703a(e)(2)(B)(v).

**Producer Eligibility:** For a producer to remain eligible for preferential treatment, it must comply with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards. 19 U.S.C. § 2703a(e)(4)(B)(i). Every two years, the Secretary of Labor, in consultation with the United States Trade Representative, is responsible for identifying any producer not in compliance with the core labor standards and related national law and providing assistance to such producer to come into compliance. If such efforts to assist fail, the President is required to withdraw, suspend, or limit that producer’s benefits. 19 U.S.C. § 2703a(e)(4)(B)(ii).

### **Efforts by the Government of Haiti**

The Government of Haiti continues to engage with the ILO and with the U.S. Government in all

phases of the TAICNAR program. However, Haiti's efforts this reporting period were hindered by several factors. Civil unrest, political instability, and security concerns primarily driven by gang activity, have persisted throughout the reporting period, disrupting many aspects of factory operations as well as the functioning of government agencies, including those supporting and regulating the apparel sector. The economic situation in Haiti remains dire, with inflation at nearly 50%, reduced purchasing power with the devaluation of local currency, and rising unemployment. Within the apparel sector, the ILO reports that in the first few months of 2023, 9,000 jobs have been lost due to factory closures and reduced international orders. Overall, U.S. textile imports from Haiti remained relatively steady throughout 2022, with nearly \$1 billion in imports from the sector. However, with the recent factory closures and reductions in early 2023, it is expected that imports will decline in the next reporting period.

The Office of the Labor Ombudsperson (*Bureau de la Médiatrice Spéciale du Travail*, BMST) and the Ministry of Labor and Social Affairs (*Ministère des Affaires Sociales et du Travail*, MAST) remain the key institutions representing the Government of Haiti in its efforts to effectively implement the requirements of HOPE II. Dithny Joan Raton has served as the Ombudsperson since January 2022 and BMST staff have remained active in resolving disputes in the sector. In previous years, the BMST has produced quarterly reports with details on cases received and mediations conducted, as well as a description of any other activities undertaken by the Office. For this reporting period, the BMST has produced reports covering July-December 2022, but has not yet published reports for 2023. In the reports received, the BMST indicated that it handled 19 complaints from workers from 12 factories. These cases covered a range of issues, including wage disputes, failure to pay healthcare and pension benefits, and allegations of unlawful dismissals or suspensions of trade unionists. The BMST facilitated mediation and conciliation between the parties, where applicable, and transferred three dismissal cases to MAST for follow up. The BMST also tracks daily factory operations in terms of closures and reported attendance percentages, which assist institutions monitoring the sector in identifying disruptions in operations, whether due to security, reduction of orders, or other events.

Since early 2022, the BMST has been working with the ILO on the development of an electronic case management system. The system was pilot tested with complaints received during the current reporting period and will be refined further in the coming year. When fully operational, the system should aid in identifying priority issues generating disputes within the sector, tracking which factories have higher rates of complaints, and transferring case information to MAST if the case is not resolved through mediation and is pursued with regulatory authorities.

As contemplated by HOPE II, the Ombudsperson coordinates, with the assistance of the ILO, a tripartite committee comprised of three representatives each from the Government of Haiti as well as from sectoral employer and worker organizations. This Project Advisory Committee (PAC) is designed to assist BWH in a consultative role, ensuring that relevant national partners are fully involved in the BWH program and promoting coordination of the project with other initiatives in the sector. The PAC held a virtual meeting in November 2022 and was able to convene in-person in February 2023.

The key national authority mandated to enforce labor law in Haiti's formal sector, MAST, continued to be limited in its activities, primarily due to the security situation in Haiti,

particularly in and around Port-au-Prince. However, MAST officials have continued to collaborate with the Ombudsperson and BWH in joint efforts to assess and remediate potential violations of labor standards. In response to several factory closures, MAST has assisted in the calculations of severance payments due to workers. In one notable case, after the Valdor apparel facility closed in January 2022, MAST coordinated with BWH, the BMST, and the Association of Haitian Industries (ADIH), to ensure proper payments to nearly 1,100 workers. When Valdor, registered in the United States as Valdor Apparel, failed to make the payments required by law, one of the brands sourcing from the facility agreed to provide the funds for worker payments. The brand has also agreed to make payments into the pension accounts for these workers and MAST is expected to play a key role in verifying that all dismissed workers have pension accounts and that these funds are processed properly.

MAST inspectors assisted with 16 BWH assessments throughout the reporting period and conducted three separate national labor law inspections in the apparel sector throughout the year. Due to the low number of MAST inspections, BWH has been working with MAST to draft and implement a more robust nationwide inspection plan. MAST labor inspectors have continued to participate in ILO trainings provided throughout the year.

During the reporting period, Haiti's Superior Wage Council (*Conseil Supérieur des Salaires*, CSS), the tripartite body tasked with reviewing wage rates on an annual basis, did not issue minimum wage recommendations. For the apparel sector, the minimum wage remains at 685 gourdes per day (approximately \$4.84).<sup>4</sup> In May 2023, there were several protests in Port-au-Prince, with trade unions calling for an increase to 2,500 gourdes per day (approximately \$17.73) while also demanding greater security and efforts to lower the cost of living amid rising inflation.

## **Efforts by the ILO**

### *Capacity Building and Program Support*

The ILO continues to provide a wide range of support to Haitian stakeholders within the context of implementing HOPE II. During the reporting period, the ILO indicated that core services to apparel producers continued to be impacted by deteriorating security conditions and restrictions due to the pandemic. BWH is continuously working on improving remote delivery of services and followed-up on non-compliance issues, investigated workers' complaints, and provided guidance to factories virtually or through a hybrid model with the support of MAST labor inspectors.

Through BWH, the ILO continues its work to improve industrial relations in Haiti's apparel sector, which has over 60 enterprise-level unions (affiliated with ten confederations) present in nearly all of the factories registered with the program. BWH continues to liaise with national partners to strengthen social dialogue and to promote greater compliance with freedom of association issues, which remain key challenges in the industry. BWH continues to collaborate

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<sup>4</sup> When HOPE II was passed in 2008, the national daily minimum wage in Haiti was 70 gourdes per day. With the passage of a new minimum wage law in 2009 and subsequent increases recommended by the CSS, the minimum wage for export industries, including the apparel sector, has risen over time to 125 gourdes in 2009, 150 gourdes in 2010, 200 gourdes in 2012, 225 gourdes in 2014, 240 gourdes in 2015, 300 gourdes in 2016, 350 gourdes in 2017, 420 gourdes in 2018, 500 gourdes in 2019, and 685 gourdes in 2022.

with MAST to host information sessions on freedom of association and collective bargaining, focusing on the relation between ILO Conventions and Haitian national labor law. BWH has continued to promote effective labor-management committees called Performance Improvement Consultative Committees (PICCs) within the factories. The PICCs provide a mechanism to promote social dialogue at the factory level, supporting improvement priorities outlined in BWH remediation plans.

### *Compliance Assessment Process*

HOPE II requires the TAICNAR program to assess producers' compliance with international core labor standards and the labor laws of Haiti related directly to those standards and to ensure acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety. BWH continues to implement this aspect of the TAICNAR program, reporting on non-compliance findings and remediation efforts on a biannual basis as required by HOPE II.

BWH assesses factory compliance using a compliance assessment tool comprised of indicators for four categories based on international core labor standards and four categories based on national law. The international standards include freedom of association and the right to collective bargaining; the elimination of forced or compulsory labor; the effective abolition of child labor and a prohibition on the worst forms of child labor; and the elimination of discrimination in employment and occupation. The national labor law issues cover the Haitian standards on compensation, contracts and human resources, health and safety at work, and working time. In cases where national law is not consistent with core labor standards, BWH assesses whether there is compliance with the latter.

The findings from each factory's annual assessment are reported in one of the two synthesis reports issued by BWH each year. The other report will include information gathered through regular engagement and follow up contacts with the producer, especially regarding remediation efforts by the factory undertaken in response to prior non-compliance findings. This annual cycle provides factories with additional opportunities to work with the BWH Enterprise Advisors on long-term solutions for weak management systems, which are usually the root cause of recurrent non-compliance issues.

During the past year, the ILO conducted 35 assessments at the participating factories with the support of the labor inspectors from MAST. They were able to conduct occupational safety and health factory assessments, and interview workers and managers onsite. The ILO has also continued to focus on persistent non-compliance regarding social benefits programs (e.g., health insurance and pension schemes), conducting a thorough analysis of the situation at each factory and working closely with Haitian authorities to improve compliance in this key area. To address inconsistencies in the national legal framework pertaining to social benefits programs, the ILO and stakeholders in the sector have pressed the Government of Haiti for clarification of applicable laws. In May 2023, the ILO reported that the Prime Minister was considering issuing a decree that would serve to clarify the application of these laws and potentially improve the low rates of compliance.

### *Compliance Assistance*

BWH Enterprise Advisors work with individual factories to advise and assist in prioritizing specific improvements when instances of non-compliance have been identified. In terms of core labor standards findings from previous reporting, BWH continued to assist several factories in implementing proper age verification systems to eliminate the potential for child labor. No underage workers have been identified in participating factories. BWH has also continued to assist factories in applying their zero tolerance policies for sexual harassment. Other key advisory services provided in the past year focused on subjects with the highest number of non-compliance findings. These included occupational safety and health (including pandemic protection measures, chemical storage, and emergency preparedness), as well as a continued focus on proper payment of social benefits (including social security and maternity insurance).

During the past year, BWH provided advisory services on 148 occasions to participating factories, covering a wide range of topics aimed at improving working conditions, including improving occupational safety and health management systems; preventing COVID-19; and ensuring proper procedures were followed in cases of employee dismissals due to reductions in production.

In addition to factory assessments and advisory work, the ILO provided a wide range of services for stakeholders in the apparel sector, including:

- Conducting seminars and training on a variety of topics including emergency preparedness, occupational safety and health, and labor law related to suspensions and dismissals.
- Continuing collaboration with the ILO/AIDS project, providing training to over 300 workers in the Northeast, with the objective of preventing the spread of the epidemic and fighting against stigma and discrimination in the workplace.
- Providing virtual training on Respectful Workplace and Cooperation, Workers' Rights and Responsibilities and Negotiation Skills to 142 participants including 74 women in 20 participating factories.
- Continuing a series of training modules on sexual harassment awareness and prevention, and developing tools that can be shared with all stakeholders in the sector.
- Providing specialized training on purchasing practices to five factories in Port-au-Prince and Northeastern Haiti, working with factory managers to analyze how international buyers' sourcing practices can contribute to non-compliance at the factory level.
- Supporting representatives from MAST and the BMST to participate in a training on mediation skills delivered by the International Training Center in Turin, Italy.
- Piloting new virtual and in-person modules on supervisory skills, offering training to 183 participants from 24 factories.

### **Biannual Reports under the TAICNAR program**

HOPE II requires the ILO TAICNAR program to publish biannual reports identifying the producers that are complying with core labor standards and the labor laws of Haiti that relate

directly to those standards and to acceptable conditions of work. The reports also include the names of producers that have deficiencies with respect to those standards and laws and that have failed to remedy such deficiencies. Regarding the deficient producers, HOPE II requires a description of the deficiencies identified, specific suggestions for remediation, a description of any remediation efforts, and the time elapsed between the initial identification of deficiencies and the report's publication. The ILO publishes its biannual reports in October and April of each year, as specified by HOPE II. 19 U.S.C. § 2703a(e)(3)(D). The U.S. Government must consider these reports in identifying non-compliant producers under HOPE II. 19 U.S.C. § 2703a(e)(4)(B)(iv).

The ILO's [twenty-fourth biannual report](#) was released in August 2022. The document presents an overview of the results of assessments as well as advisory and training services provided to the 28 participating factories, which were assessed at least twice during the reporting period, before June 2022.<sup>5</sup> The ILO report includes four new findings of non-compliance regarding core labor standards. There were two findings in the forced labor cluster, in which BWH determined that certain provisions of contracts for foreign workers restricted workers' ability to freely terminate employment without penalty. Additionally, security protocols restricted movement of these same workers from leaving factory housing during non-working hours. These cases were remediated through the review and revision of employee contracts as well as changes to security policies to ensure freedom of movement. There was also one finding in the freedom of association cluster, in which BWH found that the factory refused to grant access to trade union representatives and violated its own internal rules when conducting layoffs that included the termination of union members. BWH has been working with the factory to remediate this finding through updates to its policy on freedom of association to clarify roles and responsibilities of all parties and to improve the quality of social dialogue. BWH and DOL will jointly verify changes to the policies and ensure that relevant staff have been trained on the revised policy. Lastly, there was one finding of non-compliance in the discrimination cluster, in which BWH found that the working conditions (salary and associated benefits) of two female workers were reduced following their return from maternity leave. Once notified, the factory in question immediately restored the women to their previous positions with no reductions in salary or benefits.

The [twenty-fifth biannual report](#) was released in January 2023. The report presents an overview of the non-compliance findings in 31 participating factories, which were assessed at least twice during the reporting period, before December 2022, as well as information on advisory services, training programs, and additional initiatives supported by the ILO during this period. The ILO report did not contain any new findings of non-compliance regarding core labor standards.

### **Efforts by the Administration**

The U.S. Government has continued efforts to work with the Government of Haiti and other

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<sup>5</sup> The total number of participating factories is subject to change for each BWH reporting cycle as new factories are established and others close down operations. Since the release of the previous USTR Annual Report in June 2021, employment figures in the sector have fluctuated due to political instability and impacts of COVID-19. Recent figures show that employment in the sector stood at over 58,000 workers at the end of 2022, but has dropped below 50,000 in the first few months of 2023. More precise employment figures are expected to be available as BWH conducts assessments in the summer of 2023 for the 26<sup>th</sup> Biannual report.

national and international stakeholders to promote the viability of Haiti’s apparel sector, to facilitate producer compliance with labor-related eligibility criteria under HOPE II, and to ensure full implementation of the TAICNAR program in accordance with the provisions of HOPE II. The U.S. Government continues to provide technical assistance to support implementation of the labor provisions of HOPE II. As noted above, since fiscal year 2008, DOL has contributed \$18.6 million to the BWH program.

As previously discussed, this reporting period has been marked by continued disruptions due to security concerns, which have restricted efforts on the ground. DOL staff have not been able to make routine monitoring and assistance visits to Haiti during this reporting period. However, DOL staff were able to meet with stakeholders, including representatives of the Government of Haiti, Better Work staff, trade union representatives, and factory management during a February 2023 visit to the CODEVI Industrial Park in Ouanaminthe, Haiti. DOL has also continued to consider the reports of BWH and has conducted remote follow up on these cases with the ILO and involved parties. State Department officials have continued to raise the importance of complying with labor standard requirements under HOPE II with interlocutors within Haiti during this review period.

In December 2022, the United States International Trade Commission (USITC) issued a report, entitled “[U.S.-Haiti Trade: Impact of U.S. Preference Programs on Haiti’s Economy and Workers.](#)” The report was the result of an investigation requested by the U.S. House of Representatives Committee on Ways and Means and includes trade statistics (including imports under HOPE II), an overview of the Haitian economy, and a case study on working conditions in the apparel sector.

## Implementation of the Producer-level Labor Eligibility Provisions of HOPE II

### Summary of Relevant HOPE II Provisions

HOPE II requires the President to identify on a biennial basis “whether a producer ... has failed to comply with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards.” 19 U.S.C. § 2703a(e)(4)(B)(i). The statute further provides that the President “shall seek to assist” any non-compliant producers “in coming into compliance with core labor standards” and with directly related Haitian labor laws that are consistent with those standards. In turn, “[i]f such efforts fail, the President shall withdraw, suspend, or limit the application of preferential treatment ... to articles of such producer.” 19 U.S.C. § 2703a(e)(4)(B)(ii). HOPE II requires the President to consider BWH reports in making determinations of producer non-compliance, though it does not limit the President to that source of information. 19 U.S.C. § 2703a(e)(4)(B)(iv).

Haiti has ratified the eight ILO Conventions covering the core labor standards: freedom of association and collective bargaining (Conventions 87 and 98); forced labor (Conventions 29 and 105); child labor (Conventions 138 and 182); and discrimination in employment and occupation (Conventions 100 and 111). Pursuant to the Haitian Constitution, once international treaties or agreements are approved in the manner stipulated by the Constitution, they become part of

Haitian legislation and abrogate any laws in conflict with them.<sup>6</sup> As such, these eight core ILO conventions are part of Haitian law.

### Identifications of Non-Compliant Producers

In 2008, the President delegated the function of identifying non-compliant producers to the Secretary of Labor, in consultation with the United States Trade Representative.<sup>7</sup> At the same time, he delegated to the Secretary of Labor the task of assisting non-compliant producers to come into compliance with HOPE II's labor requirements.<sup>8</sup>

As noted above, DOL site visits during the two-year identification period have been curtailed due to the operating environment in Haiti. As a result, DOL staff have been conducting follow up reviews of BWH non-compliance findings with regard to core labor standards remotely, working closely with the ILO, the Office of the Ombudsperson, and other relevant parties to ensure that any potential cases of non-compliance are fully reviewed prior to the Secretary of Labor's December 31, 2023 deadline for any formal identifications under HOPE I. Any producers with ongoing non-compliance issues would be publicly identified in the subsequent annual USTR report to Congress on the implementation of the TAICNAR program

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<sup>6</sup> See 1987 Constitution of Haiti, Art. 276-2.

<sup>7</sup> Presidential Proclamation 8296, September 30, 2008.

<sup>8</sup> *Id.*