

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

**2024 USTR Annual Report on the Implementation of the Technical
Assistance Improvement and Compliance Needs Assessment and
Remediation (TAICNAR) Program and Assessment of Producer Eligibility**

INTRODUCTION

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.¹ 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 to Congress an annual report by June 18 on the implementation of the TAICNAR program. The President has delegated the production and transmittal of this report to the United States Trade Representative (USTR).² The report is to include (i) an explanation of the efforts of the Government of Haiti, the President, and the International Labor Organization (ILO) to carry out the TAICNAR program; (ii) a summary of reports prepared by the ILO, as the operator of the TAICNAR program, during the preceding one-year period; and, (iii) on a biennial basis, a list of the producers that the President has identified as failing to comply with core labor standards³ and with the labor laws of Haiti that directly relate to and are consistent with core labor standards.⁴ This report, which covers the period from June 1, 2023, to June 1, 2024, begins with a review of the main elements of Haiti’s eligibility and then describes the efforts made by the Government of Haiti, the ILO, and the U.S.

¹ 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.

² Proclamation 8296—To Modify Duty-Free Treatment Under the Caribbean Basin Economic Recovery Act and For Other Purposes. September 30, 2008

³ 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).

⁴ 19 U.S.C. § 2703a(e)(5)(B).

Administration over the past year to implement the TAICNAR program. It then provides a summary of the findings included in each ILO-produced report published under the TAICNAR program. This report also contains a section on the implementation of the producer-level labor eligibility provisions of HOPE II, including a description of the assistance provided to producers found to be out of compliance with the core labor standards as defined in HOPE II and with the labor laws of Haiti that directly relate to and are consistent with those core labor standards.

KEY ELEMENTS OF HAITI’S ELIGIBILITY

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 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 2024. 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.⁵ 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.⁶

⁵ 19 U.S.C. § 2703a(e)(2).

⁶ 19 U.S.C. § 2703a(e)(2)(B)(v).

Producer Eligibility: For a producer to remain eligible for preferential treatment, it must comply with the core labor standards as defined in HOPE II and with the labor laws of Haiti that directly relate to and are consistent with core labor standards.⁷ 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.⁸

EFFORTS TO CARRY OUT THE TAICNAR PROGRAM

Efforts by the Government of Haiti

Overall, it is important to note that HOPE II has enabled the creation of tens of thousands of jobs since its passage and a significant improvement in working conditions and workers' rights. The number of jobs in the sector is quickly dropping, however, following the current unrest and HOPE-HELP reauthorization uncertainty.

The Government of Haiti continues to engage with BWH and with the U.S. Government in all phases of the TAICNAR program. However, as in previous reporting periods, Haiti's efforts 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 overall inflation at nearly 27 percent as of May 2024, inflation for food products at 37.5 percent, reduced purchasing power with the devaluation of local currency, and rising unemployment. The U.S. Embassy in Haiti reports that 27,871 apparel sector jobs have been lost due to factory closures and reduced international orders since May 2022. Overall, U.S. textile and apparel imports from Haiti decreased by 22 percent in 2023 relative to 2022, with only \$776 million in imports from the sector. It is expected that imports will decline in the next reporting period, as well, as several factories have already announced closures in the coming months.

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. 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. The BMST reported that it received forty-nine complaints from workers from nineteen factories during 2023. 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 two dismissal cases to MAST for follow up. The BMST was also

⁷ 19 U.S.C. § 2703a(e)(4)(B)(i).

⁸ 19 U.S.C. § 2703a(e)(4)(B)(ii).

increasingly active in responding to over one hundred requests for consultations from workers and employers. Most often, stakeholders contacted the BMST for clarification of national labor law on topics such as severance pay, social benefits programs, and paid leave. 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.

In 2023, the BMST (with the assistance of the ILO) launched an electronic case management system. The system has helped the BMST to identify priority issues generating disputes within the sector, to track whether certain factories have higher rates of complaints, and to efficiently transfer case information to MAST if the matter is not resolved through mediation.

As contemplated by HOPE II, the Ombudsperson coordinates, with the assistance of BWH, a tripartite committee composed of three representatives from the Government of Haiti, as well as three representatives each from sectoral employer and worker organizations. This nine-member 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 meetings in November 2023 and April 2024. The first meeting covered the release of the BWH report, and the second meeting focused on plans for a sectoral policy related to sexual harassment, updates on security in the sector, and stakeholder efforts to lobby for the renewal of the HOPE legislation.

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 continued to assist in the calculations of severance payments due to workers.

MAST inspectors assisted with 17 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.

In February of 2024, Haiti appointed members of the Superior Wage Council (*Conseil Supérieur des Salaires*, CSS), the tripartite body tasked with reviewing wage rates on an annual basis. However, the CSS has not yet issued any updated minimum wage recommendations, and the minimum wage for the apparel sector remains at 685 gourdes per day (approximately \$4.84).⁹

⁹ 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 685 gourdes, where it has remained since 2022.

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, mainly through BWH. During the reporting period, BWH 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 eleven 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 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, as defined in HOPE II, 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 synthesis report includes 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, BWH conducted assessments of all 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. BWH 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, BWH and stakeholders in the sector pressed the Government of Haiti for clarification of applicable laws. In June 2023, the Government of Haiti issued a decree to address these inconsistencies, and BWH has adjusted the compliance assessments accordingly.

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 has continued to assist factories in applying their zero tolerance policies for sexual harassment. Other key advisory services provided in the past year focused on issue areas 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 89 occasions to all participating factories, covering a wide range of topics aimed at improving working conditions, including improving occupational safety and health management systems; preventing sexual harassment; 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, through BWH, provided a wide range of services for stakeholders in the apparel sector, including:

- Conducting seminars and trainings on a variety of topics including emergency preparedness, intercultural communication, occupational safety and health, and Haitian labor law related to suspensions and dismissals.
- 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.
- Assisting the BMST in launching the electronic case management system, CASEPRO, which will allow stakeholders to file and track their complaints online.

Efforts by the Administration

The U.S. Government has continued efforts to work with the Government of Haiti and other 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. DOL has continued to consider the reports of BWH and has conducted remote follow-up on cases of non-compliance with both BWH and involved parties. State Department officials based at the U.S. Embassy in Haiti have continued to raise the importance of complying with labor standard requirements under HOPE II with interlocutors within Haiti during this review period.

SUMMARY OF BIENNIAL REPORTS UNDER THE TAICNAR PROGRAM

HOPE II requires the ILO-administered TAICNAR program to publish biennial 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, through BWH, publishes its biennial reports generally in October and April of each year, as specified by HOPE II.¹⁰ The U.S. Government must consider these reports in identifying non-compliant producers under HOPE II.¹¹

BWH's [twenty-sixth biennial report](#) was released in November 2023. Because of delays in conducting assessments (due to security conditions and intermittent factory closures), this was the only ILO report issued during this reporting period. The document presents an overview of both the results of assessments, as well as advisory and training services provided to the 31 participating factories. Each of the factories was assessed at least twice during the reporting period, before June 2023.¹² The BWH report includes numerous new findings of non-compliance regarding the core labor standards as defined in HOPE II. At one industrial park in northeastern Haiti, BWH found that all eleven factories were not in compliance with one or more articles of the park's overarching collective bargaining agreement. The ILO, through BWH, has been working with the management of the industrial park, the trade unions, and the BMST to remediate the findings. There were three findings in the discrimination cluster. The first finding involved a case of sexual harassment of a male employee who was harassed after a colleague

¹⁰ 19 U.S.C. § 2703a(e)(3)(D).

¹¹ 19 U.S.C. § 2703a(e)(4)(B)(iv).

¹² 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 2023, employment figures in the sector have continued to decline. The ILO's twenty-fifth report, released in February 2023, reported that employment in the sector stood at over 58,000 workers at the end of 2022. As of March 2024, the ILO reported that employment in the apparel sector has dropped below 40,000 workers after several factory closures and reductions in orders at other facilities.

shared private photos of a sexual nature. The second case involved terminations of women who were pregnant or on maternity leave without authorization from MAST, as required by law. The third case involved discrimination based on race or national origin, as BWH identified a pattern of verbal abuse of Haitian workers by foreign supervisors. In all these cases, BWH has worked with the factories to remediate the findings through training, policy changes, reinstatement of unlawfully dismissed workers, and disciplinary sanctions against personnel engaged in discriminatory acts.

BWH also had three findings in the freedom of association cluster. Two of these cases involved dismissals following strikes at two of the facilities. In one case, BWH has reported that the factory has reinstated some of the workers, but there are ongoing efforts to determine whether the case has been fully remediated. In the second case of strike-related dismissals, remediation efforts have not progressed, as the factory recently announced it is ceasing operations in Haiti and will terminate the contracts of over 1,100 workers by July 2024. In a third freedom of association case, BWH reported that a factory dismissed seven workers who had tried to register a new union at the facility. BWH, MAST, DOL, and the BMST have all engaged with the factory in the case. Factory management informed DOL staff that they were willing to reinstate the workers as soon as security conditions allowed for resumption of activities. Further follow-up on the status of the case and remediation efforts is ongoing at the time of this report.

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.”¹³ 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.”¹⁴ 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.¹⁵

Haiti has ratified the eight ILO Conventions covering the core labor standards that are included in HOPE II: 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.¹⁶ As such, these eight core ILO conventions are part of Haitian law.

¹³ 19 U.S.C. § 2703a(e)(4)(B)(i).

¹⁴ 19 U.S.C. § 2703a(e)(4)(B)(ii).

¹⁵ 19 U.S.C. § 2703a(e)(4)(B)(iv).

¹⁶ See 1987 Constitution of Haiti, Art. 276-2.

Identifications of Non-Compliant Producers

In 2008, the President delegated the function of identifying non-compliant producers on a biennial basis to the Secretary of Labor, in consultation with the United States Trade Representative.¹⁷ At the same time, the President delegated to the Secretary of Labor the task of assisting non-compliant producers to come into compliance with HOPE II's labor requirements.¹⁸

Over the course of the two-year identification cycle, DOL has been able to verify that non-compliance cases reported in three out of the four BWH biannual reports received in 2022 and 2023 have been fully remediated. There were two findings in the forced labor cluster in which BWH determined that certain provisions of contracts for foreign workers (primarily supervisors from Central America) restricted those workers' ability to freely terminate their own 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 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. There were also three findings in the freedom of association cluster, including: restricting access to union representation, temporary suspension of union leaders, and unjustified trade union dismissals. BWH reports that remediation efforts were completed in all these cases. As noted above, the twenty-sixth biannual report was received in late November 2023, and several cases included in that report (including trade union dismissals and failure to observe collective bargaining requirements) were still under review in December 2023. Accordingly, the Acting Secretary of Labor did not make any formal identifications of non-compliant producers at the end of 2023. However, DOL is continuing to follow up on these cases to verify full remediation and will recommend formal Secretary of Labor identifications under HOPE II, if warranted.

CONCLUSION

In line with the requirements of HOPE II, this report has provided information on the implementation of the TAICNAR program over the preceding year. During that time, the ILO, through BWH, has continued its diligent operations, consistent with HOPE II's requirements. BWH has continued factory-level assessments and has provided targeted compliance assistance to any producer found to be out of compliance with core labor standards as defined in HOPE II and with the labor laws of Haiti that directly relate to and are consistent with those core labor standards. BWH identified and assisted in the remediation of numerous non-compliance issues at various factories in Haiti. BWH has also continued its advisory and training services and maintains a productive working relationship with Haiti's Office of the Labor Ombudsperson and its Ministry of Labor and Social Affairs, as well as with the U.S. Department of Labor and the U.S. Embassy in Haiti. This diligence comes in the midst of the large challenges affecting the

¹⁷ Presidential Proclamation 8296, September 30, 2008.

¹⁸ *Id.*

political, economic, and social conditions in Haiti. Several factories have already announced closures in the coming months, and BWH, along with Haiti's Office of the Labor Ombudsperson and its Ministry of Labor and Social Affairs will be available to assist in the calculations of severance payments due to workers. The U.S. Government will continue to support BWH and the Government of Haiti's efforts to comply with the requirements of HOPE II and will monitor and assess the situation over the coming year.