

Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008

2016 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 was required to (i) implement the Technical Assistance Improvement and Compliance Needs Assessment and Remediation (TAICNAR) program; (ii) establish a Labor Ombudsperson's Office; (iii) require producers of articles for which preferential tariff treatment may be requested to participate in the TAICNAR program; and (iv) develop 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 establish or be making continual progress toward establishing the protection of internationally recognized worker rights.¹ On June 29, 2015, the President signed the Trade Preferences Extension Act, which extended this program until September 30, 2025.

HOPE II calls for the President to transmit an annual report to Congress by June 18 of each year, regarding the implementation of the Act. The President has delegated this function to the United States Trade Representative (USTR). This report is to include an explanation of the efforts of the Government of Haiti, the President, and the International Labor Organization (ILO) to carry out the provisions of HOPE II; 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 standards² and with the labor laws of Haiti that directly relate to and are consistent with the core labor standards. 19 U.S.C. § 2703a(e)(5)(B).

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

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)(A)(vi). There are also additional HOPE II eligibility requirements not directly related to the TAICNAR program.

² 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).

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. The Better Work Haiti program (BWH) has received a total of \$9.2 million from the U.S. Department of Labor (DOL) from fiscal years 2008 through 2016, which will support project activities through 2017. A DOL-funded ILO project is providing technical assistance to the Government of Haiti, with a focus on improving labor inspection and other aspects of labor law enforcement. Since the project launch in early 2014, DOL has provided \$2.4 million to the ILO to support project activities through the end of 2017.

Labor Ombudsperson: HOPE II required Haiti, in order to be eligible for preferential treatment, 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 the core labor standards. 19 U.S.C. § 2703a(e)(4)(B)(i). Every two years, DOL, in consultation with the USTR, is responsible for identifying any producer not in compliance with the core labor standards and related national law and seek to provide 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). For the two year period ending in December 2015, DOL and USTR did not identify any producers in Haiti as non-compliant at the end of the review cycle.

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. The Office of the Labor Ombudsperson and the Ministry of Social Affairs and Labor (*Ministère des Affaires Sociales et du Travail*, MAST) remain the key institutions representing the Government of Haiti in its efforts to implement effectively the HOPE II Act. Although both institutions have continued to carry out their respective roles, the

political uncertainty within Haiti over the past year has presented challenges. Within MAST, there have been several changes of leadership, including the appointment of three Ministers in the past year. These transitions have contributed to delays in the implementation of programs and the overall functioning of the institution. The Office of the Labor Ombudsperson has benefited from the continued leadership of Josseline Colimon Féthière, who has served as the Labor Ombudsperson for the apparel sector since 2012. However, it is of great concern that the Ombudsperson and her staff have not received their salaries for most of the past year. The U.S. Government and the Haitian industry association repeatedly have raised this issue with Haiti's interim government.

Despite the Government of Haiti's failure to ensure that regular financial support for the Office of the Labor Ombudsperson is formally incorporated into the annual budget, the Ombudsperson and her staff have remained extremely active in the sector. The office works closely with BWH, DOL, and MAST to address disputes in the sector and, in the past year, has intervened in cases in nearly half of Haiti's apparel factories. These cases have covered a range of issues, including individual wage disputes, wide-scale non-payment of social benefits, and allegations of unlawful dismissals of trade unionists. The Ombudsperson also has played a key role in handling the disputes that have arisen as several factories have either ceased operations or moved production to other facilities within Haiti in the past year. In one notable case, the Ombudsperson worked with other entities within the Government of Haiti to ensure that workers laid off following the sudden closure of a suit factory received their proper severance payments. In this case, the Government of Haiti provided financial support to dismissed workers through its pension agency after the factory management failed to honor its commitments.

In addition to conducting formal mediation sessions after a complaint has been filed, the Ombudsperson also conducted numerous activities to prevent disputes and promote improved labor-management relations. These activities include frequent meetings with stakeholders in the sector through the Social Dialogue Table and other fora, factory visits with BWH, and consultations and training sessions with MAST to continue building the capacity of national mediation and conciliation services. As contemplated by the HOPE II Act, the Ombudsperson also coordinates, with the assistance of the ILO, a tripartite committee comprised of three representatives each from the Government of Haiti, sectoral employers, and worker organizations. This Project Advisory Committee (PAC) meets on a quarterly basis and 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. Lastly, the Office of the Labor Ombudsperson is assisted by other entities of the Government of Haiti in implementing the requirement to maintain a registry of eligible producers. In particular, the Office works with the Tripartite Commission for the Implementation of the HOPE Act (known as the HOPE Commission or by its French acronym, CTMO-HOPE) and the Ministry of Commerce and Industry to improve processing and tracking of electronic visas for shipments of HOPE-eligible products and to examine other key issues such as transshipment of goods.

MAST, which is the key national authority mandated to enforce labor law in Haiti's formal sector, continues to face significant resource constraints and, as noted above, has been impacted negatively by the political uncertainty in Haiti. However, with the support of the ILO program

discussed below, MAST labor inspectors have continued to increase their presence within the apparel sector, conducting 14 unannounced visits in the past year. MAST has developed and begun to implement a more robust annual inspection plan, continued its revision of inspection tools (such as compliance checklists and report templates), and has participated in efforts with the ILO to draft a comprehensive labor law guide. However, full realization of some of these efforts has been delayed by the turnover within the leadership levels at MAST. Furthermore, broader initiatives for which MAST has a leadership role, including the revision of the Labor Code, were hampered by the lapse of the Parliament in 2015.

In May 2016, the Government of Haiti raised the minimum wage for workers engaged in export industries, including the apparel sector. Following the recommendation of the Superior Wage Council (*Conseil Supérieur des Salaires*, CSS), the tripartite body tasked with reviewing wage rates on an annual basis, the daily minimum wage rose from 240 to 300 gourdes per day and the piece-rate wage went from 320 to 350 gourdes per day. When the HOPE Act was amended 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, and finally to 300 gourdes in 2016. The minimum wage continues to be a contentious issue in Haiti, particularly with the significant devaluation of the gourde in the past year. In May 2016, there were protests in the apparel sector as demonstrators took to the streets to demand a raise of the minimum wage to 500 gourdes per day.

Efforts by the ILO

Capacity Building and Program Support

Through two DOL-funded programs in Haiti, the ILO continues to provide a wide range of support to Haitian stakeholders within the context of implementing the HOPE II Act. BWH has continued to perform factory assessments, provide compliance advisory services, and issue the biannual reports required under the HOPE II Act. The ILO also continues to implement a program to improve the labor inspection capacity of MAST. Since the launch of this project in 2014, the ILO has assisted MAST through a comprehensive training strategy supporting a specialized inspection task force for the apparel sector and by providing training sessions to staff in the conciliation services at MAST. The ILO has made significant progress in terms of providing on-the-job training by having MAST labor inspectors shadow BWH Enterprise Advisors in conducting compliance assessment and advisory visits in the apparel sector. These joint visits have provided MAST inspectors with valuable technical skills and have helped to increase their familiarity with particular compliance issues that are commonly encountered in the sector. The ILO's MAST project also has finalized plans to support the national labor law call center, which will serve as a resource for workers and employers to submit questions on labor law or to seek referrals to access information on other services provided by the Ministry. The call center was launched in late 2014, but has had limited impact due to staffing and technical issues. The ILO plans to resolve these problems through staff training and modernization of equipment.

Through BWH, the ILO continues its work to improve industrial relations in Haiti's apparel sector, which now has approximately 40 trade union committees (affiliated with eight confederations) present in the 25 factories registered with the program. In 2015, BWH designated a full-time Industrial Relations Officer to liaise with national partners to strengthen social dialogue and promote greater understanding of freedom of association issues, a key challenge in the industry. BWH also has worked to increase the presence and effectiveness of labor-management committees called Performance Improvement Consultative Committees (PICCs) at the factories. The PICCs promote social dialogue at the factory level, supporting both labor standards improvement and enterprise upgrading. To date, BWH has worked with employers and workers to establish PICCs at 15 factories.

Compliance Assessment

HOPE II requires BWH to assess producers' compliance with 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 assesses factory compliance using a Compliance Assessment Tool comprised of indicators for four categories based on core labor standards and four categories based on national law. In 2015, BWH revised the assessment, advisory, and training services it provides to producers. The new approach, which is consistent with other Better Work country programs, places a greater emphasis on in-depth advisory and training services with the aim of promoting more sustainable solutions to the compliance problems that have persisted in the sector. Starting with the eleventh round of assessments, BWH has begun to conduct one full assessment of each factory per year, spending several days at the plant to address hundreds of questions on international labor standards and relevant national law contained in the BWH Compliance Assessment Tool. Through follow-up visits to verify remediation and to provide advisory services, BWH anticipates that each factory will receive six to eight visits per year. BWH will continue to report on non-compliance findings and remediation efforts on a biannual basis (on April 16 and October 16 of each year) as required by HOPE II.

The labor standards referenced in the BWH Compliance Assessment Tool include: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms 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 respect of 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 international core labor standards, BWH assesses whether there is compliance with the latter. Following BWH's factory assessment, a detailed report is shared with each factory before the biannual synthesis report is published.

Each of the two synthesis reports include updated findings from comprehensive audits for approximately half of the eligible factories. Updated information for factories that were not audited during the reporting cycle is gathered through regular engagement and follow up contacts with the producer, especially with regards to remediation efforts by the factory undertaken in response to prior non-compliance findings. This newly extended 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.

Remediation

BWH Enterprise Advisors work with individual factories to advise and assist in prioritizing specific improvements when instances of non-compliance have been identified. Key advisory services provided in the past year focused on occupational safety and health issues, which continue to be the subject of the highest number of non-compliance findings. According to BWH, non-compliance rates remain high in this category because factories do not have effective management systems in place to ensure continuous monitoring, verification, and follow-up.

In addition to factory assessments and advisory work, the ILO (through BWH and the MAST capacity-building project) provided a wide range of services for stakeholders in the apparel sector, including:

- Ongoing training programs on key issues for all stakeholders, such as occupational safety and health (OSH), grievance mechanisms, negotiation skills, and workers' rights and responsibilities;
- Training for factory managers on supervisory skills, human resource management, and negotiation skills;
- Training for workers on life skills including maternity protection, workplace communication, financial literacy and introduction to HIV/AIDS; and
- Hosting an annual buyers' and multi-stakeholders' forum in September 2015, allowing international brands sourcing from Haiti to discuss challenges and opportunities in the Haitian apparel sector with officials from the Haitian and U.S. governments and representatives of employers and workers in Haiti.

Biannual Report under the TAICNAR program

HOPE II requires the ILO 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 report also includes the names of producers that have deficiencies with respect to those standards and laws and have failed to remedy such deficiencies. With regard to 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. *See* 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 eleventh synthesis report was published on October 16, 2015, and is available at: <http://betterwork.org/haiti/?p=1775>. The document is based on assessments conducted between March and August 2015 in 14 of the 26 factories in operation during the assessment period. The report shows a similar number of non-compliance findings compared with previous assessments

with regard to core labor standards, with two findings related to discrimination (pregnancy discrimination and sexual harassment) and three related to freedom of association and collective bargaining issues. There was an increase in terms of non-compliance with certain aspects of national labor law on acceptable conditions of work (including overtime wages, social benefits payments, and working time provisions). Occupational safety and health issues still represented the highest percentage of non-compliance findings and remain a focus area for BWH training and remediation efforts.

The ILO's twelfth synthesis report was released on April 16, 2016, and is available at: <http://betterwork.org/haiti/?p=1884>. The document is based on assessments conducted between September 2015 and February 2016 in 11 of the 25 participating factories.³ With the new service delivery model that includes only one formal assessment per year, the synthesis report now captures findings from two cycles as non-compliance points are not removed from the report until remediation has been verified during the next assessment. As a result, the findings from the eleventh synthesis report are still found in the factory tables along with new findings.

The twelfth synthesis report indicated that there continued to be no findings of non-compliance with child labor and forced labor standards and no additional findings related to discrimination. There was one additional finding relating to freedom of association, based on the dismissal of workers on strike. In terms of national labor law issues, the BWH findings have remained fairly consistent. Increases in non-compliance in certain areas, including paid leave and social benefits were due to changes in the legal or policy framework in Haiti. In the case of calculating leave payments, BWH revised its assessment methodology based upon legal clarifications from MAST that leave payments should be based on the average of actual wages rather than on the prevailing minimum wage. In the case of maternity and health insurance contributions, the Government of Haiti has only recently made these services available throughout the country and factories have not registered for the new program or had not yet transitioned from private providers at the time of assessment.

In terms of wages in the sector, BWH continued to assess minimum wage compliance based on the reference wage of 240 gourdes per day. In the two synthesis reports issued in the reporting year, BWH identified six instances in which factories did not accurately pay the legal minimum wage. These cases resulted from the failure of one factory to transition to the new minimum wage promptly after the May 2015 increase, four cases were due to a lack of reliable written payroll and attendance records for security guards, and one dealt with a factory where workers who did not punch out correctly would be docked half a day's pay even if they worked the entire day. Based upon clarification from the Government of Haiti regarding its minimum wage law in late 2013, BWH has not considered payment of piece-rate wage targets as a legal minimum wage. However, since its Eighth Synthesis report (issued in April 2014) BWH has continued to provide information on the percentage of workers earning an average of the prevailing piece-rate wage or more per day. In the past year, the percentage of workers earning the piece-rate target of

³ 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. In the past year, there have been several factory closures in Port-au-Prince as well as new factories commencing operations in Port-au-Prince and in the Caracol Industrial Park in northern Haiti. Since the release of the previous USTR Report in June 2015, overall employment in the sector has remained relatively steady at approximately 40,000 workers.

300 Gourdes (320 after May 1, 2015) remained steady at approximately 40 percent. BWH is continuing to explore options to provide additional technical support to factories on setting and implementing piece-rate targets.

Efforts by the Administration

The U.S. Government has continued to work closely 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 \$9.2 million to the ILO BWH program, which will fund the TAICNAR program at least through the end of 2017. In addition, DOL has provided \$2.4 million to the ILO for the MAST capacity-building component, which is scheduled to operate through 2017. Although the DOL-funded program that supported efforts to build the capacity of trade unions ended in May 2015, the U.S. Government and other partners, most notably the ILO and the Office of the Labor Ombudsperson, have continued to engage directly with worker organizations in Haiti to ensure ongoing support for unions in their efforts to represent the interests of apparel sector workers in Haiti.

DOL staff made five monitoring and assistance visits to Haiti in the reporting period, engaging on compliance-related issues at ten factories. As discussed below, DOL has provided compliance assistance to the one factory that the U.S. Secretary of Labor identified as non-compliant in December 2013 as well as to another factory where there was a preliminary finding of non-compliance during the reporting period. In the other cases reviewed, DOL concluded that a finding of non-compliance was not warranted based on the evidence or found that the producers successfully had remediated the issues before the end of 2015 when formal biennial identifications under the HOPE II Act were to be made by the U.S. Secretary of Labor. As a result, for the two-year period ending in December 2015, there were no formal identifications of non-compliance issued by the Secretary of Labor under the HOPE II Act. However, as DOL is required to consult the BWH reports in making biennial findings, the release of BWH's latest synthesis report in April 2016, has raised several core labor standards compliance issues already under review for the cycle ending in 2017.

The U.S. Government continues to provide significant support to the Caracol Industrial Park (CIP), a public-private partnership with the Government of Haiti and the Inter-American Development Bank. Established in 2012, the CIP now employs over 9,000 workers – the majority of which are in the apparel sector. Additional support to the apparel sector is also being provided through components of the Local Enterprise and Value Chain Enhancement (LEVE) project, funded by the U.S. Agency for International Development (USAID). With the ultimate goal of increasing employment levels in Haiti, LEVE is working in the apparel, construction, and agricultural sectors.

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 provides further 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/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.⁴ As such, these eight core ILO conventions are part of Haitian law.

Identifications of Non-compliant Producers

In 2008, then President George W. Bush delegated the function of identifying non-compliant producers to the Secretary of Labor, in consultation with the USTR.⁵ 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.⁶

For the most recent identification period under the HOPE II Act, beginning in January 2014 and ending in December 2015, DOL continued to review all BWH public reports. Throughout the two-year assessment period, DOL reviewed core labor standards issues at 10 factories in Haiti’s apparel sector (out of a total of 24 factories in operation). DOL also conducted significant additional research regarding compliance with core labor standards in the sector. DOL staff delegations traveled to Haiti eleven times in the two-year assessment period, interviewing dozens of workers and meeting with BWH staff, officials of the Government of Haiti, factory owners, human resources managers, supervisors, representatives of trade unions, and representatives of non-governmental organizations (representing both business and labor). After each visit, DOL conducted significant follow-up investigation, including through e-mail correspondence, telephone interviews, and video conferences, specifically seeking additional corroborating evidence from employers, workers, and worker organizations related to allegations presented to the fact-finding delegations.

⁴ See 1987 Constitution of Haiti, Art. 276-2.

⁵ Presidential Proclamation 8296, September 30, 2008.

⁶ *Id.*

These DOL reviews included follow-up at one factory, Modas Gloria Apparel (MGA), to verify remediation of freedom of association cases from the previous identification cycle. In December 2013, DOL had identified MGA as non-compliant with the core labor standard relating to freedom of association based on illegal dismissals of union members and union leaders and interference with the formation and operation of a union. Over the course of the monitoring cycle, MGA fully remediated these issues by reinstating the dismissed union members and by establishing, implementing, and conducting training on improved policies with respect to freedom of association.

Freedom of Association

In terms of new cases arising during the review period, the majority of cases reviewed concerned potential violations of standards related to freedom of association. In three of those cases, DOL determined that the dismissals of trade union members did not violate freedom of association standards as the employers demonstrated that there were legitimate justifications for the dismissals. The union members in question were dismissed for actions that are not protected trade union activity (i.e., destruction of property during an illegal work stoppage and acts of violence against another union's leadership).

In two other cases, BWH issued findings of non-compliance related to discrimination against union members. In the first case, DOL reviewed the issues raised, interviewed workers and management, and met with BWH and the Ombudsperson, who was actively involved in mediating a solution. The issue was remediated successfully in late 2015 with the reinstatement of a dismissed union member. The factory also developed and posted a policy addressing freedom of association in the plant.

In the second case, DOL's review revealed that there was sufficient evidence to conclude that management violated freedom of association standards by dismissing and demoting union members shortly after the union announced its presence in the factory. DOL, after consultation with inter-agency partners, made a preliminary finding of producer non-compliance in April 2015 with regards to freedom of association and commenced remediation assistance.

Although the producer reinstated the dismissed union leaders and reinstated all demoted workers to their pre-demotion positions, DOL concluded that a pattern of non-compliance with freedom of association standards necessitated improved policies and management practices. With assistance from DOL and BWH, the producer developed and implemented a policy on freedom of association and, in November 2015, conducted a training of factory personnel to ensure awareness of the policy and the need to respect associational rights at the plant. The producer also hired a full-time compliance officer in June 2015 and made several changes in its management structure to provide heightened scrutiny of all dismissal decisions. As a result, this producer is not identified as non-compliant under HOPE II.

Gender Discrimination

During the review period, DOL also reviewed four cases involving gender discrimination. These investigations were triggered by non-compliance findings in BWH's biannual reports. Two of

the cases involved illegal dismissals of pregnant women. In the first case, although the producer had the right to dismiss the worker due to a confirmed loss of orders, the producer did not follow the relevant provisions of Haitian national law that require notification to the Ministry of Labor and the payment of maternity benefits. As DOL launched its review of the case, the producer remediated its non-compliance, which was confirmed by BWH. Subsequent BWH assessments have found no further violations of this standard at the factory in question. In the second case involving dismissal of a pregnant worker, the producer was not able to demonstrate a legitimate reason for her dismissal. At the outset of DOL's review of the case, factory management acknowledged the violation and committed to rehiring the worker and providing back pay and all maternity benefits. DOL and BWH confirmed that these payments were made and the worker was reinstated in November 2015.

The two other cases of gender discrimination were based on findings of sexual harassment, which BWH revealed in its biannual reports during the review cycle. In both cases, the producers were able to demonstrate that they had taken sufficient steps to fully remediate the non-compliance. After being made aware of the seriousness of the allegations and the potential for a finding of non-compliance under HOPE II, the producers conducted internal investigations of the allegation and took disciplinary action, firing supervisors who were found to have harassed female workers. In addition, the producers worked closely with BWH to develop and post policies prohibiting sexual harassment in the workplace and provided additional training to relevant staff on the issue.