

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

**2022 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, during the reporting period (June 17, 2021 to June 18, 2022), Haiti's efforts were hindered by several factors. While most factories had only brief closures due to the COVID-19 pandemic, several producers have ceased operations in Haiti permanently. Civil unrest, political instability following the assassination of Haitian President Jovenel Moïse in July 2021, 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. During July and August of 2021, several factories were unable to operate due to gangs disrupting deliveries of fuel and raw materials. The lack of security continues to impact workers in the sector, with 80 percent of workers surveyed by the ILO reporting personal safety concerns during their commute to and from work. Despite these challenges, U.S. textile imports from Haiti rebounded in 2021 to pre-pandemic levels, with over \$1 billion in imports from the sector.

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. Following the April 2021 death of Josseline Colimon Féthière, who served as the Ombudsperson since 2012, there was a significant delay in appointing her replacement. In January 2022, the Government of Haiti appointed a new Ombudsperson, Dithny Joan Raton. During the transition period, BMST staff remained active to resolve disputes in the sector, and since taking office, the Ombudsperson and her staff remain engaged in the sector, working closely with BWH and MAST to address disputes. In the past year, the BMST has received nearly 60 complaints filed by individual workers and trade unions, leading the BMST to intervene in disputes involving over one-third of Haiti's apparel factories. Following receipt of complaints, the BMST offered mediation services to the disputing parties and resolved a high percentage of the cases. These cases have 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.

Since early 2022, BMST has been working with the ILO on the development of an electronic case management system. When operational, the system intends to aid in identifying priority issues generating disputes within the sector, tracking whether 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. The BMST produces 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 also tracks daily factory operations in terms of closures and reported attendance percentages, which can assist institutions monitoring the sector in identifying disruptions in operations, whether due to security, reduction of orders, or other events.

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 has not met since the second quarter of 2021, with the

resumption of activities dependent on the identification of the three Haitian Government representatives. It is expected that the Minister of Labor and Social Affairs, Odney Pierre Ricot, will appoint government representatives to the PAC in June 2022.

The key national authority mandated to enforce labor law in Haiti's formal sector, MAST, was limited in its operations due to the combination of civil unrest and impacts of COVID-19 throughout this reporting period. However, MAST officials have continued to collaborate with the Ombudsperson and BWH in joint efforts to assess and remediate potential violations of labor standards. MAST labor inspectors have continued to participate in ILO trainings provided throughout the year.

Following several weeks of strikes and protests in the apparel sector related to minimum wage demands in January and February 2022, Haiti's Superior Wage Council (*Conseil Supérieur des Salaires*, CSS), the tripartite body tasked with reviewing wage rates on an annual basis, issued minimum wage recommendations, after failing to address the issue since November 2019 when the previous wage increase went into effect. For the apparel sector, the CSS recommended a 25 percent wage increase from 500 gourdes per day to 625 gourdes. The Government of Haiti, in issuing its formal wage decree, went above the CSS recommendation and set the daily wage at 685 gourdes per day (approximately \$6.12), a 37 percent wage increase, effective February 21, 2022.<sup>4</sup>

## **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.

Though security concerns are continuing to have an impact, with most BWH services being provided remotely, the BWH team 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 maintains its liaisons 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 persists in promoting effective labor-management committees called Performance

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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.

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.

### *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 over 160 times 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 with respect to worker rights during factory disclosures to downsizing.

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 relevant to the COVID-19 pandemic, including occupational safety and health, and labor law related to suspensions and dismissals. In addition, specialized training for doctors and nurses in the factories was conducted in collaboration with ILO/AIDS project. The project developed a COVID-19 Management Guidance Note with self-assessment checklist to be distributed to all factories and highlighted in advisory services.
- Continuing collaboration with ILO/AIDS, UNICEF, and PROFAMIL (Association for the Promotion of the Haitian Family) to improve access to health services. PROFAMIL, as the implementing partner, provided a series of awareness-raising sessions to factory workers, including pregnant women, on HIV and COVID-19 prevention. In addition, they continued to provide medical checkups for pregnant women in their clinics and in mobile clinics that were set up to facilitate women's access to the services.
- Providing virtual training on sexual harassment awareness and prevention, attended by 48 participants (35 male and 13 female). As in previous years, BWH joined “16 Days of Activism against Gender-based Violence” in November and December 2021. In addition, Better Work distributed materials to raise awareness on gender-based violence and harassment, exerted both inside the workspace and within the community.
- Supporting the Inter-Union Committee of Haitian Women (CISFH), whose mission includes advocating and promoting respect for the rights of Haitian women at work, particularly those in the textile industry. Through this collaboration, CISFH conducted training and awareness-raising activities to reinforce women’s leadership capacity within the CISFH; encourage more women to join trade unions; and raise awareness among women and girls on their rights, including on norms such as ILO Convention 189 on domestic workers and Convention 190 on violence and harassment.
- Collaborating with the Association of Haitian Industries (ADIH), in developing the association’s national action plan and their engagement plan with the BWH program. The plans highlighted the association’s commitment to promote compliance within the sector and to work with trade unions to develop recommendations to the Government of Haiti to promote a longer-term strategy for sustainable growth of the sector.
- Convening a Labor Roundtable Conference at the CODEVI Industrial Park in May 2022. The event brought together representatives of the Government of Haiti, the ILO, DOL, trade unions, employers, U.S. companies, and other stakeholders to discuss key issues confronting the sector. This included discussions on improving social dialogue, the right to strike, and the September 2017 changes to Haitian labor law impacting working hours.

## **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-second biannual report](#) was released in July 2021. 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 May 2021.<sup>5</sup> The ILO report includes three new findings of non-compliance regarding core labor standards. There were two findings in the discrimination cluster, including one case of sexual harassment and another case related to suspension of pregnant workers with half pay as a COVID-19 health measure. Both cases were subsequently remediated through disciplinary action against perpetrators of sexual harassment, additional training for factory staff, and full reinstatement of pregnant workers. The third case was in the child labor cluster in which one factory was found to have inadequate age-verification systems in place. No child laborers were identified in the facility, and the factory has subsequently updated its management practices to ensure that age verification is a routine component of every worker's employment file.

The ILO's [twenty-third biannual report](#) was released in January 2022. The report presents an overview of the non-compliance findings in 27 participating factories, which were assessed at least twice during the reporting period, before November 2021, as well as information on advisory services, training programs, and additional initiatives supported by the ILO during this period. The ILO report includes two new findings of non-compliance regarding core labor standards. Both cases were in the freedom of association cluster, including one case of discrimination against trade union members and another case of unlawful dismissals of trade unionists who refused to wear masks during work hours.

The twenty-fourth biannual report, scheduled for release in April 2022, is expected to be published in July 2022, due to the COVID-19 pandemic and ongoing security concerns that hampered access to various areas in and around Port-au-Prince. Findings from that report will be covered in the 2023 USTR Annual Haiti HOPE II Report.

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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 2020, employment figures in the sector have fluctuated due to political instability and impacts of COVID-19. Recent figures show that employment in the sector has rebounded from a low of nearly 37,000 workers in April 2020 to nearly 57,000 workers in January 2021.

## **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 the COVID-19 pandemic and ongoing instability, 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, factory management, and purchasing brands, during the May 2022 sectoral roundtable convened at the CODEVI Industrial Park in Ouanaminthe, Haiti. DOL has continued to consider the reports of BWH and has conducted remote follow up on these cases with the ILO and involved parties. Moreover, during a May 9-12, 2022 visit to Port-au-Prince, USTR and US Embassy officials met with a wide array of businesspeople and Government of Haiti officials to provide an overview of available trade preferences and brief on legislation to renew HOPE/HELP, including the importance of respecting workers' rights as part of this process. Further, State Department officials have continued to raise the importance of complying with labor standard requirements consistent with HOPE II with interlocutors during this review period.

## **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 meet HOPE II's labor requirements.<sup>8</sup>

As noted above, DOL site visits have been curtailed due to the COVID-19 pandemic and 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. Over the course of the two-year identification cycle established under HOPE II, DOL was able to verify that non-compliance cases reported in the BWH biannual reports received in 2020 and 2021 were fully remediated. These cases included: two BWH findings related to sexual harassment that were remediated by sanctioning offenders and training for all relevant staff; two cases related to child labor, stemming from insufficient documentation of worker age (no underage workers were found at the facilities), which were remediated through improved record-keeping practices; and one case of unlawful trade union dismissals that was remediated through a negotiated settlement through the Office of the Labor Ombudsperson. Accordingly, the Secretary of Labor did not make any formal identifications of non-compliant producers at the end of 2021.

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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.*