

**Haitian Hemispheric Opportunity through
Partnership Encouragement Act of 2008
2013 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. As required by HOPE II for continued country eligibility for such treatment, the President certified to Congress, on October 16, 2009, that Haiti has (i) implemented a 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. Finally, 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

HOPE II calls for the President to transmit a report to Congress no later than June 18, 2009, and every year thereafter, regarding the establishment and operation of the Labor Ombudsperson's Office and certain aspects of the operation of the TAICNAR program. The President has delegated the production and transmittal of this report 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) 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 standards² and with the labor laws of Haiti that directly relate to and are consistent with 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 and are consistent with core labor standards and Haitian laws on acceptable conditions of work;

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(a)(3). 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).

- 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 TAICNAR program in Haiti is 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) was funded by the U.S. Department of Labor (DOL) in fiscal years 2009 through 2011 in the amount of \$4.6 million. In FY 2012, an additional \$2.1 million was added to the program budget (which includes \$1.4 million to strengthen the capacity of the Ministry of Labor and Social Affairs.)

Labor Ombudsperson: HOPE II calls for the Labor Ombudsperson 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 the HOPE II legislation. 19 U.S.C. § 2703a(e)(2). In addition, the Ombudsperson is required to coordinate a tripartite committee with the ILO 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, DOL, in consultation with USTR, is responsible for identifying any producer not in compliance with the core labor standards and conforming national law and seeking 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). The last producer identification was made in December 2011 and reflected in the 2012 HOPE II report to Congress.

Efforts by Haiti

Haiti is the poorest country and the only least-developed country in the Western Hemisphere, with 80 percent of the population living under the poverty line and 54 percent in abject poverty. Its population is nearly 9.9 million. In 2012, its total GDP was estimated at \$7.9 billion, with a GDP per capita of \$798, and the labor force was estimated at 4.81 million. There is widespread unemployment and underemployment in Haiti; more than two-thirds of the labor force does not have formal employment. In 2010, the official unemployment rate was nearly 41 percent. In 2012, seventy six percent of Haiti's exports were to the United States.

The Government of Haiti has engaged with the ILO and with the U.S. Government in all phases of the TAICNAR program. The Government of Haiti also has played an active role in the Tripartite Commission for the Implementation of the HOPE Act (known as the HOPE Commission or by its French acronym, CTMO-HOPE), which was established in 2007 as

mandated in the HOPE legislation. 19 U.S.C. § 2703a(e)(2)(B)(v). HOPE II accords important oversight roles to the HOPE Commission, including evaluating the progress on implementing the TAICNAR Program and consulting on improving core labor standards in the textile and apparel sector in Haiti. The HOPE Commission is composed of Haitian government officials from the Office of the Prime Minister and the Ministries of Commerce and Industry, Economy and Finance and Labor and Social Affairs (MAST), the Labor Ombudsperson, three representatives of employers' associations, and three representatives of labor unions. The HOPE Commission continues to serve an important coordination role, facilitating communication between Commission members, the U.S. Embassy, BWH, and DOL.

Henri-Claude Müller-Poitevien, the President of the HOPE Commission, has taken an active leadership role this year, coordinating the Commission's activities, setting priorities, and drawing both national and international attention to Haiti's textile sector. A key weakness identified in the 2012 report to Congress was that the worker organizations on the Commission did not primarily represent the apparel sector. To address this concern, in the past year, two of the worker representatives on the Commission have started organizing workers in the textile sector and both have formally registered unions in HOPE-eligible factories.

On April 12, 2012, the Prime Minister's Office appointed Josseline Féthière as the Labor Ombudsperson. According to an agreement reached between Ms. Féthière and MAST at the end of 2012, the Ombudsperson is to engage directly in all cases related to violations of freedom of association in the textile sector. According to the agreement, MAST refers these cases to the Office of the Ombudsperson, and she attempts to mediate a mutually agreed upon solution. If no such solution is possible, the Ombudsperson will forward the case to MAST for routine processing. Ms. Féthière has posted signs in many factories, alerting workers of her mediation services and has already engaged in multiple mediations under this new process.

During the reporting period, the Ombudsperson and the President of the HOPE Commission have both played an active role on behalf of the Government of Haiti in working with producers included in the Secretary of Labor's 2011 identifications of non-compliance. Using mediation skills and templates she developed at a U.S. Government sponsored mediation training in May 2012, Ms. Féthière conducted a formal mediation with Sewing International, S.A. (SISA) management and the affected workers in that case. Both Ms. Féthière and Mr. Müller-Poitevien have participated in meetings with management at SISA and Inter-American Wovens (IW), providing essential support to DOL's efforts to assist those factories in coming into compliance.

The HOPE Commission has also taken an active role in many of BWH's project activities. First, the Commission participates in BWH's social dialogue roundtables. These meetings, explained further in the section on the efforts of the ILO, provide employers, worker groups, the Government of Haiti and BWH an opportunity to discuss critical issues and coordinate their work in the textile sector. The HOPE Commission also participated in BWH's efforts to improve fire safety inside the SONAPI industrial park, including by making important linkages with the Haitian National Police's firefighters. Finally, the HOPE Commission has worked extensively to assist with the opening of the Caracol Industrial Park in Northern Haiti. Mr. Müller-Poitevien has partnered with industry representatives and Haitian government officials to

recruit new business for the park, and he has participated in meetings with the park's anchor tenant, S & H Global, to explain labor and other eligibility requirements under HOPE II.

MAST is working to open a regional office in Trou-du-Nord, near the new Caracol Industrial Park in Haiti's northern corridor. The United States Agency for International Development's (USAID) Office of Transition Initiatives (OTI) is funding the rehabilitation of a building that MAST will furnish and staff. MAST, with the technical assistance of the ILO, is also undertaking a tripartite labor law reform process. A new labor code has been drafted that incorporates feedback from employers, workers and MAST and tripartite meetings will be convened in July to review the new draft labor code.

The Government of Haiti has implemented an electronic product "visa" system to ensure that products shipped to the United States are not made in countries other than Haiti. The visa system continues to serve as the producer registry required by HOPE II, and producers that do not participate in the TAICNAR program are not eligible to use the visa system. As of the ILO's April 2013 report, 24 factories were registered under the TAICNAR program.

In February 2013, MAST participated in a joint ILO-DOL evaluation of the capacity and structure of the Ministry. This initial assessment, which uncovered significant deficiencies in capacity and resources, will form the baseline of the forthcoming MAST capacity-building project, funded by the DOL and implemented by the ILO.

Efforts by the ILO

Capacity Building and Program Support

The ILO, through BWH and the work of experts in other program areas, has continued to provide a wide range of support to Haitian stakeholders within the context of implementing HOPE II requirements. At the national level, ILO experts have been engaged in the labor law reform process, working with the Government of Haiti to convene a tripartite meeting in March 2013 and assisting in the drafting of a revised labor code (based on input from all social partners) that is expected to be submitted to the government and discussed with all stakeholders in the summer of 2013. As noted in the preceding section, the ILO is also working with DOL and MAST to develop a multi-year program to improve MAST's labor inspection and mediation services in the textile sector in Haiti. DOL has committed nearly \$1.4 million to the ILO for this project and expects the initial phase of the project to commence in July 2013.

At the sectoral level, the ILO has led the effort to create a tripartite social dialogue roundtable. Comprised of representatives from the Government of Haiti and representatives of employers and unions in the textile sector, the roundtable is intended to be a forum in which the social partners can discuss sectoral issues and work together to identify appropriate solutions. The roundtable held its first meeting in September 2012 and has met on seven occasions since then. Accomplishments and activities of the roundtable include developing procedures for contacting the Labor Ombudsperson for mediation of industrial disputes, negotiating a memorandum of understanding on the roles and responsibilities of the roundtable participants, and participating in

training sessions to enable all social partners to engage in a productive process to promote a mature industrial relations system in Haiti's textile sector.

At the factory level, BWH has continued promoting the establishment of labor-management committees called Performance Improvement Consultative Committees (PICCs). The PICCs promote dialogue at the factory level, supporting both labor standards improvement and enterprise upgrading. To date, BWH has established PICCs at three factories, one of which was established during this reporting period.

In order to promote further engagement and support of international buyers, BWH held the fourth annual International Buyers Forum and Multi-Stakeholders' Meeting on June 12-13, 2013. Representatives from various retail brands attended the meeting as well as representatives from the State Department and DOL. The International Buyers Forum provided an opportunity for brand representatives to learn more about BWH's assessment and advisory services as well as an opportunity for Haitian stakeholders (government officials and employer and worker representatives) to engage in open discussions about the implementation of BWH and its impact on the sector.

Compliance Assessment

HOPE II requires BWH to assess producers' compliance with core labor standards and Haiti's labor laws that relate 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 has continued to recruit and train additional staff, including hiring two new Enterprise Advisors and additional administrative staff, as well as the appointment of a dedicated Training Officer, in order to allow comprehensive assessment and advisory services for the 24 factories currently registered with BWH. Information from the compliance assessments is included in BWH's biannual synthesis reports (discussed below) which are publicly released in April and October of each year.

Following the factory assessments, BWH shares a detailed report with each factory, presenting findings on eight categories of labor standards, half of which are based on international standards and half on national legislation. BWH assesses factory compliance based on the answers to a compliance assessment tool comprised of indicators for each of the eight categories. The four categories based on international core labor 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 four categories based on national labor laws cover the Haitian standards on compensation, contracts and human resources, health and safety at work, and working hours. In cases where national law is not consistent with core labor standards, BWH applies the international labor standards.

Remediation

In cases where non-compliance has been identified, BWH works with each individual factory to advise and assist in prioritizing specific improvements, which often include identifying relevant advisory services and training to be provided.

In its efforts to remediate findings of non-compliance, BWH has increasingly worked in close coordination with Haitian institutions, including MAST and the Labor Ombudsperson. For example, in early September 2012, following a work stoppage at one factory, a delegation comprised of MAST officials, the Labor Ombudsperson, and the BWH Program Manager visited the factory and assisted in negotiating an amicable solution to the issue. Later that month, a similar delegation visited six factories that had been identified (either by BWH or in the 2012 HOPE II report) as non-compliant with forced labor standards based on certain overtime practices. These interventions resulted in several changes to overtime schedules and prompted factory-level efforts to emphasize the voluntary nature of overtime in order to reduce worker vulnerability to conditions that may contribute to forced labor.

Through its advisory services, BWH has also worked to address a wide range of compliance issues related to core labor standards and Haitian labor laws identified during the assessments covered in the October 2012 and April 2013 reports. The priority areas identified and advisory services provided in the past year included:

- **Discrimination, in particular Sexual Harassment:** Enterprise advisors have advised producers to enact a zero tolerance policy for sexual harassment and establish confidential procedures to allow victims to report incidents. BWH is in the process of developing a factory-level assistance kit on addressing sexual harassment in the workplace.
- **Forced Labor, in particular Certain Mandatory Overtime Practices:** Non-compliant factories were advised to establish clear policies and communicate to workers that overtime is voluntary.
- **Contracts and Human Resources:** BWH has been working with producers to ensure proper file maintenance and appropriate internal work rules and termination processes.
- **Working Time:** While BWH observed some improvements in compliance with working time requirements, Enterprise Advisors continued to advise factory managers to clearly differentiate between regular hours and overtime and to communicate to workers that overtime is voluntary.
- **Compensation:** BWH advisors paid special attention to non-compliance findings related to employer payments to social protection programs in Haiti, ONA (pension funds) and OFATMA (insurance for work-related accidents). BWH has helped to facilitate meetings between ONA officials and representatives of worker and employer organizations so that ONA could promote the benefits of contributing to pension funds. As a result, several factories were subsequently reported to have come into compliance with the legal requirements concerning pension payments.
- **Occupational Safety and Health:** As this cluster continued to have the highest number of non-compliance findings, BWH has provided a wide range of services, including increasing the number of workers trained in first aid and fire-fighting, advice and training

on proper labeling and handling of dangerous chemicals, use of protective equipment, and emergency preparedness.

In addition to factory-specific advisory efforts, BWH has provided various trainings for stakeholders in the apparel sector. Key trainings and initiatives include:

- A two-day training on core labor standards provided by ILO labor experts in July 2012. Participants included the Labor Ombudsperson, HOPE Commission members, factory owners and managers, union representatives, and representatives from MAST and the Ministry of Commerce and Industry.
- Ongoing training programs on Occupational Safety and Health and Life Skills (including maternity protection, workplace communication, financial literacy, and HIV/AIDS) for workers, line supervisors and human resource managers. Between September 2012 and February 2013, BWH provided these trainings to 548 workers in six factories.
- In October 2012, ILO experts provided a two-day training session on the basics of social dialogue and related core labor standards. Participants included the Labor Ombudsperson, HOPE Commission members, factory owners and managers, union representatives, and representatives from MAST and the Ministry of Commerce and Industry. This training (and a subsequent follow-up workshop held in January 2013) provided an opportunity for the members of the Social Dialogue Roundtable to work together in drafting a memorandum of understanding to guide their future work.
- In April 2013, the ILO organized the third annual Health and Safety at Work Fair in Port-au-Prince's main industrial park. With the support of local non-governmental organizations, the Ministry of Population and Health, and factory management, over 2,000 workers benefitted from consultations in general medicine, gynecology, and dermatology. Eye exams, testing for sexually transmitted infections and HIV/AIDS, as well as screening for diabetes, breast cancer, and prostate cancer were provided. Information sessions at the fair also raised awareness of risks and preventive measures that managers and workers can take in the workplace.

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 identifies producers that have failed to remedy such deficiencies with respect to those standards and laws. With regard to the deficient producers, HOPE II also 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 unremedied 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 fifth synthesis report was published on October 16, 2012, and is available at: <http://betterwork.org/global/?p=1175>. The document is based on assessments conducted between May and August 2012 in 22 factories. The report shows some improvements from the

previous assessment cycle with regard to core labor standards (including reduced findings of gender discrimination and forced labor, in particular certain mandatory overtime practices) and improved compliance with certain aspects of national labor law (including progress on working time issues and employment benefits). Occupational safety and health remains the main focus of non-compliance findings, though there were positive developments, particularly with regard to management systems.

The ILO's sixth synthesis report was released on April 16, 2013, and is available at: <http://betterwork.org/global/?p=2977>. The document is based on an assessment conducted between October 2012 and February 2013 in 24 factories. The report shows the same number of violations of core labor standards as the previous assessment, including non-compliance findings related to gender discrimination, mandatory overtime practices inconsistent with the core labor standard of forced labor, as well as freedom of association. BWH continued to find significant non-compliance with national labor law, particularly with regards to the payment of social protection benefits, wages, and occupational safety and health.

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.

In January 2011, the U.S. Government signed an agreement with the Government of Haiti and the Inter-American Development Bank to build the Caracol Industrial Park with the Republic of Korea's largest garment manufacturer, S & H Global, as the anchor tenant. The Caracol Industrial Park is projected to create at least 20,000 apparel sector jobs from this manufacturer's investment alone and could create an estimated total of 65,000 jobs with the arrival of other tenants and factory buildings. The total committed investment exceeds \$300 million. S & H Global began operating in Caracol in July 2012, and currently employs about 1,450 workers.

The U.S. Government continues to provide technical assistance to support implementation of the provisions of HOPE II. As noted above, DOL has contributed \$6.7 million to the ILO program and is committed to funding the TAICNAR program at least through the end of 2016. Building upon the labor-related trainings DOL provided to Haitian government officials, workers, and employers in 2012, and in response to requests from a wide group of stakeholders in Haiti, DOL has launched two new capacity-building projects. First, DOL awarded a \$1.2 million grant to the Solidarity Center to build capacity of worker organizations in the textile sector. The eighteen-month project will include mapping the existing labor union representation in the sector, training workers to represent workers' interests and negotiate with management, and accompanying union representatives in important meetings. The project will rely on the same staff and will build upon a \$300,000 State Department trade union capacity building grant to the Solidarity Center that was awarded in December 2012 and will conclude this summer. In addition, DOL awarded a \$1.4 million grant to the ILO for a MAST capacity building project. The project will endeavor to improve MAST's labor inspection capacity. It will focus on the textile sector in the

northern industrial parks to create a set of strong practices that can later be expanded to other sectors and regions.

In preparation for the December 2013 identification of any non-compliant producers, DOL has continuously monitored compliance across the sector, made two monitoring visits to Haiti, and assessed or is currently assessing compliance-related issues at five factories. As discussed below, DOL has also provided extensive assistance to the three factories that the Secretary of Labor identified as non-compliant in December 2011.

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

Summary of Relevant HOPE II Provisions (19 U.S.C. § 2703a (e)(4)(B)(i)–(iv))

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).

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.³ As such, these eight core ILO conventions are part of Haitian law. 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).

Identification of non-compliant producers

The President delegated the function of identifying non-compliant producers to the Secretary of Labor, in consultation with the USTR.⁴ At the same time, the President delegated to the Secretary of Labor the function under HOPE II to seek to assist each non-compliant producer to come into compliance with core labor standards and the labor laws of Haiti that directly relate to and are consistent with core labor standards.⁵

In December 2011, the Secretary of Labor identified three producers as noncompliant with one or more core labor standards. These findings were related to the following core labor standards: (i) freedom of association; (ii) discrimination, in particular sexual harassment; and (iii) forced

³ See 1987 Constitution of Haiti, Art. 276-2.

⁴ Presidential Proclamation 8296, September 30, 2008.

⁵ *Id.*

labor, in particular certain mandatory overtime practices.⁶ The details of the 2011 findings and subsequent compliance efforts are described below.

Sewing International, S.A.

Sewing International, S.A. (SISA) was identified as non-compliant with the core labor standards of non-discrimination, in particular sexual harassment; freedom of association; and, forced labor, in particular with respect to certain mandatory overtime practices. DOL and other U.S. Government officials, including officials from the National Labor Relations Board (NLRB) and the State Department provided significant assistance to help SISA remedy these findings. Washington-based U.S. Government officials met with the ownership and management of SISA eight times between January 2012 and May 2013 to communicate the findings of non-compliance and offering assistance with remediation efforts, while Embassy staff remained in regular contact with SISA management. During visits to Haiti, DOL offered to provide technical assistance and shared contact information for DOL experts on each of the areas of identified non-compliance. The producer also received tailored training sessions and remediation assistance on all three core labor standards for which non-compliance was identified. U.S. Government officials have outlined the specific steps necessary for full remediation and have provided detailed remediation work plans, which delineate specific actions, policies, and procedures that, if implemented, would achieve compliance with those standards. DOL and SISA followed-up on this training and SISA's compliance efforts through several phone calls and e-mail exchanges.

Freedom of Association

On the issue of freedom of association, DOL's investigation found that in response to a May 2011 work slowdown and stoppage and subsequent lock-out at its factory, SISA dismissed the 146 workers most actively engaged in organizing the slowdown and stoppage, all of whom were participating in nascent association efforts at the factory. After DOL provided assistance to explain the non-compliance findings and the steps necessary to bring SISA into compliance with regards to this issue, SISA and a committee representing the affected workers requested that DOL engage Ms. Féthière to attempt to mediate a mutually acceptable remediation plan. As a result of that mediation, members of the workers' committee and their legal representative signed an agreement on May 1, 2013, with SISA's owner to remedy the non-compliance. The agreement requires SISA to: (1) reinstate 101 of the 146 workers, (2) pay severance to all 146 dismissed workers, and (3) deliver proof of payment to the state pension fund (ONA) for 122 workers. In exchange, the workers will close any pending legal proceedings about the case and agree that the case is closed. To date, SISA has fulfilled its commitment to pay severance to the 146 workers and has provided proof of payment to ONA. The parties have agreed to meet again in the coming weeks to discuss outstanding details of implementation, including who will be reinstated and when and how they will occur. Both sides noted that they had learned from the process and appreciated the engagement of the Government of Haiti and the U.S. Government in reaching an agreement.

⁶ Mandatory overtime practices that are considered inconsistent with the core labor standard of forced labor are those in which the work or service is exacted under menace of penalty and is involuntary.

Discrimination

On the issue of discrimination, DOL's investigation revealed that certain SISA supervisors regularly solicited workers for sex and subjected them to negative consequences if they refused, including less favorable treatment, transfer to less productive modules, and termination. Further, some SISA employees were subjected to unwelcome physical contact of a sexual nature that created a hostile work environment.

As of June 2012, SISA had developed and implemented a new policy against sexual harassment and abuse; established a new sexual harassment committee to conduct impartial and confidential investigations and document cases; adopted an action plan to prevent sexual harassment; and trained employees, at all levels, on the new sexual harassment policy and procedures, including examples of sexual harassment, complaint procedures, and the factory's new policy of zero tolerance. The sexual harassment committee continues to meet regularly, but it has not yet received any complaints of sexual harassment, so its procedures and the company's policy have not yet been tested. Workers confirm the change in the company's policy, the existence of the new committee, and the sexual harassment trainings. They also confirm that progress is being made on this issue and are not aware of any new instances of sexual harassment at the factory.

Forced Labor, in Particular Certain Mandatory Overtime Practices

DOL's investigation of SISA found the following practices that, when taken together, are inconsistent with the core labor standard of forced labor: requiring workers to work overtime in excess of the legal limit; threatening them with dismissal or suspension if they refused to do so; physically preventing workers from freely leaving the facility, including by posting armed guards at the exit, locking gates so that workers could not leave without the assistance of guards, and frequently denying exit passes required for leaving the facility; and additional practices that evidence worker vulnerability, such as sexual harassment and payment at less than the legal minimum wage, suggesting extensive employer control and worker inability, in practice, to decline the unlawful overtime.

SISA has also addressed its noncompliant practices regarding mandatory overtime, including by developing a new policy against forced labor, training security personnel on the policy and requiring each security guard to formally commit that physical force will not be used to prevent workers from exiting the facility or to force them back to work. SISA has also implemented a new, reduced work schedule and installed an electronic time card system to better track working time. Workers have confirmed the new work schedule and DOL officials have witnessed workers using the time cards. Workers also report being able to leave early, on occasion, without penalty and did not report any new cases of workers being physically forced to stay at the factory or being penalized for requesting or actually leaving after completing their regular work shift plus lawful overtime.

SISA has satisfactorily remediated the non-compliance findings on discrimination and forced labor and has taken significant steps to remediate the finding of freedom of association. DOL will continue to monitor the implementation of the freedom of association agreement to ensure the successful completion of the agreed upon actions.

Inter-American Wovens, S.A.

Inter-American Wovens, S.A. (IW) was identified as non-compliant with the core labor standards of freedom of association and forced labor, in particular with respect to certain mandatory overtime practices. DOL and other U.S. Government officials, including from the NLRB, met with the ownership and management of IW during eight separate visits to Haiti between January 2012 and May 2013 and Embassy staff remained in regular contact with management. During the visits, the producer received tailored training sessions and compliance assistance on forced labor and freedom of association, including step-by-step explanations of what IW could do to remedy the findings of non-compliance. At each visit, DOL offered to provide additional technical assistance and provided IW with contact information for DOL experts on each of the areas of non-compliance. DOL and IW held multiple phone calls and frequently exchanged e-mails to follow up on the training provided and IW's efforts to comply with the core labor standards.

Freedom of Association

On the issue of freedom of association, DOL concluded that IW targeted 54 workers for dismissal who had begun organizing a group to discuss and address their terms and conditions of employment and had collectively expressed concerns about terms and conditions to management. Targeting for dismissal workers engaged in such protected association activity is not consistent with the core labor standard of freedom of association.

In March 2012, IW committed to offer reinstatement – either immediate or through a priority hiring list – to all 54 of the affected workers. IW attempted to reach some of those workers to make these offers, but progress was slow and insufficient. When DOL returned to Haiti in February 2013, DOL worked with IW to develop a revised roadmap towards compliance that included commitments to a slightly altered set of offers and processes for making them. In accordance with the amended roadmap, in March 2013, IW posted two lists on the factory's gates: one offering immediate reinstatement to 21 workers, and a second offering to include a second group of 27 workers on a priority hiring list, if future opportunities arose. All affected workers were included in one of the two lists or had already been rehired at IW. The workers' legal representative and textile sector union leaders were made aware of the offers and the postings. DOL has spoken to several workers and the workers' legal representative and has not heard reports that any workers from either list were turned away from the factory upon requesting reinstatement. In addition, IW reported that it has added language to its internal regulations that expressly recognizes the right to freedom of association.

Forced Labor, in Particular Certain Mandatory Overtime Practices

DOL's investigation of IW found the following practices that, taken together, are inconsistent with the core labor standard prohibiting forced labor: requiring workers to work overtime in excess of the legal limit; threatening them with suspension or dismissal if they refused to work unlawful overtime, and in the above-described case, in fact suspending them on October 18, 2011 for such refusal; and additional practices that evidence worker vulnerability, such as

limiting workers' ability to get up from their machines for water or restroom breaks, suggesting extensive employer control and worker inability, in practice, to decline the unlawful overtime.

IW implemented a new regular work schedule for some of the factory workers and has instituted a new policy under which workers are granted leave before working overtime hours. Workers now report that overtime is voluntary and that they are able to leave the factory after completing scheduled overtime, within the limits prescribed by law, without penalty.

IW's actions show considerable progress. IW has satisfactorily remediated the non-compliance findings on forced labor and has taken significant steps to remediate the finding of non-compliance on freedom of association. On freedom of association, DOL will continue to monitor closely the priority hiring list to ensure that it is successfully implemented.

One World Apparel, S.A.

One World Apparel, S.A. (One World) was identified as non-compliant with the core labor standard of freedom of association for terminating a worker for associational activity. As a result of DOL's assistance, the worker was reinstated on June 5, 2012. DOL monitored the worker's return to One World. To date, the individual is still employed at the factory and has not reported any additional union discrimination. As a result, DOL deemed the remediation successful and concluded its assistance to One World with regards to this finding of non-compliance.