



**BetterWork**

**21<sup>st</sup> Compliance Synthesis Report  
Under the Hope Legislation  
Haiti**

OCTOBER 2019-SEPTEMBER 2020



International  
Labour  
Organization



**IFC**  
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Finance  
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## List of Acronyms

<b>ADIH</b>	Association des Industries d'Haïti (Haitian Industry Association)
<b>BMST</b>	Bureau de la Médiatrice Spéciale du Travail (Office of the Special Ombudsperson of Labor)
<b>CAOSS</b>	Conseil d'Administration des Organes de Sécurité Sociale (Board of Social Security Bodies)
<b>CP</b>	Compliance point
<b>CSS</b>	Conseil Supérieur des Salaires (Wages High Council)
<b>CTH</b>	Confédération des Travailleurs Haïtiens (Confederation of Haitian Workers)
<b>CTSP</b>	Confédération des Travailleurs des secteurs Publics et Privés (Confederation of Workers from the Public and Private Sectors)
<b>CTMO-HOPE</b>	Commission Tripartite de Mise en œuvre de la loi HOPE (Tripartite Commission for the Implementation of the HOPE Law)
<b>EA</b>	Enterprise Advisor
<b>GOSTTRA</b>	Groupement Syndical des Travailleurs-eusses du Textile pour Réexportation d'assemblage (Union Group of Textile Workers for Re-export of the Assembly)
<b>HELP</b>	Haiti Economic Lift Program
<b>HOPE</b>	Haitian Hemispheric Opportunity through Partnership Encouragement Act
<b>IOE</b>	International Organization of Employers
<b>ITUC</b>	International Trade Union Confederation
<b>MSDS</b>	Material Safety Data Sheet
<b>MAST</b>	Ministère des Affaires Sociales et du Travail (Ministry of Social Affairs and Labor)
<b>OFATMA</b>	Office d'Assurance Accidents du Travail, Maladie et Maternité (Office for Work, Health and Maternity Insurance)
<b>ONA</b>	Office Nationale d'Assurance Vieillesse (National Office for Old-Age Insurance)
<b>OSH</b>	Occupational Safety and Health
<b>PAC</b>	Project Advisory Committee
<b>PAP</b>	Port-au-Prince, Haiti
<b>PIC</b>	Parc Industriel de Caracol (Industrial Park of Caracol)
<b>PICC</b>	Performance Improvement Consultative Committee



<b>PIM</b>	Parc Industriel Métropolitain (also referred to as SONAPI)
<b>PPE</b>	Personal Protective Equipment
<b>SC/AFL-CIO</b>	Solidarity Center/American Federation of Labor-Congress of Industrial Organizations
<b>SDT</b>	Table de Dialogue Social (Social Dialogue Table)
<b>TAICNAR</b>	Technical Assistance Improvement and Compliance Needs Assessment and Remediation
<b>USDOL</b>	United States Department of Labor

## Section I: Introduction and Context

### 1.1 BACKGROUND

Better work - a collaboration between the United Nations' International Labour Organization (ILO) and the International Finance Corporation (IFC), a member of the World Bank Group - is a comprehensive program bringing together all levels of the garment industry to improve working conditions, respect of labor rights for workers, and boost the competitiveness of apparel businesses. The program was launched in Haiti in June 2009 as part of the global Better Work program with country operations in Bangladesh, Cambodia, Ethiopia, Egypt, Haiti, Indonesia, Jordan, Nicaragua, and Vietnam. To date, Better Work is mainly operating in the apparel and footwear industry in the countries it operates. In Haiti, the program is mandatory for all apparel producers exporting their products to the US market under the HOPE II legislation.

The HOPE II law requires that Haiti in cooperation with the ILO establishes a Technical Assistance Improvement and Compliance Needs Assessment and Remediation Program (TAICNAR), which (i) assesses Haitian apparel factories exporting under the HOPE II law on compliance with international core labor standards and national Haitian labor law, (ii) assists these factories on their remediation efforts and (iii) provides capacity building to the Government of Haiti on these aspects. According to the HOPE legislation, biannual reports must be published to indicate enterprise-level compliance performance. Further details on the components of the HOPE II law and specific requirements regarding biannual reports being published by the entity operating the TAICNAR program are quoted in annex 1 (HOPE II Legislation Reporting Requirements). This is the twenty-first report under the HOPE legislation to be published in October 2020; due to unforeseen circumstances; it is being published late this year. . Detailed enterprise-level data of compliance performance as required by the HOPE II legislation is included in the factory tables in the section called "factory tables."



The two components of HOPE II's TAICNAR program aim at strengthening labor compliance of the industry in Haiti. The first of these elements focuses on assessing compliance with core labor standards and national labor law, supporting remediation efforts, and publicly reporting the progress of each factory on the Labor Ombudsman's register. The second element of the TAICNAR program consists of technical assistance to strengthen the legal and administrative structures for improving compliance in the industry. The scope of these services is extensive, encompassing technical assistance from the ILO in reviewing national laws and regulations to bring them into conformity with international standards, raise awareness of workers' rights, and train labor inspectors, judicial officers, and other government personnel.

To encourage compliance with core labor standards and national labor law, the legislation indicates that preferential treatment may be withdrawn, suspended, or limited by the President of the United States to producers who - even after assistance has been provided - fail to come into compliance with the core labor standards and national labor law that are related and consistent with those standards. Removal of benefits is based on the government of the United States' determinations, based primarily on non-compliance identifications made by the U.S. Department of Labor (USDOL). While Better Work Haiti reports are consulted as USDOL carries out its mandate to implement HOPE II, Better Work Haiti's non-compliance findings cannot, on their own, serve to impact preferential treatment under the HOPE Act.

Better Work Haiti has been implementing the first component of the TAICNAR program from 2009 until 2017, while other ILO projects, in particular the ILO-MAST capacity-building project, worked on the second component. As of 2018, with the start of the third phase of the Better Work Haiti project (2018 - 2022), Better Work will also take on several elements of the second component of the TAICNAR program while carrying out activities covering TAICNAR component one. The Better Work program coordinates its work with the Labor Ombudsman and a tripartite Project Advisory Committee (PAC). This Committee meets with Better Work regularly to discuss the activities of the Better Work program. The PAC members represent the private sector, government and worker representatives, and the Labor Ombudsperson in line with the Committee's HOPE law's requirements.

Therefore, Better Work follows this two-pronged approach at the country level to improve Haiti's garment industry's working conditions and competitiveness. On the one hand, direct factory level interventions allow deep insight into each company's compliance performance and assist in a tailored way. On the other hand, the program works with the tripartite constituents to address endemic challenges more substantially by bringing stakeholders together, sharing industry data, and offering technical assistance to address compliance challenges and capacity building needs.

In 2019, Better Work celebrated its ten years of presence in Haiti. While the program had a difficult start due to the devastating earthquake that shocked Haiti in January 2010, the garment industry grew back to be a key pillar of the Haitian economy. As a mandatory program under the US HOPE legislation to Haiti, garment exporters are required to participate in Better Work as a prerequisite to export their



products to the US market. Over the past ten years, Haiti's garment industry grew significantly, from approximately 20,000 direct employees at the beginning of the Better Work program to over 51,000 in 2019, with garment exports from Haiti crossing the 1 billion US\$ line.

Despite the numerous challenges (Political instability and disruptions, natural disasters, continuity of fuel supplies, cost of energy .etc.), the Haitian garment industry is the largest formal exporting sector and has proven to be resilient. Haitian apparel export grew annually, but the export per job declined. The garment sector pre-COVID-19 crisis employed 56,000 workers. The number of full-time equivalent workers fell by an estimated 25 percent from April to September 2020.

COVID-19-related disruptions in the garment-manufacturing sector reverberate among workers and their families. Analysis of economic impact surveys among a subset of female workers in the sector revealed risks to food security, health, and livelihoods. Nine in ten respondents to a Better Work Haiti survey this summer reported trouble securing the usual amount of food for their household due to income shocks. Significant portions of workers surveyed have concerns about the health of themselves and their family members.

## 1.2 HAITI INDUSTRY AT A GLANCE IN NUMBERS

Better Work Haiti strives to create a garment industry that provides decent work to a projected 65,000 workers, lifting their families and communities out of poverty, empowering women, boosting national income, and improving social stability. During this period, there was an initial decrease in the number of employed workers due to the Impact of COVID-19 on the apparel sector. However, towards the end of July, when the factories were allowed to operate fully, they started to rehire some workers.

Building on the strong partnerships Better Work has developed with the government, global brands, employers, and unions, over the next five years, the program will play a central role in realizing the full potential of the HOPE II Act - a preferential trade program with the US. Convening diverse stakeholders to tackle shared challenges and supporting institutions' efforts to monitor and safeguard factory compliance with international labor standards will be top priorities.

### Key partners

- ◆ Ministry of Social Affairs and Labor (MAST)
- ◆ Office of the Labor Ombudsman (BMST)
- ◆ National Insurance and Pensions Office (ONA)
- ◆ Office for Employment Injury, Illness and Maternity (OFTMA)
- ◆ Ministry of Commerce and Industry (MCI)
- ◆ Office of the State Secretary for the Integration of People with Disabilities (BSEIPH)
- ◆ Association of Haitian Industries (ADIH)



**37**

**FACTORIES IN THE PROGRAMME**



**36,003**

**WORKERS (61% WOMEN)**



**7**

**FREE ZONES HOSTING 90% OF TEXTILE**



**765 Millions**

**APPAREL EXPORTS IN USD MILLIONS (90% OF NATIONAL EXPORTS)**



**26**

**BRANDS AND RETAILERS**



**14**

**BETTER WORK HAITI STAFF**



**+10**

**YEARS OPERATING IN HAITI SINCE 2009**



**20**

**INDUSTRY COMPLIANCE REPORTS**



- ◆ Economic Forum
- ◆ All Trade unions active in the garment sector
- ◆ 26 brand and retail partners

### 1.3 IMPACT OF COVID-19 ON APPAREL SECTOR

**General Impact:** Political instability since July 2018 has compounded Haiti's longstanding challenges and has continued to hamper growth and investment in the apparel sector mainly:

- ◆ Poor organization of supply chains,
- ◆ Significant dependence on imports for raw materials, equipment, and material,
- ◆ The high cost of electricity and logistic,
- ◆ Limited managerial knowledge in market intelligence,
- ◆ A significant shortage of qualified professionals and skilled workers,
- ◆ Weaknesses of the public institutions to provide appropriate responses promptly,
- ◆ Unpredictable and non-concerted measures adopted by the government agencies,
- ◆ Lack of dialog and concertation between stakeholders.
- ◆ Extreme vulnerability to natural disasters.

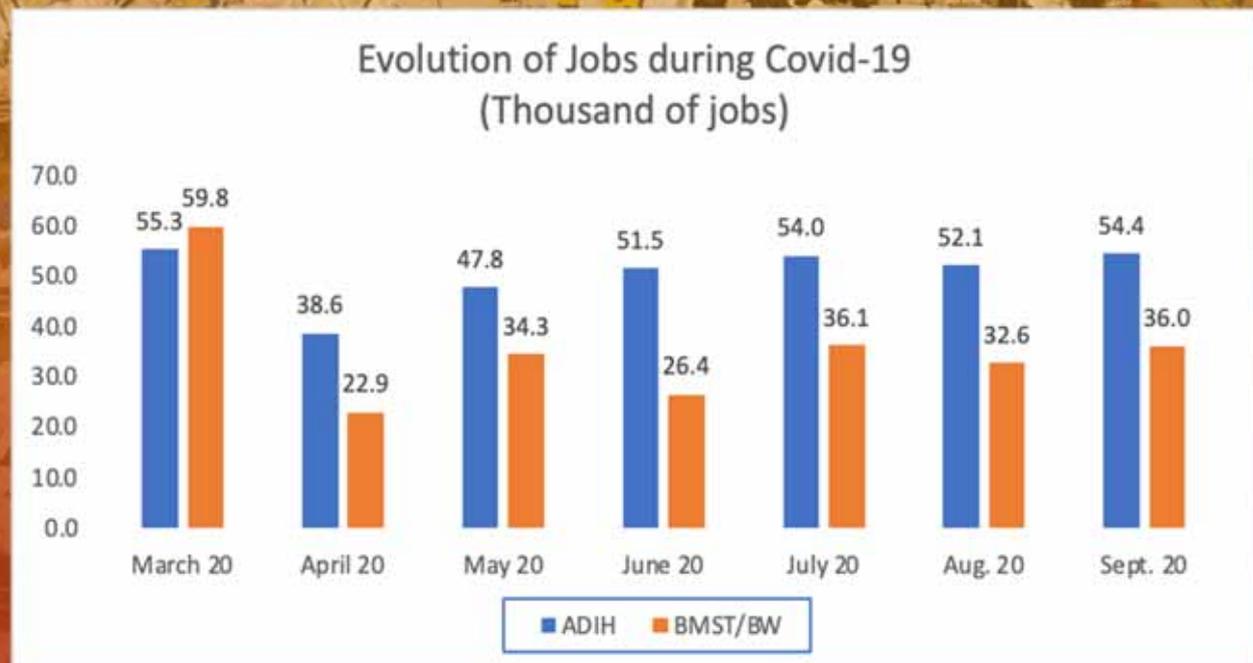
The Covid-19 pandemic has found a very fragile and vulnerable sector and has worsened the impact on production, employment, and investment:

#### For the apparel export industry

- ◆ Uncertainties of buyers due to the reconfiguration of the apparel world market,
- ◆ Loss of orders and slowdown of new orders, the shift of production from traditional garments to PPE,
- ◆ Difficulties in accessing raw materials,
- ◆ Increase of production costs and lack of working capital,
- ◆ New rules for imports, reduction of person-hour due to the rotation of workers,
- ◆ Cease of investments and expansion plans, etc.



**Impact on Exports:** The major shippers report to the US Office of Textile and Apparel (OTEXA) a fall of 21.45% in volume and 24.46 million in USD between 2019 and 2020 (Statics collected for the period between January and August of each year). If we compare the same months in 2018 and 2019, exports registered a growth of 8%.



Source: Monthly Report of ADIH (data collected the last working day of each month) and BMST/BW (calculation of the average number of jobs per month: Sum of daily jobs divided by the number of the working day for each factory)



**Surveys in the Apparel sector:** Two (2) surveys have been undertaken in May-June 2020:

The first Survey was done in May 2020 by Better Work Haiti in collaboration with ACT/EMP (Costa-Rica Office and ADIH):

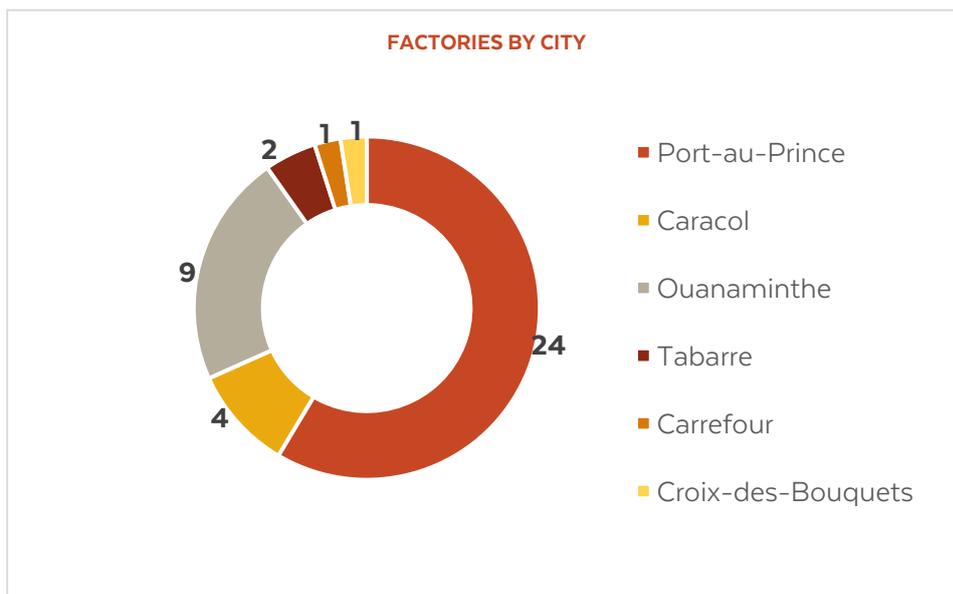
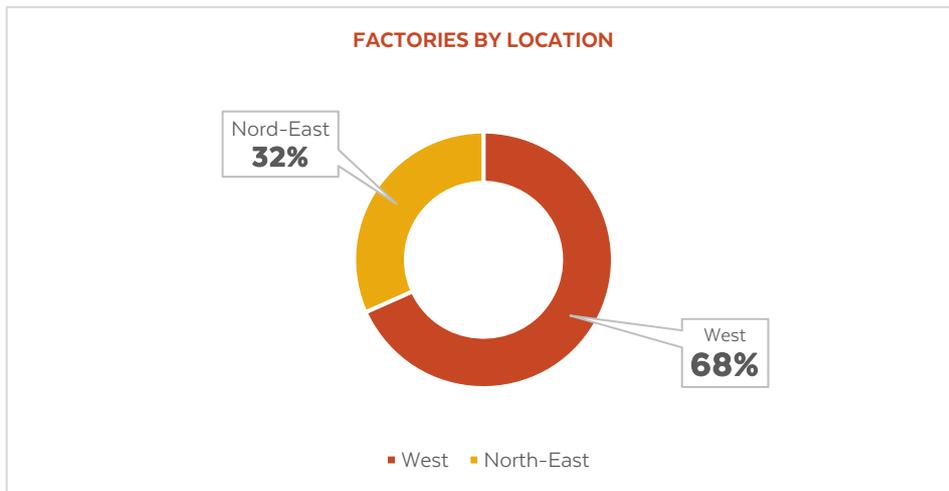
This Survey was conducted in May 2020, and the main results are:

- ◆ A significant disruption of operations: 57% of respondents were partially active,
- ◆ Adverse effects on employment (suspensions, layoffs): 53% of the factories surveyed said they had suspended some of their workers, and 40% said they had laid off or intended to lay off more than 500 workers,
- ◆ The first five main challenges reported are as follows: Negatively Affected Trading Partners (89%), Declining Demand (81%), Insufficient Cash Flow (70%), Input Shortage (67%), and Raw Material Shortage or Cost Increase (63%).

The second Survey was done in May-June 2020 by ADIH in collaboration with IFC:

This Survey's objective was to collect data to establish a clear and precise roadmap to meet the new challenges and identify the capacity to produce new PPE orders. A report on the finding of this Survey will be published by the end of November 2020. Respondents identified the most pressing challenges they faced:

- ◆ Uncertainty regarding global demand (91%)
- ◆ Number of workers reduced due to measures adopted by the government (82%)
- ◆ Reduction of production capacity due to preventive measures to slow the spread of the virus (82%)
- ◆ Lack of working capital (79%)
- ◆ Difficulty accessing raw materials (61%).





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## Section III: Highlights of the reporting period April 2020-September 2020)

### COUNTRY CONTEXT

In March of 2020, Haiti, a country with an already fragile health system, registered its first case of COVID 19. The government suddenly faced the daunting task of preventing the spread of the virus, which was quickly becoming a difficult challenge for countries around the world. The government acted swiftly to declare a state of emergency, restricting air travels, closing the border with its neighbor, closing schools and some businesses, including factories in the garment sector. Other businesses like banks and supermarkets were functioning with limited hours.

The state of emergency was subsequently reinforced through a series of government decrees and communiqués, which required businesses and the public to respect the preventive measures recommended by the government through the Ministry of Health, including an 8:00 PM curfew.

On April 1st, after a series of discussions with the Association of Haitian Industries (ADIH), through the prime minister's office, the government published a letter authorizing the reopening of factories to produce exclusively medical supplies to help in the fight against COVID-19. In his letter addressed to the Ministry of Public Health and Population (MSPP) and the Ministry of Social Affairs and Labor (MAST), the Prime Minister confirmed that the factories authorized to function would be producing 1 million facemasks to donate to the government. The government also agreed to purchase additional facemasks on an as-needed basis in the future. The letter also required factories to respect social distancing of at least 1.5 meters and install hand-washing stations at the factories' entrance. Factories had to modify their workspace to implement these requirements. Some factories have installed plexiglass partitions to protect workers from one another.

A COVID-19 task force was also formed with representatives from MAST, MSPP, and the Ministry of Commerce and Industry (MCI). The task force's objective was to ensure that the preventive measures were being implemented and followed by businesses in operation. Shortly after that, ADIH shared a letter with Better Work Haiti with an initial list of 12 textile factories authorized to operate. The list subsequently increased to include more factories.

As the number of COVID 19 cases increased, the government took other restrictive measures to prevent the virus's spread.



On April 3rd, companies were authorized, under certain conditions, to produce only masks, uniforms, and isolated gowns (Personal Protection Equipment - PPE) for the local market. The GOH also committed to purchasing 20,000,000 units of PPEs.

Ten days later, on April 13th, 2020, the GOH issued communique 006 (<https://drive.google.com/file/d/1CwaJzQbC4uF-74B28BtFpyRRIT9Nr9-U/view>) and adopted a decision to allow all textile factories to reopen after April 20th with 30% of workers in rotation and respecting the COVID-19 directives. Factories found to violate MAST or MSPP's directives would not be allowed to reopen or continue production. Communiqué 006 requires that companies (i) adapt their infrastructure (handwash stations, temperature checks, social distancing to access the factory and during working hours, etc.), (ii) purchase specific materials and equipment (medical supplies, cleaning, fumigation, etc.), and (iii) distribute PPE to employees.

Factories benefited from financial measures adopted by the GOH related to fiscal obligations (extension to June 30th for certain formalities) and credit (three (3) month moratorium on all loans, restructuring, and provisioning of loans, exemption of late fee on debts, etc.).

On May 6th, the government published decree number 082, naming a new director at the head of SONAPI, the industrial park's administrative body.

On May 20th, the government published decree number 088, extending the emergency state for two months. People were required to wear facemasks in public places. They also restricted all indoor and outdoor gatherings to a maximum of five persons.

On May 29th, the Ministry of Commerce (MCI) issued another communique number 003 to remind factory management that they should be operating with 30% of their staff on a rotating basis, after noticing that most factories were not following these instructions. Reports from the Bureau of Labor Ombudsperson also confirmed that factories were operating with more than 30% of their workforce present at the same time. The factories complained that it is difficult to manage their production with only 30% of their staff, even though they do have less work.

According to worldometers.info (<https://www.worldometers.info/coronavirus/country/haiti/>), as of September 30th, 2020, 8766 reported cases of COVID-19 in Haiti and approximately 229 deaths. There were 1708 active cases, while approximately 7000 COVID-19 patients have reportedly recovered from the virus. After reviewing the COVID 19 related cases in July of 2020, the Haitian government decided to end the emergency state, thereby lifting all businesses' restrictions. However, the government authorities recommended that precautions such as wearing masks, handwashing, and social distancing should be practiced to prevent further spreading of the virus; there were no new decrees to enforce these measures.



**35** factories adapt their infrastructure before and after working hours, (deep cleaning, fumigation, etc...)



Schools reopened on August 10th, 2020, and have been encouraged to take additional precautions such as increasing ventilation in classrooms, assigning dedicated personnel for COVID-19 prevention, and raising awareness amongst students.

Concerted efforts are ongoing to raise awareness of the virus. It has been noted by the Government's COVID Communications committee that there is an insufficient level of public understanding and awareness of COVID-19, which is a severe barrier to prevention. False information on the virus is being circulated, including through social media, and there is a level of distrust of the public health system and government. Members of the public rarely wear facemasks, and social distancing measures are challenging for many households and are generally not respected. The Communications Sector has also reported that stigmatization is prevalent, especially in rural areas, and wearing a mask or staying in quarantine can lead to threats or violence. Many infected persons refuse the home care offered out of fear of stigmatization or mistrust. Health responders face reticence and sometimes hostility from the community.

The country continued to operate in a shadow of political uncertainty. The government's executive branch nominated a new Electoral Council to carry out the next presidential and parliamentary elections and a referendum to adopt a new constitution. The opposition parties qualify this move as unconstitutional because not all the critical sectors of Haitian political life were contacted to form the new electoral council. Furthermore, they claim that the new electoral council should not mandate a referendum to adopt a new constitution.

On the economic front, the value of the Haitian currency increased after the central bank decided to inject approximately \$150 million U.S dollars into the economy starting in August. By the end of September, the Haitian gourdes' value has increased by approximately 50 percentage points, resulting in lower purchasing power among workers for some essential items with prices fixed to previous exchange rates. The garment sector executives stated that this unexplained increase in the gourde's value also negatively affects them by raising costs. They fear that it may result in loss of employment for the garment sector shortly.

During the reporting period, the textile industry received some good news on the international front. After approximately two years of negotiations, The United States Congress renewed the Caribbean Basin Trade Partnership Act (CBTPA), set to expire at the end of September 2020 for Haiti and other Caribbean nations. The renewed trade deal guarantees protections for Haitian/U.S. trade partners for the next ten years. The representatives of ADIH hail this news as a potential savior of the textile sector, particularly during the struggle to stay afloat because of the COVID 19 situation.



**29** factories have pivoted their production to PPE following the COVID-19 Pandemic



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## Section IV: Dismissal findings of the reporting period. (October 2019-September 2020)

During this reporting period, Better Work Haiti conducted several investigations of allegations of wrongful dismissal of union committee members received to determine whether the factories violated any Freedom of Association Clauses (FOA). The investigations, which involved five factories, were conducted via virtual means. Better Work advisors used several different technological platforms, including regular telephone communications, Videoconference via Zoom, Google, and WhatsApp to conduct group and individual interviews with workers, management and union representatives, and reviewing documents.

We had investigated the following fact” Has the employer terminated workers or not renewed a worker’s employment contract due to the worker’s union membership or activities?

### Factory 1

In April 2020, Better Work Haiti was called upon to investigate an incident at factory #1, which resulted in the termination of four union committee members.

On March 30th, 2020, the four union committee members alleged that the factory had not implemented the COVID-19 preventive measures recommended by the government, and therefore, all the workers should stop working. Once the workers stopped, the factory’s management decided to close for the day. They sent a letter to the Ministry of Social Affairs and Labor (MAST), informing them about the factory’s decision to dismiss the four workers following a work stoppage. Management claims that the four workers prevented the rest of the workers from working that day. The four union committee members accepted their termination and negotiated their severance pay through dialogue between the factory and the union’s national coordinator. Thus, Better Work is not finding the factory in non-compliance.

### Factory 2

In July of 2020, a worker from factory #3 contacted Better Work, alleging that she had been fired because of her affiliation with a trade union organization. Our investigation revealed on May 2nd, 2020, the worker received a written warning for failure to obey her supervisor’s instructions. During the following days, she received several verbal warnings and another written warning on June 8th, 2020, for disrupting the work environment and subsequent warnings for unexplained absences on June 29th and July 2nd. Consequently, the factory decided to terminate the worker’s contract on July 8th, 2020.

Considering the evidence presented by the factory and the interviews carried out with the workers, including factory-level trade union representatives, Better Work does not find that the factory violated the Freedom of Association (FOA) clauses.



### Factory 3

On July 23<sup>rd</sup>, Factory # 4 informed the Ministry of Social Affairs (MAST) that it was terminating the contract of forty-seven workers, including forty-two union committee members, for an illegal work stoppage that occurred the previous day.

Better Work Haiti launched an investigation to inquire about the event that prompted the termination of such a large number of workers. Reports from MAST, the Justice of the peace, and internal reports from the factory's security supervisor alleges that on the day of the work stoppage, the trade union committee members blocked the entrance to the main gate, preventing people from leaving or entering the premises. The security supervisor's report named the forty-seven union committee members. During interviews with Better Work advisors, the security officers could only confirm six individuals' identities.

However, aside from these six individuals, there is insufficient credible evidence to allow for the identification of additional specific individuals involved in taking the keys and impeding passage through the factory gate. In the absence of objective, credible evidence identifying additional specific individuals involved in these acts. Better Work Haiti is finding non-compliance for anti-union discrimination. Better Work recommends reinstatement with back pay of the 41 terminated workers not identified above.

### Factory 4

On Saturday, August 29th, 2020, an incident occurred at Factory #2 when one worker attempted to enter a restricted area. A foreign manager who was present told the worker not to enter the restricted area. When the worker refused to obey the manager's instructions, the manager attempted to physically stop the worker. The attempt to physically block the worker from entering the restricted area resulted in a tense interaction between the manager and the worker.

Although the foreign manager was dismissed and the worker involved received a written warning, the altercation led to two unannounced and violent strikes, on August 31st, 2020, and on September 7th, 2020. There were acts of vandalism and sabotage during the strikes, as reported in reports from the Ministry of Social Affairs (MAST). The factory subsequently decided to dismiss 214 workers without pay.

The factory followed proper procedures in alerting the MAST of the incidents promptly. The factory also properly solicited social dialogue when dealing with the conflict when it attempted to meet with MAST, the union representatives, and the protesting workers on September 7th. The decision to terminate the foreign manager was adequate, given the visibility and the sensitive nature of the altercation. The decision not to pay for the two days of August strikes is also supported by national labor law.



The evidence to date supports the termination of 189 individuals confirmed to have participated in the violence based on the video footage reviewed jointly by union representatives and the management. Absent conclusive evidence (e.g., additional video footage, eyewitness observations) identifying additional terminated individuals as having participated in the violence, Better Work recommends reinstatement with back pay of the remaining 25 terminated workers.

Although the strike did not conform to legal requirements and evidence of violence during the strike, the sanction of termination is disproportionate to the workers' failure to adhere to the legal prerequisites for striking.

### Factory 5

During August and September, several unannounced work stoppages occurred at factory #5. According to reports from the Ministry of Social Affairs (MAST), the workers did not want the factory to deduct their paychecks for social security contributions. The factory has not submitted those contributions to the government for several months. The workers further claim that the factory should reimburse them for their contributions because the government cannot provide them with the necessary health services they need.

The inspectors from the Ministry of Social Affairs (MAST) and Justices of the Peace attempted to explain to the workers that the factory was obligated by law to withdraw these deductions. During one such meeting on September 15th, 2020, several workers became verbally abusive towards management. As a result, management threatened to terminate 43 workers. According to the MAST report, management offered to pay the workers their full benefit if they agree to terminate their contract with the factory. Several other workers joined in and decided that they no longer wanted to work for the company. Two Hundred and eighty-four (284 workers decided to accept management's offer to resign with full benefits.

During other subsequent visits on September 16th, 17th, and 18th, the Justices of Peace, who intervened at the factory, noted that several workers were protesting because they were denied entry to the factory premises. They stated that their benefit payments were not yet sent to MAST as promised. The factory eventually paid the workers their severance payment as agreed.

BWH succeeded in conducting 25 virtual interviews from the entire list of 284 terminated workers. Many workers did not want to participate in a virtual interview, limiting the exercise's investigative reach. All the workers interviewed confirmed that the factory's non-compliance with social security payments was the root cause of the work stoppages. All workers confirmed that they received all of the termination payments, as reported by the factory's H.R. manager. In particular, one worker confessed that she regrets taking the payments and wishes to return to work. Eleven workers said that those who opted to take



the payments were hoping to get into some micro-enterprise sort but failed. These workers also want to return to the factory.

BWH reviewed the termination payments of the 25 workers interviewed. The calculation method used for an annual bonus, leave balance, and notice payments were correct. This is supported by the fact that none of the interviewed workers complained about the amounts received in these payments. Based on the information available at this time, BWH finds no non-compliance relating to the 43 workers fired with full compensation (since this is what they were demanding); the 23 workers fired with bonus and annual leave balance but without notice payments (since these workers were seeking to be terminated, and the non-payment of notice is justified under Labor Code Arts. 30 and 42), and the remaining 218 voluntary resignations with full payment of compensation.

Better Work Haiti does not find the factory in non-compliance because the workers voluntarily agreed to terminate their contract in return for their benefit payments. The factory paid all the legal benefits to the workers, as mandated by the labor laws.



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## Section V: Better Work key activities and response to COVID-19

Better Work is committed to supporting workers, employers, and government partners in the garment sector during this period of unprecedented disruption due to the COVID-19 pandemic. Better Work Haiti has been remotely supporting the factories and workers on crucial health and safety and industrial relations issues and coordinating information campaigns and national partners training. In collaboration with the ILO regional office, Better Work Haiti has shared policy briefs published by the ILO to the national partners. Better Work Haiti liaised with all stakeholders to limit negative impacts on workers and businesses and identify a collective approach to support the industry.

Throughout the crisis, Better Work Haiti has maintained regular contact with employers, workers, and MAST remotely to promote social dialogue and compliance at the individual factory level and, in parallel, increase constituents' capacities by providing most of its services remotely.

The core services operations were affected by the restrictions imposed on UN staff during the pandemic. As a result, twenty-one scheduled assessments were tentatively postponed to the 4<sup>th</sup> Quarter. The program was able to verify all improvement plans during advisory services and made the necessary recommendations. Specific questions related to the factories' preparedness for COVID 19 were discussed with each factory, and non-compliance issues were included in their improvement plans. The sessions with factory management, workers, bi-partite committees, the Ministry of Labor were held virtually using the methods appropriate for each group. (Zoom, Whatsapp group, telephone, and SMS) Highlights are summarized below.

Between April and May 2020, Better Work Haiti, in collaboration with the Bureau for Employer's Activities (ACTEMP) and ADIH, surveyed employers to assess the COVID 19 pandemic's impact on the textile industry. The Survey's specific objective was to understand the businesses' status, the types of challenges they face because of the pandemic, their financial situation, and their accessibility to their financial support. The survey results revealed that most manufacturers in the garment sector faced severe disruptions in their business operations because of COVID 19, which resulted in suspensions and dismissals of workers. (see attached) [Business Impact survey.pdf](#)

Better Work Haiti held a virtual meeting with the trade unions representing the textile workers to share an update of its activities related to the 2018-2022 strategic plan and the union's participation in implementing said strategy. The union members expressed their willingness to support Better Work in the implementation of its strategy. They agreed to submit to Better Work a proposal with their immediate needs related to activities they



would like to undertake during the COVID 19 pandemic. Better Work Haiti also discussed its activities related to the COVID 19 pandemic, the unions' priorities in response to the pandemic's threats, and the support the unions would require from Better Work to help them deal with the situation.

Virtual meeting with the Project Advisory Committee (PAC) in April to brief the group on its current work situation during COVID 19 pandemic. The PAC members of the Committee also received an update from Better Work Haiti of BWH-registered factories and their current work situation and an overview of the 20th Synthesis Report, which focused on the most notable points of non-compliance in the workplace.

During this reporting period, our training officer, with the support of Better Work Global, revised several training materials to be delivered virtually through online platforms. They were adapted to reflect the safety and procedure changes imposed by the COVID 19 pandemic and modified to be delivered within a maximum of two hours.

Better work Haiti developed a critical and comprehensive set of guidelines to help employers, workers, and respective bipartite committee members ensure and maintain safe and healthy workplaces. The management OSH guide was translated and shared with all factories, MAST, ADIH, and workers' organization's leaders. Following its publication, to ensure effective implementation, a set of questions was included in factory improvement plans to operationalize the guide and monitor progress.

Better Work Haiti continues to strengthen the ability of industry stakeholders to influence 'workers positively.' Through its partnership with ILO/AIDS, UNICEF, and PROFAMIL, Better Work Haiti provided awareness-raising sessions on HIV and the prevention of COVID 19 to approximately 9406 workers, including 7250-women. From July to September, eighty-eight (88) pregnant women who participate in the program benefited from a wide range of prenatal services, including medical screening for HIV, Syphilis, and obstetrical ultrasound services.

Through another collaboration with the ILO/AIDS, Better Work Haiti started to provide specific COVID 19 prevention and infection control training to factory medical personnel. The project started in the Northeast and will continue next Quarter for factories in Port au Prince. The training is delivered in interdependent modules developed by the Ministry of Public Health (MSPP), collaborating with the World Health Organization (WHO) in Haiti. At the end of the training, we expect that participants will be able to:

- ◆ Describe the fundamentals of emerging respiratory viruses and how to respond effectively to an epidemic.
- ◆ Describe the current epidemiological situation of COVID-19, including in particular case definitions, signs, and symptoms.



- ◆ Describe the PCI measures that the WHO recommends to healthcare establishments, especially when dealing with suspected or confirmed cases of COVID-19.
- ◆ Provide clinical management of Severe Acute Respiratory Infections (SARI)
- ◆ Know the basic principles of occupational health and safety in the context of COVID-19

Better Work Haiti collaborated with Gap Inc. to deliver two training sessions to various Gap suppliers that are part of the Better Work Haiti portfolio. Better Work Haiti also received the support of Better Work Nicaragua to deliver a training session on sexual harassment to Spanish speakers.



**98**

### **Virtual advisory sessions to 38 participating factories**

Covering a wide range of topics, including the prevention of COVID-19. Advisory services are conducted with the bipartite committee members' participation, including representatives of workers and management. During the advisory services, workers' representatives are encouraged to speak freely and discuss relevant issues. Better Work Haiti also ensures that women are represented in the bipartite committees.

Better work Haiti held several individual meetings with the national stakeholders, namely representatives of the government, representatives of ADIH, and representatives of the workers' organizations to discuss the global call to action ([https://www.ilo.org/global/topics/coronavirus/setoral/WCMS\\_742343/lang--en/index.htm](https://www.ilo.org/global/topics/coronavirus/setoral/WCMS_742343/lang--en/index.htm))



**49**

### **Training sessions to 32 factories (38% women)**

Better Work Haiti and its staff delivered 49 training sessions to 32 factories in Port-au-Prince and the Northeast. These training sessions covered approximately 11 different subjects, of which 966 workers and management staff participated, of which 366 were women, and 600 were men. Among the 11 topics covered, one sexual harassment training was developed for managers and supervisors only.



organizations, ADIH representatives, Better Work Global team, and IOE and Industrial representatives to clarify specific issues relating to the Global Call to Action.

Better Work Haiti provided logistical support to MAST to conduct inspections and monitor the Better Work Haiti participating factories. The Western Regional department (BRO) performed 20 inspections during the period, and 15 were in the garment sector.

The inspectors also benefited from the revised training on Labor law, adapted to cover sick leave issues, temporary suspension, personal leave, etc. It was vital to cover these topics with the MAST inspectors to ensure we aligned our methodology and interpretation of the different decrees published by Haiti's Government during the pandemic. The training material was translated into French and Creole and shared with the participants and the directorate.

Engagement with garment trade unions has been regular to disseminate critical information and advice among workers. Better Work Haiti has launched a WhatsApp group for broader sensitization of workers and relevant stakeholders around labor norms, workers' rights during the pandemics, and promoting social dialogue.

BWH seeks to influence labor market governance to improve compliance in a more sustainable way. To this end, Better Work Haiti established a collaboration with workers' organizations in the garment sector, particularly CTH and CTSP, to train their leaders at the factory level, who will train other union members. Training modules (Hygiene and Prevention during COVID-19, Labor Law, OSH guidelines for COVID-19) were translated into Creole, and printed documentation was shared with the leaders to facilitate more workers' training.



## SELECT AREAS OF AGGREGATED NON-COMPLIANCE IN THE HAITIAN GARMENT INDUSTRY

This section presents an overview of the results of assessments, advisory and training services provided to the 31 participating factories, some of which were assessed at least twice in the period between April 2019 and March 2020. Due to the Better Work staff's inability to conduct an in-person assessment, the factories' improvement plans were verified virtually through requests for documentation during advisory services and through conversations with bi-partite committee members, including workers and management. The charts present non-compliance findings for the 31 assessed factories in Haiti, showing non-compliance rates in brackets. Please note that these reports are issued biannually, yet assessments are being done annually, so issues are reported in two consecutive reports. In this report's individual factory tables, progress on the remediation of non-compliance issues can be followed in further detail.

Persistent non-compliance issues in compensation (social security) and OSH (Chemicals management, emergency preparedness, worker protections, and working environment) continue to concern the sector. This is where Better Work's role as convener of industry stakeholders is essential. It allows the program to discuss challenges that affect many companies in the industry.

The highest non-compliance rates in the industry were in occupational safety and health (OSH).

**97%**

The number of factories cited in non-compliance for emergency preparedness decreased slightly.

**100%**

Chemical and hazardous substance management remain at 100 percent.

**58%**

Non-compliance in other OSH compliance points recorded a small increase, including OSH management systems

**81%**

And welfare facilities (81%). This may be due to additional questions related to COVID-19 preparedness added to the OHS management system.

The non-compliance findings related to sexual harassment that was reported in the last synthesis report have been addressed. The factories involved revised their sexual harassment policies and completed a series of sexual harassment prevention training geared toward workers and managers alike. In one of those cases, the plaintiff was reinstated at her post in the factory.



One company received a non-compliance in the child labor cluster in the previous period, although Better Work Haiti did not find any child laborers in the factory. The factory failed to implement the proper management system to verify the age of the workers. The company did not keep the proper documentation, such as a picture ID or birth certificate for the hired workers. The factory put a mechanism in place in their HR department and have remediated the issue.

During this reporting period, Better Work Haiti cites two companies for violating Freedom of Association labor standards. These companies fired several union committee members for participating in strikes or inciting violence. However, the factory did not prove that those particular workers were involved in the alleged incidents. After a thorough investigation, which included group interviews and individual interviews with workers, interviews with factory managers and labor inspectors, Better Work advisors concluded and recommended that some terminated workers be reinstated to their positions without any penalties.



## Factories in Detail

### LIST OF FACTORIES

Below is the list of factories that have been assessed by Better Work Haiti over the past two cycles. All factories that have been assessed by Better Work more than twice are included in the data analysis and included in the factory tables of this report. Please note that a factory's compliance data is no longer included in this section if it is closed.

**Table 3: List of factories in the Haitian apparel sector, which have been assessed between September 2019 and March 2020)**

	<u>Factory Name</u>
1	Caribbean Island Apparel
2	Cleveland Manufacturing S.A.
3	CODEVI
4	ELANSIA S.A
5	Everest Apparel Haiti S.A.
6	Fairway Apparel S.A.
7	GO HAITI
8	H&H Textiles, S.A.
9	H4H S.A
10	Haiti Premier Apparel S.A.
11	HANSAE HAITI S.A
12	Horizon Manufacturing S.A.
13	INTERAMERICAN WOVENS S.A.
14	LIFE S.A.
15	MAS AKANSYEL S.A
16	MBI HAITI S.A
17	MGA Haiti S.A.
18	PACIFIC SPORTS HAITI S.A.



19	Palm Apparel S.A.
20	Premium Apparel
21	Quality Sewing Manufacturing S.A.
22	S&H Global 1-6
23	S&H Global Washing 7
24	Sewing International S.A.
25	The Willbes Haitian S.A (HT - Print Shop)
26	The Willbes Haitian S.A (HT-2B)
27	The Willbes Haitian S.A. (HT-2/2A)
28	The Willbes Haitian S.A. (HT-3)
29	Valdor Apparel Mfg S.A.

## FINDINGS FROM THE FACTORIES

This section reports on the factories' detailed compliance performance as required by the HOPE II legislation. The HOPE II legislation requires the entity implementing the TAICNAR program (the ILO) to publish a biannual report with specific information on factories' compliance performance. The report is supposed to cover the preceding 6-month period. It should include detailed compliance information for each producer (see annex 1 for the exact requirements of the HOPE II legislation), including the details of non-compliance points identified, efforts of the producer to remediate the non-compliance points as well as the time elapsed since the deficiencies have first been identified. This information is captured in the factory tables in the following section.

The full compliance assessment tool (CAT) used by Better Work Haiti can be accessed online.<sup>1</sup> When a compliance point is not listed for a factory, it means that the factory has been in compliance on this point in both of its last two assessments by Better Work. The reference point is always the full list of compliance points and issues listed in the section about Better Work's compliance assessment methodology. A factory needs to have been assessed at least two times before its information will be published in this report's factory table. The columns in the tables correspond to specific reporting requirements of the HOPE legislation and provide additional information as follows:

<sup>1</sup> <https://betterwork.org/home/bwh-our-services/>



- ◆ Details on the non-compliance identified by EAs: the information included in this column constitutes the issues where evidence of non-compliance was found in one of the last two assessments conducted by Better Work at each particular factory (the date of the last two assessments is equally indicated for each factory on top of its table).
- ◆ Improvement priorities identified by the factory;
- ◆ Efforts made by the factory to remedy the compliance needs as verified in the most recent assessment or advisory visit;
- ◆ For non-compliance areas that have not been remediated, the amount of time that has elapsed since the non-compliance has been first identified at this factory.

Additional information corresponding to HOPE II reporting requirements is provided in the section above each table, e.g., advisory and training services provided by Better Work.

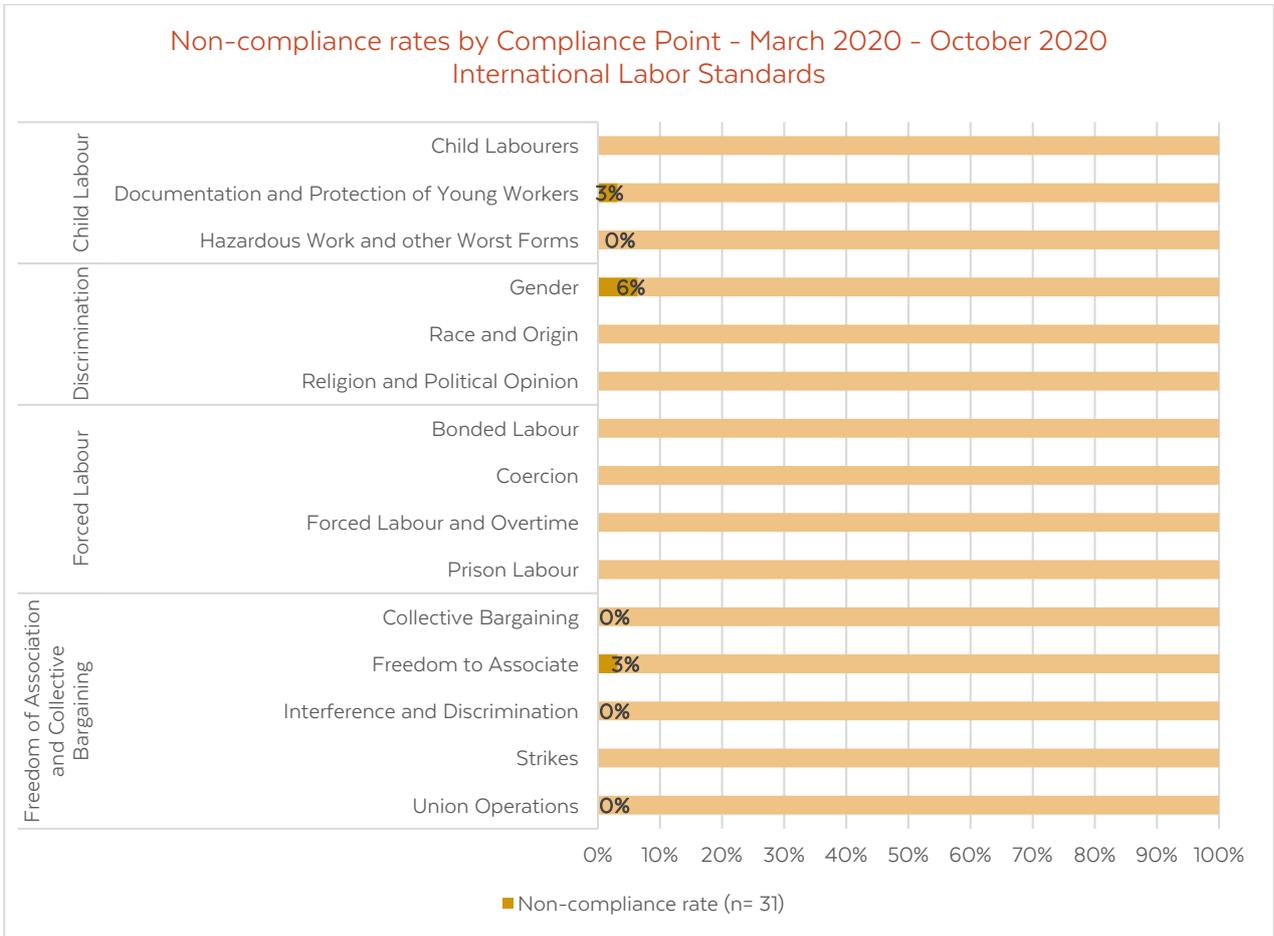
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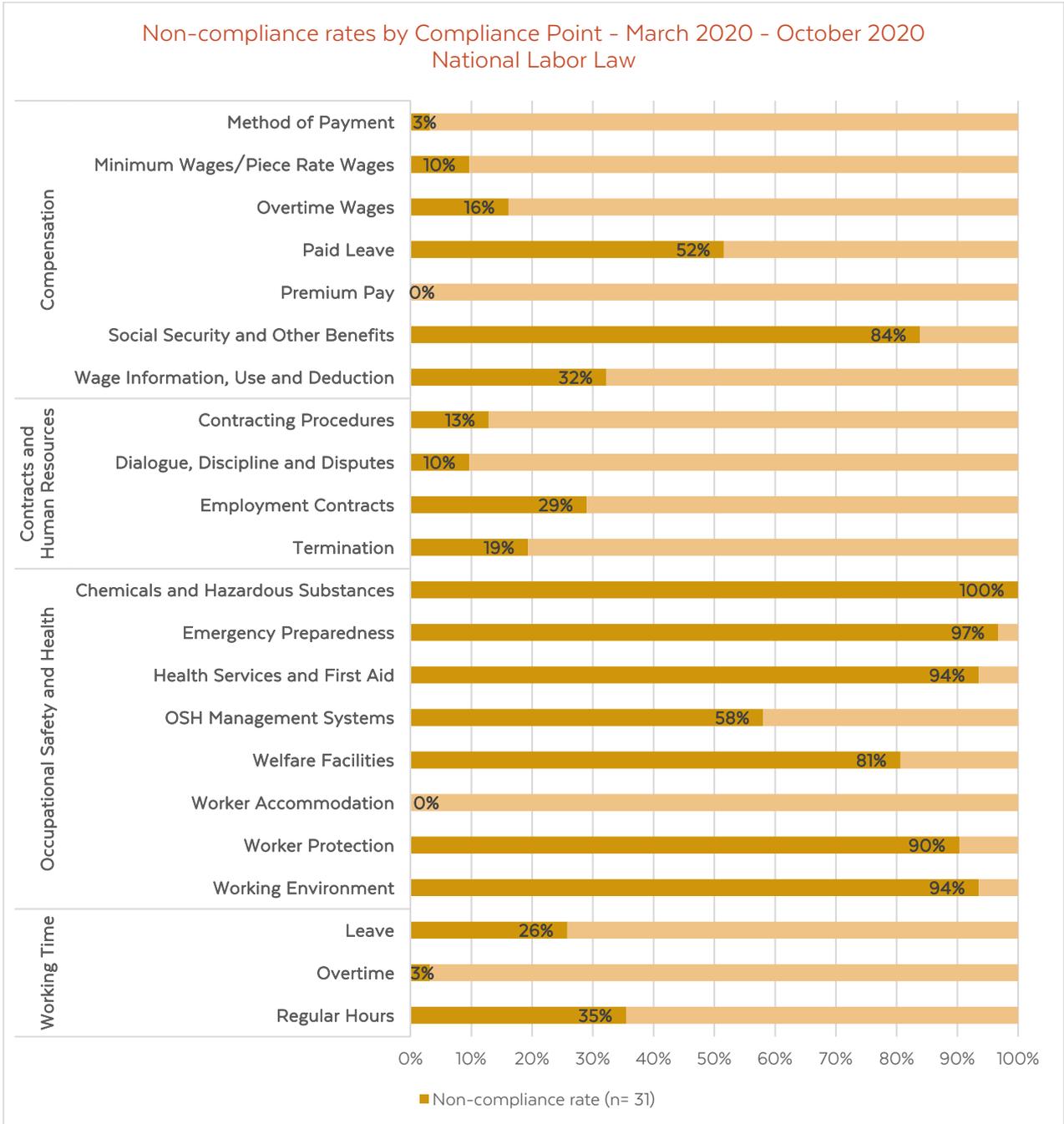


Non-compliance rates by Compliance Point - March 2020 - October 2020  
International Labor Standards





Non-compliance rates by Compliance Point - March 2020 - October 2020  
National Labor Law





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## Annex 1: The TAICNAR Project and Reporting Requirements under the HOPE II Legislation

In 2006, the United States Congress enacted the Haiti Hemispheric Opportunity through Partnership Encouragement Act of 2006 (HOPE), expanding preferences for Haitian apparel established under the Caribbean Basin Economic Recovery Act, thus enabling the Haitian apparel industry to benefit from new duty-free preferences. In 2008, these preferences were further expanded through HOPE II legislation, which also established new standards and programs strengthening and monitoring working conditions in the apparel sector. On May 24th, 2010, the Haiti Economic Lift Program of 2010 (HELP Act) was signed into law to expand existing preferences to contribute to Haiti's economic growth and development in both the textile and apparel sectors. Among its provisions, the HELP Act extended almost all of the trade preferences established under HOPE and HOPE II. In 2015, the US Government extended the Haiti HELP/HOPE provisions until 2025.

To benefit from HOPE/HOPE II/HELP, Haiti was required to establish an independent Labor Ombudsman appointed by the President of the Republic in consultation with the private sector and the trade unions. Haiti was also required to work with the ILO to develop a technical assistance program to (i) assess and promote compliance with core labor standards and national labor law in the factories that are eligible for tariff advantages under HOPE II and (ii) assist the Government of Haiti to strengthen its capacity in the process of inspection of facilities.

This was referred to in the legislation as the *Technical Assistance Improvement and Compliance Needs Assessment and Remediation* (TAICNAR) program. Finally, Haiti needed to develop a mechanism for ensuring that all producers benefiting from the HOPE II trade preferences participated in the TAICNAR program. The TAICNAR program consists of two components:

### TAICNAR Program Component 1: Compliance Assessments and Remediation Support

The HOPE law states that the first component of the TAICNAR program is “to assess compliance by producers listed in the registry described in paragraph (2) (B) (i) with the conditions outlined in subparagraph (B) and to assist such producers in meeting such conditions.”

Better Work has been covering this part of the TAICNAR program since its launch in 2009. It has to be noted that Better Work offers several services that go beyond the requirements of the HOPE legislation, in particular the collaboration with international brands through



sharing of factory assessment reports, joint support for factories regarding the improvement plan used during advisory services (corrective action plan), specific trainings and specific projects and events such as the annual buyers and multi-stakeholders forum. With the introduction of fees to be paid by factories for participation in the Better Work Haiti program since 2016, it has been decided that non-paying factories will receive all Better Work core services (advisory, training, and one annual assessment) in line with the requirements of the HOPE legislation. Factories that do pay their subscription fee will have access to the full offer of Better Work services beyond core services only.

### **TAICNAR Program Component 2: Technical assistance to strengthen the legal and administrative structures for improving compliance in the industry**

The HOPE law states that the second component of the TAICNAR program is “to provide assistance to improve the capacity of the Government of Haiti - (I) to inspect facilities of producers listed in the registry described in paragraph (2)(B)(i); and (II) to enforce labor laws and resolve labor disputes, including through measures described in subparagraph E.”

The ILO has been conducting different activities under this component, mainly in the context of the USDOL-funded ILO/MAST Capacity Building project, which aimed at strengthening the capacities of the Ministry to improve apparel factories’ compliance with international standards and national labor laws. The project ran from 2014 to 2017 and was closely linked to the Better Work program.

As of 2018 and with Better Work’s new 5-year strategy in Haiti, the program will continue to build on the efforts of this MAST capacity building program. The revised project strategy puts stronger emphasis on the capacity building of all tripartite constituents - Government, employer and worker organizations - as part of the sustainability efforts of the Better Work program.

Regarding the reporting requirements, the HOPE II law specifies which information needs to be included in the biannual reports to be published by the TAICNAR program. See text box below for the original text of the law.



## SEC. 15403. LABOR OMBUDSMAN AND TECHNICAL ASSISTANCE IMPROVEMENT AND COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION PROGRAM.

[...] (D) BIENNIAL REPORT. —The biennial reports referred to in subparagraph (C)(i) are a report, by the entity operating the TAICNAR Program, that is published (and available to the public in a readily accessible manner) on a biennial basis, beginning 6 months after Haiti implements the TAICNAR Program under this paragraph, covering the preceding 6-month period, and that includes the following:

(i) The name of each producer listed in the registry described in paragraph (2)(B)(i) that has been identified as having met the conditions under subparagraph (B).

(ii) The name of each producer listed in the registry described in paragraph (2)(B)(i) that has been identified as having deficiencies with respect to the conditions under subparagraph (B), and has failed to remedy such deficiencies.

(iii) For each producer listed under clause (ii) —

(I) a description of the deficiencies found to exist and the specific suggestions for remediating such deficiencies made by the entity operating the TAICNAR Program;

(II) a description of the efforts by the producer to remediate the deficiencies, including a description of assistance provided by any entity to assist in such remediation; and

(III) with respect to deficiencies that have not been remediated, the amount of time that has elapsed since the deficiencies were first identified in a report under this subparagraph.

(iv) For each producer identified as having deficiencies with respect to the conditions described under subparagraph (B) in a prior report under this subparagraph, a description of the progress made in remediating such deficiencies since the submission of the prior report, and an assessment of whether any aspect of such deficiencies persists. [...]



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## Annex 2. Better Work's Service Delivery Model

The key principles of Better Work's revised service model are ownership, accountability, dialogue, and partnership. The core services offered to factories are advisory services, an annual assessment, and training services.

Better Work's service delivery model stresses the importance of advisory services with a stronger focus on assistance on management systems, root cause analysis and continuous learning. Better Work acknowledges the fact that auditing alone cannot contribute to sustainable remediation of non-compliances. Assessments provide a snapshot of the compliance issues, yet they do not add significant value to improvements of factories' compliance performance. Therefore, the focus in the services that Better Work delivers to factories are on continuous learning and improvements working with factories on root causes that are underlying repeated non-compliance issues.

Since 2015, a factory cycle no longer starts with an assessment on which advisory services afterwards were built in the initial approach. Under the revised Better work service delivery model, the cycle now starts with a period of approximately 100 days of advisory services in which the factory with its bipartite Committee can conduct a self-diagnosis with the support of its Better Work Enterprise Advisor and can work on immediate improvements where possible. The unannounced Better Work assessment is then conducted after the initial period of advisory and training services.

Following the assessment, the advisory process continues, focused on enabling the bipartite Committee to address issues that are listed in the improvement plan. The improvement plan includes issues that the factory has self-diagnosed and those that were identified during the Better Work assessment. Factories will be supported through tailored factory visits; issue-specific seminars (on topics relevant to the country/industry) with peers from other factories; and training appropriate to the factory's specific needs.

Better Work reporting has two elements - reports completed and verified by the Better Work program and those that are completed and released directly by factories. The Better Work factory reports consist of the assessment report that is released roughly 30 days after the unannounced assessment visit. Then later in the cycle, in the 11th month of the cycle, Better Work then publishes a progress report, detailing improvements on compliance issues, as well as in-factory dialogue, continuous learning and the use of effective management systems. Better Work also provides additional recommendations in this report to further strengthen the improvement process. Factories report through the Better Work portal. This portal is the platform that is also used by Better Work to share factory data with authorized international brands that subscribed to a specific factory in either of the Better Work country programs. The enhanced portal with the revised self-reporting function also offers the opportunity for factories to update their improvement plan themselves. The improvement

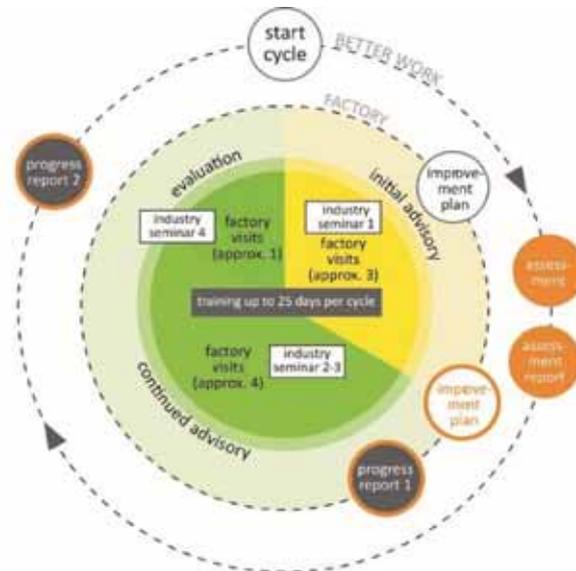


plan lists a factory's non-compliance points from the last Better Work independent assessment together with any other issues that the factory itself identified as areas for improvement. Once the factory updates its improvement plan online, the information is immediately available to buyers and Better Work. However, this feature has some limitations with regards to the factories' editing rights as only Better Work can update the status of a non-compliance issue from "delayed", "pending", or "in progress", to "completed" after verification of evidence of remediation.

Factory reporting then continues with the first progress report which is published approximately 5 months after the start of the cycle. This report includes progress made to date on all self-diagnosed issues as well as those identified by Better Work during the assessment. This report has a pre-set structure from Better Work and it is made available to authorized buyers and indicates initial progress and planned steps for the remainder of the cycle. The Better Work role for this first progress report will be limited to coaching factories on how to engage in effective self-reporting and ensure continued progress on closing areas of non-compliance.

The Better Work Enterprise Advisors then write their own progress report towards the end of an annual cycle of each factory.

An overview of the sequence of the different components of the Better Work service model under this revised approach can be found in the illustration below:



### Sequence and components of annual Cycle under Better Work's revised service delivery model.

In 2017, Better Work started to differentiate factories depending on their performance. Factories that are scoring high enough in terms of compliance performance but also in the areas of dialogue and learning encompass the criteria that need to be satisfied before a factory can be qualified for "stage two". In fact, Better Work will classify factories as being in "stage two" if they consistently demonstrate high levels of compliance, a mature level of



social dialogue, effective management systems and a commitment to learning. Those criteria will be evaluated based on information collected during two consecutive assessments. Factories that have not yet met this benchmark will be classified as “stage one.” For factories that have been with Better Work for several years, service differentiation will respond to requests for greater autonomy in the day to-day advisory service, fewer assessments, and a tailored service that responds to their more advanced needs, for example relating to systems development, purchasing practices, productivity and quality, and mature industrial relations.

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## Annex 3. The Better Work Compliance Assessment Methodology

### BETTER WORK COMPLIANCE ASSESSMENT FRAMEWORK

The Better Work program assesses factory compliance with core international labor standards and national labor law. Following assessments, a detailed report is prepared and findings are shared with the factory presenting findings on eight clusters, or categories, of labor standards, half of which are based on international standards and half on national legislation.

**Core labor standards:** The ILO Declaration on Fundamental Principles and Rights at Work, adopted in 1998, calls upon Member States to respect and promote these principles and rights in four areas, whether or not they have ratified the relevant conventions. These categories, or clusters, are freedom of association and collective bargaining, the elimination of forced or compulsory labor, the abolition of child labor, and the elimination of discrimination in employment and occupation. The conventions on which the 1998 Declaration is based are Nos. 29, 87, 98, 105, 100, 111, 138, 182, and they form the reference base in assessing factory compliance with fundamental rights for all the Better Work programs in various countries. For some issues, such as minimum legal working age, provisions in national law specify requirements for the application of international conventions. If national law is not consistent with international standards pertaining to core labor standards, the international standards are applied. Haiti has ratified all eight core Conventions listed above. According to the Haitian Constitution, ratified conventions become self-executing and therefore part of Haitian law.

**Working Conditions:** The four other clusters assess conditions at work, including compensation, contracts and human resources, occupational safety and health, and working time. The compliance points covered in these clusters are largely consistent across countries; however, each compliance point contains specific questions that may vary from country to country due to differences in national legislation. National legislation is used as



a reference point even if it is not in accordance with the international conventions that have been ratified by the country. In countries where national law either fails to address or lacks clarity around a relevant issue regarding conditions at work, Better Work establishes a benchmark based on international standards and good practices.

**Table 2: Better Work compliance assessment framework**

Compliance Cluster	Compliance Point	Compliance Issue
<b>Child Labor</b>	Child Labourers	Workers under age 15
	Documentation and Protection of Young Workers	Age verification system
		Medical certificate, and/or an employment certificate or permit delivered by the Director of Labor provided by workers under age 18.
		Register of workers under age 18.
	Hazardous Work and other Worst Forms	Workers under age 18 working at night.
		Workers under age 18 working overtime.
Workers under age 18 doing work that is hazardous by nature.		
<b>Discrimination<sup>2</sup></b>	Gender	Changing the employment status, position, wages, benefits, or seniority of workers during maternity leave.
		Conditions of work (gender and/or marital status).
		Excluding maternity leave from workers' period of continuous service
		Hiring (gender and/or marital status).
		Job announcements (gender and/or marital status).
		Pay (gender and/or marital status).
		Pregnancy tests or use of contraceptives as a condition of employment
		Promotion or access to training (gender and/or marital status).
		Sexual harassment
		Terminating workers or forcing them to resign if they are pregnant, on maternity leave or nursing.
Termination or retirement (gender and/or marital status).		

<sup>2</sup> In Better Work country-specific questionnaires, a compliance point "Other Grounds" may be included under the Discrimination cluster. This category aims to assess specific discrimination issues that are covered by national labor law, and are considered aligned with the objectives of the relevant ILO conventions (100 and 111), but which are not explicitly mentioned in the conventions, e.g., age, HIV/AIDS status, disability, etc. The questionnaire for Haiti does not include the "Other Grounds" compliance point because the Haitian labor law does not identify grounds for discrimination beyond those cited in Conventions 100 and 111.



	Race and Origin	Conditions of work (race, color, origin)
		Harassment (race, color, origin)
		Hiring (race, color, origin)
		Pay (race, color, origin)
		Promotion or access to training (race, color, origin)
		Recruitment materials (race, color, origin)
		Termination or retirement (race, color, origin)
	Religion and Political Opinion	Conditions of work (religion or political opinion)
		Harassment (religion or political opinion)
		Hiring (religion or political opinion)
		Pay (religion or political opinion)
		Promotion or access to training (religion or political opinion)
		Recruitment materials (religion or political opinion)
		Termination or retirement (religion or political opinion)
<b>Forced Labor</b>	Bonded Labor	Debts for recruitment fees owed to the employer and/or a third party
	Coercion	Coercive tactics.
		Delaying or withholding wage payments.
		Forced labor to discipline workers or punish them for participation in a strike
		Free exit from the workplace at all times, including during overtime.
		Freedom of movement (dormitories or industrial park).
		Freedom to terminate employment with reasonable notice and/or to leave their jobs when their contracts expire
	Threats such as deportation, cancellation of visas or reporting to the authorities	
	Violence or the threat of violence.	
	Workers' access to their personal documents (such as birth certificates, passports, work permits and ID cards)	
	Forced Labor and Overtime	Forced overtime under threat of penalty
	Prison Labor	Prison laborers
<b>Freedom of Association and Collective Bargaining</b>	Collective Bargaining	Access to collective bargaining agreement.
		Collective agreement is less favorable for workers than what is required by national law.
		Collective bargaining/bargaining in good faith.
		Implementation of a collective agreement.
	Freedom to Associate	Freedom to form and/or join a union
	Requiring workers to join a union.	



	Interference and discrimination	Attempt(s) to interfere with, manipulate or control the union(s).
		Freedom to meet without management present.
		Incentives to refrain from joining a union or engaging in union activities.
		Punishment of unionists
		Termination or non-renewal of worker's employment contract due to union membership or activities
		Threats, intimidation, or harassment of unionists.
		Unequal treatment of multiple unions.
		Union membership or union activities factoring into hiring decisions
	Strikes	Hiring of replacement workers during a strike.
		Preventing workers from participating in a strike.
		Punishing workers for participating in a strike.
		Security guards, the police or armed forces called on to break up a peaceful strike or arrest striking workers.
	Union Operations	Deduction of union dues upon workers' request.
Union representatives' access to workers in the workplace.		
<b>Compensation</b>	Method of Payment	In-kind wage payments.
		Regular and timely payment of wages.
		Wage payment directly to workers at the workplace on working days
		Wage payment in legal currency.
	Minimum Wage	Correct payment of piece-rate workers when their piece-rate earnings exceed minimum wage.
		Payment of minimum wage for apprentices.
		Payment of minimum wage for temporary workers.
	Overtime Wages	Payment for ordinary overtime.
		Payment for overtime hours worked on holidays.
		Payment for overtime worked at night.
		Payment for overtime worked on weekly rest days.
	Paid Leave	Payment for annual leave.
		Payment for breastfeeding breaks.
		Payment for legally mandated holidays.
		Payment for maternity leave.
		Payment for sick leave.
	Premium Pay	Payment for weekly rest days.
		Payment for regular hours worked at night.
		Payment for regular hours worked on holidays



	Social Security and Other Benefits	Collecting and forwarding workers' social insurance contributions funds to ONA.
		Employer contribution to OFATMA for maternity and health insurance.
		Employer contribution to OFATMA for work-related accident insurance.
		Employer contribution to ONA.
		Forwarding of workers' contributions to OFATMA.
		Payment of annual salary supplement or bonus.
	Wage Information, Use and Deduction	Deductions from workers' wages.
		Informing workers about wage payments and deductions.
		Payroll records.
<b>Contracts and Human Resources</b>	Contracting Procedures	Limits on the trial period for apprentices.
	Dialogue, Discipline and Disputes	Bullying, harassment, or humiliating treatment of workers.
		Disciplinary measures
		Resolution of grievances or disputes.
	Employment Contracts	Contracts for all persons performing work for the factory.
		Employment contracts' compliance with the labor code, collective agreement and/or internal work rules.
		Internal work rules.
		Specifying terms and conditions of employment in written employment contracts.
		Workers' understanding of the terms and conditions of employment.
	Termination	Annual salary supplement or bonus upon termination.
Notice of termination.		
Orders to reinstate or compensate unjustly terminated workers.		
Payment for unused paid annual leave upon resignation or termination.		
Reasons for termination.		
Reductions in workforce size or suspensions due to changes in operations		
<b>Occupational Safety and health</b>	Chemicals and Hazardous Substances	Assessing, monitoring, preventing and/or limiting workers' exposure to hazardous substances.
		Chemical safety data sheets for all chemicals and hazardous substances in the workplace.
		Inventory of chemicals and hazardous substances used in the workplace.
		Labelling of chemicals and hazardous substances.



	Storage of chemicals and hazardous substances.
	Train workers who work with chemicals and hazardous substances.
	Washing facilities or cleansing materials in the event of chemical exposure.
Emergency Preparedness	Accessible, unobstructed, and/or unlocked emergency exits during working hours, including overtime.
	Fire detection and alarm system.
	Firefighting equipment.
	Marking or posting of emergency exits and/or escape routes in the workplace.
	Number of emergency exits.
	Periodic emergency drills.
	Safeguarding possible sources of ignition
	Storage of flammable materials
	Training workers to use the firefighting equipment
Health Services and First Aid	Annual medical checks for workers.
	First-aid training for workers.
	Health checks for workers who are exposed to work-related hazards.
	Medical checks for workers upon hiring.
	Onsite medical facilities and staff.
	The employer did not ensure that there were a sufficient number of readily accessible first aid boxes/supplies in the workplace.
	Safety and health risks to pregnant or nursing workers
OSH Management Systems	Assessment of general occupational safety and health issues in the factory.
	Legally required construction/building permits
	Mechanisms to ensure cooperation between workers and management on OSH matters.
	Recording work-related accidents and diseases and/or submitting the record to OFATMA.
	Written OSH policy.
Welfare Facilities	Certain required facilities.
	Eating area.
	Providing drinking water.
	Toilets.
	Washing facilities and/or soap.
Worker Accommodation	Accommodation separate from the workplace
	Cooking or storage facilities in the accommodation.
	Lighting in the accommodation.
	Minimum space requirements in the accommodation.



		Preparation for emergencies in the accommodation.
		Privacy in the accommodation.
		Protection against disease-carrying animals and/or insects in the accommodation.
		Protection against fire in the accommodation.
		Protection against heat, cold and/or dampness in the accommodation.
		Protection against noise in the accommodation.
		Toilets, showers, sewage and/or garbage disposal systems in the accommodation.
		Ventilation in the accommodation.
		Water in the accommodation.
	Worker Protection	Ergonomic requirements
	Worker Protection	Installing guards on all dangerous moving parts of machines and equipment.
	Worker Protection	Installing, grounding, and/or maintaining electrical wires, switches, and/or plugs.
	Worker Protection	Posting safety warnings in the workplace
	Worker Protection	Providing workers with personal protective clothing and equipment.
	Worker Protection	Punishment of workers who removed themselves from work situations they believed presented an imminent and serious danger to life or health.
	Worker Protection	Training and encouragement of workers to use PPE, machines and/or equipment safely
	Working Environment	Workplace cleanliness
	Working Environment	Workplace lighting.
	Working Environment	Workplace noise levels.
	Working Environment	Workplace temperature and/or ventilation.
Working Time	Leave	payment in place of annual leave
		Time off for annual leave.
		Time off for breastfeeding breaks.
		Time off for maternity leave.
		Time off for sick leave.
	Overtime	Authorization from the Department of Labor for overtime.
		Authorization from the Department of Labor for work on Sundays.
		Limits on overtime hours worked.
		Voluntary overtime.
	Regular Hours	Daily break periods.
Regular daily and/or weekly working hours.		
Weekly rest period.		
Working time records.		



		Authorization from the Department of Labor before working at night.
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## CALCULATING NON-COMPLIANCE & PUBLIC REPORTING

In public synthesis reports, Better Work reports on aggregated non-compliance in the participating industry as shown in Chart 1. Non-compliance is reported for each subcategory (compliance point, or “CP”) of the eight labor standards clusters. A factory is reported as non-compliant in a subcategory if it is found to be out of compliance on any issue addressed within the subcategory. Concerning the figures presented in synthesis reports, for example, a non-compliance rate of 100% means that all participating factories were found to have at least one violation in that area.

The Better Work program supports fair and transparent public reporting. In all Better Work country programs, synthesis reports containing aggregated information on the industry are prepared based on the individual factory assessment reports and published twice a year. Better, work is currently expanding its reporting in the other Better Work countries to include individual factory-level compliance information, as is already the case for Haiti. Evidence shows that public reporting of this kind helps encourage continuous improvement and reduces the probability of reversing compliance gains. Gathering and reporting these data over time enables factories to demonstrate their efforts to improve working conditions.

## LIMITATIONS IN THE ASSESSMENT PROCESS

The factory-level assessments carried out by Better Work Haiti follow a thorough checklist of about 230 questions covering the above-mentioned labor standards and gathering general information about the factory.<sup>3</sup> Information is gathered through a variety of sources and techniques, including document review, observations on the factory floor, and interviews with managers, workers union representatives, bipartite committee members or any other relevant witness. The information collected is compiled and analyzed to produce a detailed assessment report. Before the reports become official, factories are given seven calendar days to provide feedback.

Worker interviews conducted during the assessment process are held onsite, either in a private room within the factory building or outside the building (yard, eating area), and take place either in small groups or individually. Interviews are conducted in Creole, the primary language of the workers. Workers may be suspicious and feel uneasy about sharing information on their workplaces with people who are not well known to them and coaching of workers by factory management is a possible issue in the industry in general. Nevertheless, after fourteen assessment cycles conducted over more than seven years, Better Work Haiti Enterprise Advisors have become more experienced at collecting information and interviewing workers, which together with other activities led by Better Work

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<sup>3</sup> Better Work Haiti Compliance Assessment Tool (CAT) including their legal references can be accessed here: [http://betterwork.org/haiti/?page\\_id=1731](http://betterwork.org/haiti/?page_id=1731)



Haiti have contributed to creating an environment where workers are more comfortable discussing working conditions. Interviews with workers cover many aspects of life at work and last approximately 20 minutes. On average, 40 workers representing different sections of the factories, as well as union representatives, are interviewed.

Violations in core labor standards such as sexual harassment or freedom of association are sensitive and are more difficult to detect during factory assessments. The assessment of violation of freedom of association issues in the workplace is sometimes difficult to assess in a two days assessment. There are several reasons for that. One challenge is that some labor unions are organized at the sectoral level rather than at the factory level where small union cells predominate. Another challenge is that for example, the termination of unionist usually happens after a series of events. Key witnesses might have been terminated before the assessment days. Also supporting documents might not have the level of details required to determine non-compliance. Better Work is basing its assessment findings on triangulation of facts, which requires sufficient evidence to find a factory in non-compliance on a particular compliance point and some issues are therefore not always easy to be confirmed. As more unions are present in the factories today, workers are more aware of their rights regarding freedom of association. Workers therefore are also demonstrating an increased level of openness to discuss this subject during interviews. In addition, Better Work collects information about specific cases as unions or other stakeholders are sharing them at any given time of the year. During the assessment at a particular factory, specific questions can be asked about any case that has previously been raised and information may therefore enter the assessment report.

The assessment visits usually last two days and because it is a picture of the moment, some situations that might lead to non-compliance points in the future are not reported. It is also important to keep in mind that non-compliance issues might be identified during the advisory cycle through the self-diagnosis process. Better Work supports factories to reinforce their capacity to conduct a self-diagnosis and to develop an improvement plan that includes points that go beyond the Better Work assessment. For all the issues included in the improvement plan, additional information is stated, such as the action to be taken and the person responsible for it within the company. All this information in return as well as the remediation efforts are then documented in the progress reports.

As Better Work is moving into a differentiated approach where services for advanced factories will be different from those for factories that still require more assistance, the evaluation of the performance of a factory will not only be limited to the assessment data but will also include information gathered in those progress reports.

Another issue that may be challenging to detect during an assessment is sexual harassment which is included in Better Work Haiti's compliance assessment tool. Similarly to other countries, it is one of the most sensitive and most difficult issues to detect during factory assessments. The assessment of sexual harassment in the workplace by Better Work Haiti is likely to underreport the extent of its occurrence. However, sexual harassment remains an issue of concern in the industry in general. As mentioned, Better Work is basing its assessment findings on triangulation of facts, which requires sufficient evidence to find a factory in non-compliance on a particular compliance point, and some issues are not always



easy to detect. Although concerns regarding sexual harassment persist, Better Work Haiti has seen positive developments on the topic with factories acknowledging the issue as a potential problem and demonstrating an increased openness to address it. Several factories are therefore working on the prevention of sexual harassment in the workplace. In particular, Better Work's supervisory skills training has contributed to raising awareness of this issue among supervisors in more than half of the factories in Haiti.

Simple auditing of factory compliance has been widely acknowledged as limited in rectifying compliance issues. Factories wishing not to disclose certain information can do so without focusing on the long-term business benefits of improving their working conditions. This is why Better Work's approach at the factory level is much broader in its scope focusing on continuous improvements through advisory and training services, emphasizing the importance of effective systems and the involvement of workers.