

EXECUTIVE OFFICE OF THE PRESIDENT
THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

June 18, 2010

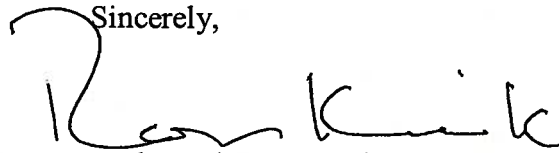
The Honorable Sander Levin
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Pursuant to section 213A(e)(5) of the Caribbean Basin Economic Recovery Act as amended by the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (HOPE II), I am pleased to transmit the second report to Congress on the implementation of the Technical Assistance Improvement and Compliance Needs Assessment and Remediation (TAICNAR) Program. The report describes the efforts of the government of Haiti, the Administration, and the International Labor Organization on the implementation of the TAICNAR program.

I look forward to working with you on HOPE II and other U.S. preference programs in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Kirk". The signature is written in a cursive style with a large initial "R".

Ambassador Ron Kirk

Enclosure

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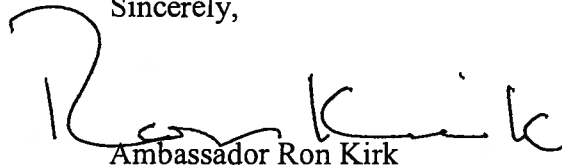
The Honorable Dave Camp
Ranking Minority Member
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Camp:

Pursuant to section 213A(e)(5) of the Caribbean Basin Economic Recovery Act as amended by the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (HOPE II), I am pleased to transmit the second report to Congress on the implementation of the Technical Assistance Improvement and Compliance Needs Assessment and Remediation (TAICNAR) Program. The report describes the efforts of the government of Haiti, the Administration, and the International Labor Organization on the implementation of the TAICNAR program.

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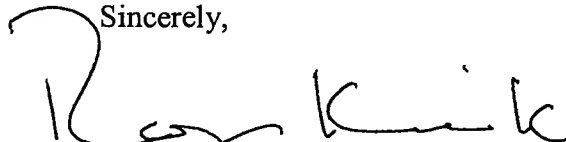
The Honorable Max Baucus
Chairman
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Pursuant to section 213A(e)(5) of the Caribbean Basin Economic Recovery Act as amended by the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (HOPE II), I am pleased to transmit the second report to Congress on the implementation of the Technical Assistance Improvement and Compliance Needs Assessment and Remediation (TAICNAR) Program. The report describes the efforts of the government of Haiti, the Administration, and the International Labor Organization on the implementation of the TAICNAR program.

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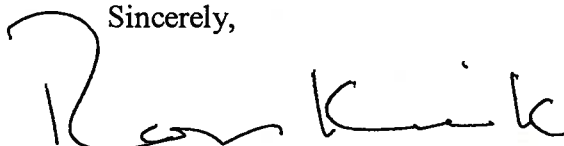
The Honorable Charles Grassley
Ranking Minority Member
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Senator Grassley:

Pursuant to section 213A(e)(5) of the Caribbean Basin Economic Recovery Act as amended by the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (HOPE II), I am pleased to transmit the second report to Congress on the implementation of the Technical Assistance Improvement and Compliance Needs Assessment and Remediation (TAICNAR) Program. The report describes the efforts of the government of Haiti, the Administration, and the International Labor Organization on the implementation of the TAICNAR program.

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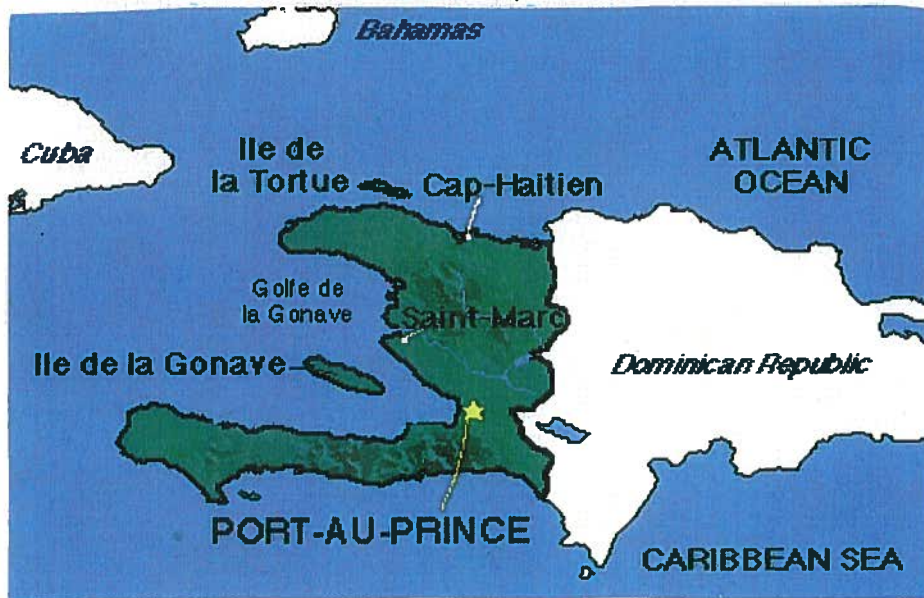


Ambassador Ron Kirk

Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008

USTR Annual Report on the Implementation of the TAICNAR Program

June 18, 2010



Prepared by

*The Office the United States
Trade Representative*

June 18, 2010

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

**USTR Annual Report on the Implementation
of the TAICNAR Program**

The Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (HOPE II) affords preferential treatment to imports of apparel, textiles, and other goods from Haiti, provided that Haiti's government takes certain steps to assess participating producers' compliance with core labor rights and improve the government's capacity to enforce national labor laws. HOPE II calls for the President to submit a report to Congress no later than June 18, 2009, and every year thereafter, regarding certain aspects of the operation of the Technical Assistance Improvement and Compliance Needs Assessment and Remediation (TAICNAR) program. The President has authorized the United States Trade Representative to produce this report. This report is to include an explanation of the efforts of Haiti, the President, and the International Labor Organization (ILO) to carry out the TAICNAR program.¹ This is the second annual report.

HOPE II conditioned Haiti's continued eligibility for preferential treatment after October 18, 2009, on the President's certification to Congress that Haiti had:

- implemented a TAICNAR program;
- established a Labor Ombudsman;
- agreed to require producers seeking preferential tariff treatment for their products to participate in the TAICNAR program; and
- developed a system to ensure participation by such producers, including by establishing a producer registry.

On October 16, 2009, the President made this certification.

¹ The report also is to include a summary of biannual reports to be prepared by the ILO regarding the operation of certain aspects of the TAICNAR program, identifications by the President of producers failing to comply with core labor standards and relevant Haitian labor laws, and determinations regarding changes in the application of preferential treatment to articles of such producers. As explained below, the ILO's first biannual report was delayed as a result of the earthquake that devastated Haiti in January 2010. The requirement that the President identify the producers that are not complying with relevant labor standards and national laws does not go into effect until the second calendar year after the President certifies that Haiti has implemented the TAICNAR program, i.e., in 2011. Accordingly, this report does not address those elements of the TAICNAR program.

The TAICNAR program

The TAICNAR program is required to carry out the following activities:

- assess compliance by producers of products eligible for benefits under HOPE II (“producers”) with core labor standards and appropriate Haitian labor laws;
- provide assistance to Haiti’s government to improve its capacity to inspect facilities of producers, enforce national labor laws, and resolve disputes;
- assist producers with addressing deficiencies;
- provide training for workers and management to promote compliance; and
- issue public reports on compliance with worker rights.

Labor Ombudsman

HOPE II also calls for Haiti to establish a Labor Ombudsman to:

- develop and maintain a registry of companies;
- oversee the implementation of the TAICNAR program;
- receive and investigate comments regarding compliance with core labor standards and Haitian labor laws; and
- assist producers in meeting the requirements of the HOPE II legislation.

In addition, the ombudsman 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 apparel sector.

The TAICNAR program in Haiti is being implemented through the ILO Better Work program, which promotes improved labor standards in global supply chains. The ILO Better Work Haiti program was initially funded by United States Department of Labor (DOL) FY 2008 appropriations in the amount of \$1,000,000, for programs intended to “address worker rights issues through technical assistance in countries with which the United States has trade preference programs.” In September 2009, DOL’s Bureau of International Labor Affairs obligated an additional \$2.5 million to the ILO from FY 2009 appropriations to extend the project in Haiti until 2013. This extension of the Better

Work Haiti program allows for the implementation of monitoring and reporting activities in Haiti as required in the TAICNAR provisions of HOPE II.

Efforts by Haiti

Haiti's government has engaged with the ILO and with the U.S. Government in all phases of the TAICNAR program. Haiti also has played an active role in creating and participating 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 following enactment of the initial HOPE legislation.² The HOPE Commission comprises members of Haiti's government (Office of the Prime Minister and Ministries of Commerce, Economy, and Labor and Social Affairs), business associations, and Haiti's three main union confederations.

During the preparatory phase of the Better Work Haiti program, the ILO requested that the HOPE Commission itself serve as a project advisory board. The HOPE Commission was initially active in this role; however, a subcommittee of the HOPE Commission is now serving in that capacity. That tripartite Project Advisory Committee (PAC), composed of one representative each from Haiti's government, employers, and unions, has been appointed and is now functioning as the project advisory board.

On August 28, 2009, President Preval issued a decree naming Jean Paleme Mathurin as the Labor Ombudsman. Mathurin is the Prime Minister's chief economic adviser and a consultant to the HOPE Commission. He was appointed after consultation with Haiti's trade unions and industry associations, as HOPE II requires.

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 also serves as the producer registry required by HOPE II. Haiti's Ministry of Trade and Industry has circulated a notice indicating that Haiti's producers must participate in the TAICNAR program, and that producers that do not participate will not be eligible to use the visa system.

Twenty-one of the twenty-three garment factories in Haiti have registered under the TAICNAR program. The other two factories do not produce HOPE II-eligible apparel.

² Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006.

Efforts by the Administration

The U.S. Government has continued to work closely with the Government of Haiti and the ILO to ensure full implementation of the provisions of HOPE II. As noted above, DOL is contributing an additional \$2.5 million to the ILO program, which will provide full funding for the TAICNAR program through the end of 2013. U.S. Government officials have continued their dialogue with representatives of the HOPE Commission through several meetings in Washington, D.C. as well as in Haiti to discuss the implementation of HOPE II, and have attended specific ILO project events, such as the International Buyers' Forum in September 2009. The Administration has also consulted with and informed the staffs of appropriate Congressional committees concerning the implementation of the TAICNAR program.

On October 16, 2009, the President certified to Congress that Haiti had met the requirements to continue to receive preferential treatment under HOPE II.

In February 2010, U.S. Trade Representative Kirk announced a new initiative to assist post-earthquake recovery efforts in Haiti. The initiative, called the Plus One for Haiti program, encourages U.S. brands and retailers to work toward sourcing one percent of their total apparel production from Haiti. To further support Haiti's recovery and development, the Administration supported Congressional efforts to increase Haiti's HOPE II benefits. On May 24, 2010, the President signed into law H.R. 5160, the "Haiti Economic Lift Program Act of 2010," which expanded and extended trade benefits available to Haiti, increasing the availability of preferential access to the U.S. market for certain Haitian-made apparel and other articles. The State Department and Commerce Department also hosted fora in which current and potential investors in Haiti were able to raise with Haitian and U.S. Government officials any concerns they had regarding doing business in Haiti.

Efforts by the ILO

As mentioned above, the TAICNAR program in Haiti is being implemented through the ILO Better Work program. Significant progress was made during the period covered by this report. However, some of the Better Work project activities have been delayed due to the catastrophic earthquake that struck Haiti on January 12, 2010. Several textile factories were seriously damaged, and the industry was operating, on average, at only about 70 percent of capacity some three months later. The office of the manager of the Better Work program within the UNDP premises was declared unsafe and closed, and he had to be evacuated for two months.

Better Work Program - Capacity Building and Program Support

With the agreement of the Ministry of Labor and Social Affairs (MLSA), an ILO technical specialist conducted a labor administration audit, including an assessment of existing mechanisms for labor inspection and dispute resolution. The audit took place in July 2009 and the technical specialist submitted his report in March 2010. The ILO technical specialist will conduct a follow-up visit to Haiti, planned for July 2010, to discuss and validate the audit's findings. The technical specialist and the MLSA senior managers will also develop a plan to improve labor administration policies and procedures.

In order to gain the support and engagement of international buyers in the Better Work Haiti program, the program held the first International Buyers' Forum in September 2009. Representatives of MLSA, DOL, USTR, and the House Ways and Means Committee, as well as the garment industry and unions in Haiti, attended that event. The forum provided an opportunity for national and international stakeholders to meet and discuss the objectives and activities of Better Work Haiti.

The Better Work Haiti program is also engaged in an ongoing effort to support the development of information access and management systems for both MLSA and the main trade union federations through the provision of information technology equipment. In this regard, program staff met with union leaders after the earthquake to assess the unions' losses and their immediate needs. It was determined that, because the unions lost some equipment during the earthquake, new computers were needed. The computers will be delivered early July 2010.

Compliance Assessment

Central to the TAICNAR program is the performance of compliance needs assessments, to determine the extent of compliance by producers with ILO core labor standards and Haiti's labor laws. Two teams of national and international consultants conducted the compliance needs assessments during the fall of 2009.³

Remediation

A meeting with the factory owners was held on April 19, 2010, to present the results of the compliance needs assessments and to enable the producers to discuss aspects of noncompliance with ILO and Better Work program experts. Program staff will work with the companies to improve their compliance records. Specifically, the Better Work

³ A consultant retained by Better Work Haiti adapted the Better Work Compliance Assessment Tool (CAT) to the Haitian context. The Haitian version of the CAT was translated into French and was used to conduct the compliance needs assessment of the factories participating in the TAICNAR program.

program expects to recruit several enterprise advisors to work with Better Work Haiti to provide advisory services and training modules adapted to the factories' identified compliance needs. Also, "Performance Improvement Consultative Committees," made up of workers and managers, will be formed in fall 2010. These committees will oversee the development and implementation of improvement plans in each factory.

Better Work Haiti conducted two activities aimed at improving worker and employer organizations' ability to engage in effective negotiation and information exchange ("social dialogue"):

- A consultant conducted a case study on social dialogue in the one unionized factory in Haiti's textile industry. The goal of the case study was to demonstrate that a workers' organization is compatible with efficiency and profitability. The consultant's final report was submitted to Better Work Haiti in early June 2010. The report is being reviewed and its findings will be shared with worker and employer organizations in September/October 2010 and best practices replicated.
- Better Work Haiti contracted with a team of national and international consultants to assess the needs of Haiti's workers and trade unions with the goal of enhancing the capacity of Haiti's unions to organize and represent workers effectively and to bargain collectively at the factory and national levels. Work was scheduled to begin on January 13, 2010, but because of the earthquake was postponed until April 2010. The needs assessment is now completed, and a report will be submitted to Better Work Haiti before the end of June 2010.

The findings of the case study on social dialogue and the report on union capacity building will be shared with national stakeholders by October 2010.

Biannual Report under the TAICNAR program

HOPE II requires the ILO to submit biannual reports identifying, among other things, the producers that are complying with core labor standards and Haiti's relevant labor laws, the producers that have failed to remedy deficiencies and a description of those deficiencies, and efforts of those producers to remedy their deficiencies. The ILO failed to meet the April 16, 2010, deadline for publication of the first biannual report under the TAICNAR program. The ILO has notified USTR that it will publish the report on October 16, 2010. USTR has consulted with the Committee on Ways and Means of the House and the Committee on Finance of the Senate, and has concluded that it was not practicable for the ILO to publish the biannual report by April 16 due to the extraordinary circumstances in Haiti resulting from the earthquake of January 12, 2010. In the future, USTR expects the ILO to publish its biannual report by October 16 and April 16 of each year as specified by the HOPE II Act.