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SUBCOMMITTEE ON TRADE OF THE COMMITTEE ON WAYS AND MEANS
“THE CARIBBEAN BASIN TRADE PARTNERSHIP ACT:
CONSIDERATIONS FOR RENEWAL”
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Introductory Remarks

Chairman Blumenauer, Ranking Member Buchanan, and distinguished members of the Subcommittee on Trade of the Committee on Ways and Means, thank you for the opportunity to discuss the labor rights situation in Haiti’s garment industry, especially as you consider the renewal of the Caribbean Basin Trade Partnership Act (CBTPA).

Today, I represent the Solidarity Center, which is the largest U.S.-based international worker rights organization, with programs in approximately 60 countries, including Haiti. The Solidarity Center partners with unions and other labor organizations to help workers attain dignity on the job, justice in their communities, and greater equity in the global economy. As the Solidarity Center’s regional program director for the Americas, and in my previous role as the senior program officer for Haiti, I worked alongside, and continue to engage with, a number of independent Haitian trade unions that organize and represent garment workers. These workers produce goods, primarily t-shirts and other apparel, which gain duty-free access to the US market under the CBTPA and other trade preference programs within the Caribbean Basin Initiative.

These programs have stimulated Haiti’s garment industry, which, in 2019, generated a record high of USD \$1 billion in exports, representing 90 percent of the country’s exports.¹ The CBTPA and the expansion of benefits under the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (HOPE II) have also generated formal employment for more than 57,000 workers, which is critical given that a staggering 88 percent of the economically active population works in the informal sector and is thereby excluded from the protections of the labor law.²

¹ https://betterwork.org/wp-content/uploads/2020/05/20th-BWH-Report_May-14.pdf, page 2

² <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=EZSHARE-1267872198-17>, page 4

However, formal-sector job creation has not been synonymous with greater access to decent employment, and the economic gains of the garment industry have not translated into family-supporting wages, safe workplaces free of hazards and gender-based violence, or an end to illegal practices that rob workers of their healthcare and social security benefits.

Low Wages and Poor Working Conditions

Poor working conditions and low wages continue to characterize the sector. A 2019 living expense survey conducted by the Solidarity Center estimates the minimum wage for garment workers in Port-au-Prince to be at least three times less than the basic cost of living.³ Prices have since risen due to sociopolitical unrest and, more recently, as the result of economic shocks caused by the novel coronavirus (COVID-19).⁴ Solidarity Center union partners report that garment workers in Port-au-Prince now spend the equivalent of half of the minimum wage on transportation to and from factories and on a modest lunch to sustain their labor.

The Solidarity Center is aware of only one authentic collective bargaining agreement in the entire sector, which means the great majority of workers are unable to negotiate higher wages and lack a voice in shaping the terms of their labor. The dearth of collective bargaining agreements is due in part to the repression of freedom of association. Targeted firings of union members and other forms of retaliation against those who exercise their fundamental labor rights impede union organizing efforts. According to the Haitian labor code, a union must represent at least two-thirds of the workers at a workplace to compel collective bargaining with the employer.

Beyond the workplace, garment workers lack authentic representation on various tripartite bodies that influence wages and benefits because they are denied the ability to democratically elect their representatives. For instance, the Superior Council on Wages (*Conseil Supérieur des Salaires*, CSS), a presidentially-appointed commission composed of labor, business, and government representatives, is charged with proposing a minimum wage increase to the president when the cost of living or inflation increases by at least 10 percent in a given year. Garment unions have grown increasingly frustrated by the lack of transparency within council deliberations. Some garment unions also criticize the lack of genuine worker representation on the council because the labor delegates are appointed by the president and not chosen by workers or unions.

Labor Rights Violations and Ongoing Noncompliance

In addition to low wages and poor working conditions, rights violations abound, as does widespread and persistent noncompliance with national labor laws and internationally recognized worker rights—the latter of which is among the criteria for CBTPA eligibility for beneficiary

³ In April 2019, the Solidarity Center estimated the daily cost of living for garment workers in Port-au-Prince to be 1,750 Haitian gourdes. On November 1, 2019, the government unilaterally increased the daily minimum wage for garment workers to 500 Haitian gourdes, 3.5 times less than the estimated cost of living. Prices continued to rise during due to sociopolitical unrest in response to corruption, fuel disruptions, and food shortages. <https://www.solidaritycenter.org/wp-content/uploads/2014/11/Haiti.Living-Wage-Study-FINAL-updated.3-11-15.pdf>, page 8

⁴ The National Food Security Coordination (*Coordination Nationale de la Sécurité Alimentaire*, CNSA) reported a four percent increase in the price of basic goods (rice, beans, wheat flour, corn, sugar, and vegetable oil) in March 2020. <https://lenouvelliste.com/article/215235/hausse-de-4-du-panier-alimentaire-en-mars-2020>

countries.⁵ According to the U.S. Department of State's *2019 Report on Human Rights Practices for Haiti*, "penalties for violations were not sufficient to deter violations, and authorities did not impose or collect them. During the year, the government required some factories to remedy labor violations, including violations related to freedom of association. The government did not effectively enforce the law."⁶

The *Better Work* program in Haiti, a joint initiative of the International Labor Organization (ILO) and the International Finance Corporation (IFC), assesses and biannually reports on factory-level compliance, per the requirements of the HOPE II Act.⁷ These reports span the past decade and show continual and high rates of noncompliance with various regulations, punctuated by ephemeral or partial remedy.⁸ This is particularly evident for violations related to occupational safety and health (OSH) and payment of legally mandated benefits.⁹

Better Work has issued 20 reports to date. In 13 of these reports (including the past five), 100 percent of garment factories were found to be noncompliant with one or more OSH standards. In the remaining seven reports, the noncompliance rate among factories ranged from 84 percent to 96 percent within the OSH category. Common OSH violations include inadequate fire safety measures, chemical hazards, lack of protective equipment, and excessive heat and noise.

In addition to OSH violations, ongoing noncompliance related to health insurance and social security benefits is particularly egregious. In the past two months, at least two workers have died after being denied medical care, to which they should have been entitled because their employers deducted health insurance contributions from their earnings. Both employers failed to forward these deductions in an accurate and timely manner to the Insurance Office for Occupational Injury, Sickness, and Maternity (*Office d'Assurance Accidents du Travail, Maladie et Maternité*, OFATMA), as required by law.¹⁰

⁵ https://otexa.trade.gov/AGOA-CBTPA/Title_II.pdf

⁶ <https://www.state.gov/wp-content/uploads/2020/03/HAITI-2019-HUMAN-RIGHTS-REPORT-REVISED-3.13.2020.pdf>, page 25

⁷ According to *Better Work*, "The program brings 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. In Haiti, the program is mandatory for all apparel producers exporting their products to the US market under the HOPE II law." In accordance with the HOPE II Act, Haiti, in cooperation with the ILO, was required "to establish 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." The HOPE II Act also mandates biannual reporting on factory-level compliance, which has been carried out by *Better Work* in Haiti.

https://betterwork.org/wp-content/uploads/2020/05/20th-BWH-Report_May-14.pdf, page 1

⁸ *Better Work* compliance reporting in Haiti spans October 2009 – March 2020.

⁹ https://betterwork.org/wp-content/uploads/2020/05/20th-BWH-Report_May-14.pdf, page 23

¹⁰ Each pay period (biweekly), the employer is required to forward the equivalent of six percent of a worker's base salary to OFATMA by the tenth day of the following month. Of the six percent, the employer and worker are each responsible for contributing three percent. The employer is responsible for deducting the worker's contribution and forwarding it along with the employer's contribution to OFATMA.

As a result, Sandra René, a 30-year old woman, who was six months pregnant with her first child, was reportedly denied care when she sought treatment for pregnancy complications. Her family claims the hospital informed her that insufficient funds had been accrued on her behalf, even though her employer, Palm Apparel S.A., had deducted health insurance contributions from her wages for 10 years. Unable to afford the USD \$600 cost of care (due in full prior to the rendering of service), Sandra and her unborn child died days later.¹¹ Another worker, Liunel Pierre, who worked at Sewing International S.A. (SISA), died after reportedly being denied critical dialysis treatment.

These two factories employ more than 3,500 workers in total and produce t-shirts for Gildan Activewear. In letters to the factories on June 23, 2020 (prior to the deaths of both workers), OFATMA notified Palm Apparel S.A. that it owed more than USD \$96,000 to the insurance office, and similarly informed SISA that its debt was more than USD \$172,000. According to the most recent *Better Work* report, neither factory had remedied noncompliance related to OFATMA contributions in the more than three years since violations were identified.¹²

In addition to failing to forward workers' deducted contributions to OFATMA, factories across the sector frequently neglect to: register workers in the OFATMA system; provide workers with a healthcare card that grants access to service; forward a matching contribution from the employer to OFATMA; and properly calculate contributions. These same issues are widely reported for legally mandated social security contributions, which are managed by the National Office of Old-Age Insurance (*L'Office National d'Assurance-Vieillesse*, ONA).¹³

Adherence to laws pertaining to OFATMA and ONA comprise the *Social Security and Other Benefits* compliance point of the *Better Work* assessments. In the most recent report, 83 percent of factories were out of compliance in this category,¹⁴ higher than the 76 percent noncompliance rate documented in the first *Better Work* report in 2009 (see Figure 1 below).¹⁵ Despite receiving training and technical assistance to improve compliance, many factories have consistently failed to modify their behavior.

Workers, rather than factories, bear the consequences of noncompliance. In addition to the devastating health and income implications that noncompliance has on workers and their families, mounting frustration among workers has contributed to strained industrial relations, which negatively impacts production and stability within the sector. Haitian garment unions assert that these violations can and should be remedied immediately. They are calling on employers to adhere to the law and for the government to enforce it.

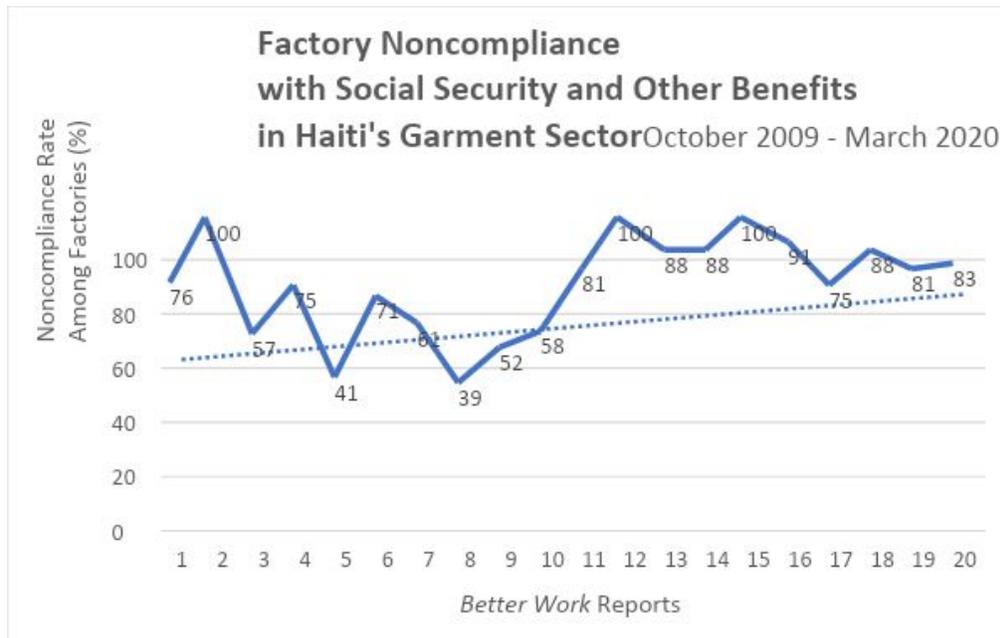
¹¹ The cost of care was equivalent to 140 days of work at the minimum wage rate. Most garment workers do not have private insurance and must rely on OFATMA services.

¹² https://betterwork.org/wp-content/uploads/2020/05/20th-BWH-Report_May-14.pdf, pages 104 and 124

¹³ Each pay period (biweekly), the employer is required to forward the equivalent of 12 percent of a worker's base salary to ONA by the tenth day of the following month. Of the 12 percent, the employer and worker are each responsible for contributing six percent. The employer is responsible for deducting the worker's contribution and forwarding it along with the employer's contribution to ONA.

¹⁴ https://betterwork.org/wp-content/uploads/2020/05/20th-BWH-Report_May-14.pdf, page 30

¹⁵ https://betterwork.org/wp-content/uploads/2019/04/1stEN-BWH_HOPE_II_Synthesis-Report-Haiti.pdf, page 10



Recommendations

For the benefits of trade to reach 57,000 garment workers in Haiti, the labor rights provisions set forth in trade preference programs must be respected and enforced. These conditions are critical to guaranteeing internationally recognized worker rights and fostering the rule of law, both of which are necessary to promote stability and economic development in Haiti. While Haitian garment unions are still debating specific recommendations on how to improve enforcement of the labor provisions of trade preference programs, some have proposed specifying a reasonable period of time after which noncompliant factories are penalized with the suspension of benefits.¹⁶ These unions also assert that to regain benefits under the program, factories must demonstrate full and continuous remedy for a period of time at least equal to the length of noncompliance. Furthermore, they assert that any worker who loses compensation, benefits, or employment as the result of factory noncompliance must be made whole before the factory is reinstated to the program. Provisions should also limit the number of times a factory can be reinstated to the program following the suspension of benefits.

Closing Remarks

Thank you, again, for this opportunity to discuss the labor rights situation in Haiti's garment industry and to share important perspectives from Solidarity Center union partners. Thank you, also, for your leadership in ensuring that trade preference programs such as the CBTPA benefit all stakeholders, including workers.

¹⁶ At least two Haitian garment unions have expressed support for these recommendations. *They include Batay Ouvriye and Groupement Syndicat des Travailleurs Textile pour la Réimportation d'assemblage (GOSTTRA).*