



INTERNATIONAL
TRADE
ADMINISTRATION



Haiti HOPE: Understanding Labor Eligibility Requirements

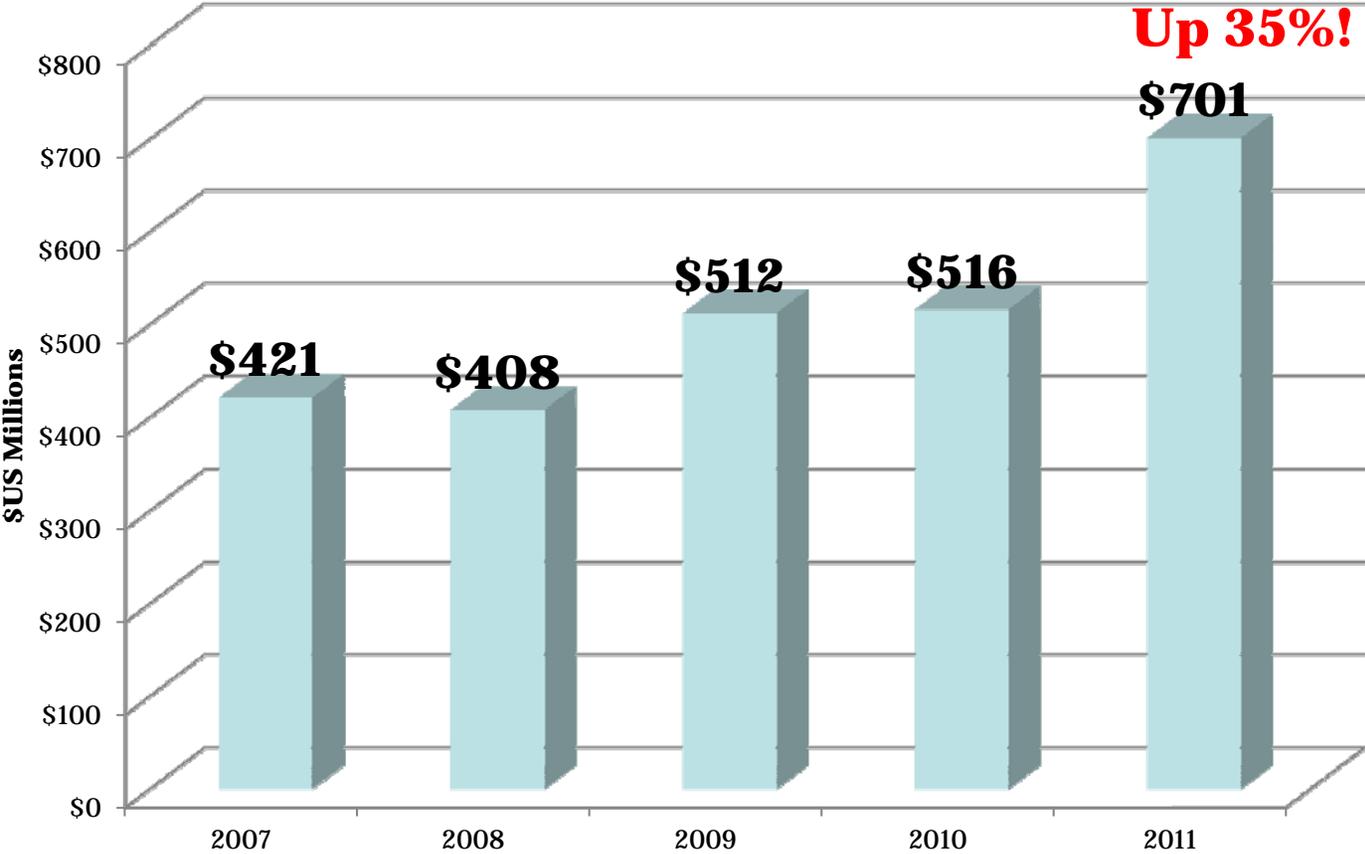


Presented by:
DOC's OTEXA and
DOL's Bureau of International Labor Affairs

Imports of Haitian Apparel are Increasing!

Source: OTEXA

Imports of Haitian Apparel



Why Should You Care?

Sourcing in Haiti has many advantages:

- Low Labor Costs.
- Speed to U.S. Market.
- HOPE provides more access to duty-free treatment for apparel imports than any other country.
- Availability of labor experts (i.e. DOL and ILO) to assist government officials and individual producers to meet required labor standards.

Why are Required Labor Standards an Advantage?

- The trade preferences available under HOPE are conditioned on the Government of Haiti and individual producers meeting certain Core Labor Standards.
- These labor eligibility requirements allow U.S. brands, retailers and importers to ensure that their suppliers are in compliance with labor standards that are the hallmark of socially responsible
- Even if you don't currently utilize HOPE preferences in your sourcing strategies, there is a great advantage in using Haitian apparel manufacturers that are recognized as in compliance.
- The flip side? If a Haitian manufacturer is found to NOT be in compliance, that information will be on the public record.

Textile & Apparel Trade Preference Programs - Haiti

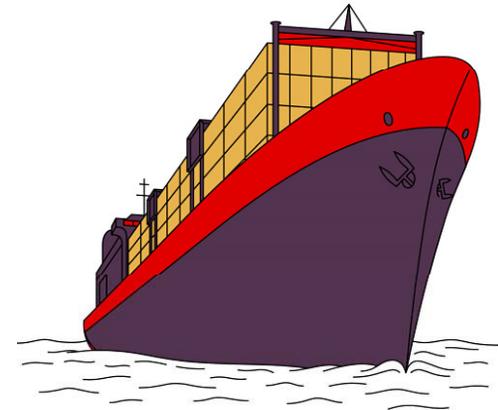
The United States has enacted several laws to encourage economic development in Haiti by offering trade preferences for certain textile and apparel articles produced in Haiti. These trade preferences are incorporated in four acts:

- **CBTPA:** Provides duty-free benefits for certain apparel goods that use U.S. yarns and either U.S. or CBTPA fabric. Certain quota programs can limit imports, but those haven't been fully utilized.
- **HOPE:** HOPE provides more benefits: a value-added quota, and a quota for woven apparel using fabric from ANY source. Neither of these quotas have been filled.
- **HOPE II:** Expands HOPE to include a knit apparel quota program and an earned import allowance program. Establishes certain labor conditions required for eligibility, both for the Gov. of Haiti and individual producers.
- **HELP:** Expands woven and knit apparel quotas, extends programs until 2020, and provides for unlimited access for certain knit apparel and home goods.

General Requirements for Trade Preferences

All of the trade preferences for imports of textile and apparel from Haiti have certain requirements in common:

- Apparel must be either wholly assembled, knit, or knit-to-shape in Haiti, and/or, in some cases, certain trade agreement partners or other preference program beneficiary countries.
- Under CBTPA, if yarns or fabrics are required to be sourced from a specific country(ies), those inputs must be wholly formed from that country.
- Under all trade preference programs, qualifying goods may be exported from either Haiti or the Dominican Republic.



General Definitions



- **Knit-to-shape:** A good is “knit-to-shape” if 50 percent or more of the exterior surface area of the good is formed by major parts that have been knitted or crocheted directly to the shape used in the good, excluding minor cutting, trimming, or sewing of those major parts.
- **Wholly assembled:** A good is “wholly assembled” in Haiti if all components, of which there must be at least two, pre-existed in essentially the same condition as found in the finished good and were combined to form the finished good in Haiti, excluding minor attachments, minor embellishments and minor subassemblies

CBTPA Trade Preferences for Apparel

Under CBTPA, imports of certain apparel, textile luggage and hand-made folklore articles, manufactured in Haiti or 17 other Caribbean countries, may qualify for duty-free treatment under certain conditions.

Unlimited duty-free treatment is available for apparel under several categories, each with specific origin requirements:

- U.S. yarn and fabric, cut in U.S. and assembled in CBTPA
- U.S. yarn and fabric, cut in U.S., further processed
- U.S. yarn, fabric and thread, cut in CBTPA
- Brassieres cut and sewn in US and/or CBTPA

CBTPA Preference Programs under Quota

CBTPA provides duty-free treatment for certain apparel goods, but imports are limited by annual quotas:

- Knit apparel articles (not socks or non-underwear T-shirts), of U.S. yarn, CBTPA knit fabric or knit-to-shape, cut and sewn in CBTPA.
 - Quota limit: 970 million SMEs (latest annual fill rate: 15%)
- Non-underwear T-shirts, of U.S. yarn, CBTPA fabric, cut and sewn in CBTPA.
 - Quota limit: 12 million dozen (latest annual fill rate: 61%)

Summary of HOPE, HOPE II and HELP Preferences

- **Value-Added TRQ:** Exported value sourced from Haiti and/or qualifying countries must be at least 50-60%.
- **Woven Apparel TRQ:** May use fabric from any source, up to 70 million (and potentially 200 million under certain conditions).
- **Knit Apparel TRQ:** May use fabric from any source, up to 70 million (and potentially 200 million under certain conditions).



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Summary of HOPE, HOPE II and HELP Preferences

- **Use of Short Supply fibers/yarns or fabrics:** Unlimited duty-free treatment for Haitian manufactured goods using fabric and/or yarns deemed in short supply under ANY other FTA or preference program (all other inputs qualifying).
- **Earned Import Allowance Program:** For every 2 SMEs of qualifying fabric purchased for manufacture of apparel in Haiti, 1 SME of Haitian apparel, using fabric from any source, may enter US duty-free.
- Unlimited duty free treatment for certain specific apparel and non-apparel textile goods (towels, bedspreads and quilts), using fabric of any source. These goods are identified by HTS classification, found in the text of HELP.

Value-Added TRQ for Apparel

- The exported value of apparel wholly assembled or knit-to-shape in Haiti, must have a certain minimum value of inputs from Haiti, the U.S., or any FTA partner or trade preference beneficiary country.
- The text of the law outlines the calculation of the value of Haitian inputs, including the cost or value of materials plus direct costs of processing operations.
- CBP enforces the TRQ, and determines whether imported apparel meets the value-added threshold.
- Annual quota is 1.25% of total apparel imports into US, in SMEs.
- For the 2011 annual period, fill rate was 4.8%.

Woven Apparel TRQ

- Qualifying goods are of woven fabric, classified under Chapter 62 of the HTS.
- Apparel must be wholly assembled in Haiti, but may use fabric from any source.
- Annual quota limit through September 30, 2020 is 70 million SMEs. Annual period is from October 1st through September 30th. The 2011 annual fill rate was 34.5%.
- Should imports within a given annual period exceed 52 million SMEs, the annual quota increases to 200 million, with a sublimit of 70 million SMEs for certain woven apparel.
- The apparel subject to the sublimit is described (by HTS classification) in the text of the Public Law (found on OTEXA's website).

Knit Apparel TRQ

- Qualifying apparel goods are of knit or crocheted fabric, with certain exceptions, classified under Chapter 61 of the HTS.
- Certain apparel (e.g. men's and boys' t-shirts, sweatshirts) **does not** qualify – generally, these are already provided preferential treatment under CBTPA.
- Apparel must be wholly assembled or knit-to-shape in Haiti, but may use fabric or knit components from any source.
- Annual quota limit through September 30, 2020 is 70 million SMEs. The fill rate for the 2011 annual period was 36%.
- Should imports within a given annual period exceed 52 million SMEs, the annual quota increases to 200 million, with a sublimit of 85 million SMEs for certain woven apparel.
- The apparel subject to the sublimit is described (by HTS classification) in the text of the Public Law (found on OTEXA's website).

Exceptions to the Rule of Origin: Short Supply



- Under CBTPA, if a fiber, yarn or fabric that has been determined to be not commercially available in the US or CBTPA beneficiary countries, apparel using the product may still qualify for duty-free treatment.
- Under HOPE/HOPE II/HELP, if a fiber, yarn or fabric has been determined to be not commercially available under **any** free trade agreement or preference program, apparel using the product may still qualify for duty-free treatment.

Unlimited Duty-Free Treatment for Certain Textile and Apparel Goods

Certain textile and apparel goods, wholly assembled or knit-to-shape in Haiti, may use fabric from any country.

- Certain apparel:
 - Brassieres,
 - Certain headwear,
 - Certain sleepwear, and
 - Certain knit apparel (added in HELP)
- Certain non-apparel textile goods:
 - Luggage,
 - Towels, and
 - Bedspreads and quilts
- The specific goods that qualify under these programs are described by HTS classification, found on OTEXA's website.

Earned Import Allowance Program (EIAP): “2 for 1”

- For every 2 SMEs of qualifying fabric shipped to Haiti for production of apparel, qualifying apparel producers may export 1 SME of apparel wholly formed or knit-to-shape in Haiti, from Haiti or the Dominican Republic, duty free, regardless of the source of the fabric.
- Credits may be earned for any qualifying fabrics purchased or manufactured after October 1, 2008.
- Qualifying producers may apply for an account, and may submit requests for deposits of credits. OTEXA will review the request and supporting documentation before it allows the deposit.
- The EIAP is accessed online on OTEXA’s website. Account holders may check balances, request deposits and obtain certificates.

Earned Import Allowance Overview: Qualifying Knit Fabric

- Fabric or knit-to-shape components wholly formed or knit-to-shape in the United States, specified FTA partner countries, or countries designated as beneficiaries of certain trade preference programs, from yarns wholly formed in the United States.
- Fabric or knit-to-shape components must be purchased on or after October 1, 2008, for production of apparel in Haiti.
- Fabrics or knit to shape components are not ineligible if they:
 - Contain nylon filament yarn;
 - Total weight of non-U.S. yarns is less than 10% of the total weight of the fabric or knit-to-shape component; or
 - Contain yarns deemed in short supply.

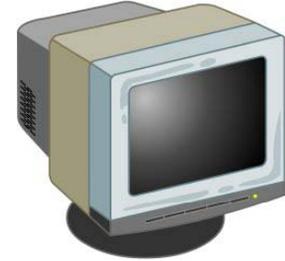


Earned Import Allowance Overview: Qualifying Woven Fabric

- Fabric wholly formed in the United States from yarns wholly formed in the United States.
- Fabric must be purchased on or after October 1, 2008, expressly for production of apparel in Haiti.
- Fabrics are not ineligible if:
 - They contain nylon filament yarn;
 - The total weight of non-U.S. yarns is less than 10% of the total weight of the fabric; or
 - They contain yarns deemed in short supply.



Online Resources



- OTEXA: <http://otexa.ita.doc.gov>
- U.S. Customs & Border Protection (CBP)
 - Basic information on textiles and quotas:
http://www.cbp.gov/xp/cgov/trade/trade_programs/textiles_and_quotas/
 - Fill rates for restraint limit programs:
http://www.cbp.gov/xp/cgov/trade/trade_programs/textiles_and_quotas/commodity/



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Outline of This Afternoon's Webinar Presentation

- **Why We're Here – Our Shared Objectives Under HOPE II**
- **Review of Labor Eligibility Requirements Under HOPE II**
- **Clarifying the Role of the Department of Labor**
- **Overview of Process/Activities to Date**
- **Where We Stand/Next Steps – Including Forthcoming USTR Report**
- **The Important Role You Can Play as Buyers**

HOPE II Labor Eligibility Requirements

- The Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (known as “HOPE II”) amended the Caribbean Basin Economic Recovery Act to add a new section establishing “Special Rules for Haiti”
- Access to HOPE II trade preferences requires compliance with eligibility requirements, including labor law and worker rights requirements that apply to the Government of Haiti and to individual apparel producers

HOPE II Labor Eligibility Requirements for GoH

- HOPE II requires that the Government of Haiti (GoH) has established or is making continual progress towards establishing protection of internationally recognized worker rights
- The GoH must also establish an independent Labor Ombudsman's Office to assist in oversight of producer compliance and ensure producer participation in the TAICNAR (Better Work) program
- And the GoH must also maintain a registry of producers of articles for which duty-free treatment may be requested

HOPE II Labor Eligibility Requirements for Haitian Producers

- At the producer level, the eligibility requirement is that each producer must participate in Better Work and comply with the core labor standards (and with the labor laws of Haiti that directly relate to and are consistent with the core labor standards), including:
 - Freedom of Association
 - The Right to Collective Bargaining
 - Elimination of Forced or Compulsory Labor – including Forced Overtime
 - Effective Abolition of Child Labor
 - Elimination of Discrimination in Employment and Occupation – including Freedom from Sexual Harassment

The Role of USG in Implementing the HOPE II Labor Eligibility Requirements

- Section (e)(4)(B)(i) requires the President to identify, every two years, whether a producer listed in this registry “has failed to comply with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards.”
 - Under Presidential Proclamation 8296 (September 2008), this responsibility was delegated to the Secretary of Labor in consultation with USTR
- Under Section (e)(4)(B)(ii) of HOPE II, the President “shall seek to assist” any non-compliant producer to come into compliance with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards.
 - The President delegated this responsibility to Secretary of Labor
- Section (e)(4)(B)(ii) provides that “[i]f such [assistance] efforts fail, the President shall withdraw, suspend, or limit the application of preferential treatment . . . to articles of such producer”.

Review of HOPE II's Shared Objectives

- In a nutshell, the statute offers the opportunity for greater market access and increased competitiveness for Haiti's apparel sector – while conditioning producers' eligibility on demonstrated respect for ILO core labor standards
- The ultimate objective is to maintain and improve the quality of the “Made in Haiti” brand
- And that's why we're here today: highlighting the critical role of buyers in advancing the shared objectives of HOPE II

A Note on Better Work Haiti & HOPE II

- **Part of global program run by ILO and IFC to (1) assess compliance with core labor standards and related domestic labor laws and (2) provide advisory services and capacity building assistance**
- **HOPE II explicitly provides a role for Better Work Haiti in reporting twice annually on factory compliance and providing technical assistance**
 - **Producer eligibility for benefits is conditioned on participation in Better Work**
 - **First report issued in October 2010 and every six months since**
- **Separate and distinct from Secretary of Labor's HOPE II mandate**
 - **The core labor standards under 1998 ILO Declaration**
 - **But also four sets of standards under national labor law – reaching issues such as occupational safety and health, for example**
- **“Fourth biannual synthesis report” under HOPE II in mid-April**
 - **Public report accessible on Better Work website**
 - **Based on a “grading system” designed to indicate different levels of compliance**
- **Section V of report sets out detailed findings on some twenty factories**
 - **Different than more focused one based on DOL investigation/assessment last year**
 - **President “shall consider” the reports of Better Work in decisions affecting benefits**

DOL/ILAB Role and Approach

- U.S. Department of Labor (DOL)/ILAB expertise
 - Experience under trade preference programs, labor chapters of FTAs, etc.
 - Core labor standards under 1998 ILO Declaration and Conventions
- While recognizing that HOPE is a new model
 - Producer-specific criteria as well as country eligibility
 - Integrates the ILO-IFC Better Work Program and its reporting
- Interagency collaboration with USTR, State Department, and Commerce/OTEXA

Implementing HOPE II at the Producer Level

- Pursuant to the delegation of authority noted earlier, DOL in consultation with USTR engaged in detailed fact-finding during second half of 2011
 - Utilized varied sources of information, including factory visits, interviews with management and industry officials, and interviews with workers and union representatives
 - Carefully analyzed each potential finding of non-compliance with the statutory requirements
- In late December 2011 informed a small number of producers that the investigation revealed sufficient credible evidence of a failure to comply with certain core labor standards
 - And that this would need to be remedied to come into compliance
 - Note that the identities of these producers has been kept confidential – consistent with the goals of HOPE II
 - DOL offered to provide assistance to each non-compliant producer and laid out what that could involve
- Since January 2012, there has been a great deal of interaction with each of those identified producers – and DOL is encouraged by the level of engagement

USG Activities 2012 Year to Date

- **January** high-level visit, including DUS Polaski, AUSTR Strickler, and Joel Danies of State/Office of Haiti Special Coordinator
- **February** visit, focused on compliance assistance/training to address Forced Labor and Sexual Harassment
- **March** visit, focused on compliance assistance/training on Freedom of Association
- **April** study visit of senior Haitian Government officials to Washington on HOPE II and mediation procedures (MAST, CTMO-HOPE Commission, newly appointed Ombudsperson)
- **Ongoing engagement** throughout the past five months from Washington

Where We Stand

- **Country-Level Activities**
 - Ongoing work with officials from MAST, CTMO-HOPE Commission, and new Labor Ombudsperson
- **Sector-Wide Activities**
 - Follow-up to training sessions
 - Dissemination of compliance checklists
- **Producer-Specific Activities**
 - Continuing efforts to address compliance concerns
 - Compliance assistance remains the focus
- **Reminder of Our Shared Objectives**
 - The goal remains to remedy/address compliance concerns
 - The identified producers understand what needs to be accomplished to do so – and that DOL remains ready to provide further assistance

Upcoming Activities/Milestones

- **Remediation Assessment Trip to Haiti – Week of May 21**
 - Meetings with producers/assessing the state of compliance efforts
- **USTR Report to Congress under HOPE II**
 - Transmitted to Congress by **June 18**
 - USTR lead with significant DOL role
 - **First public report identifying non-compliant producers**
 - Names no longer will be confidential
- **Elements of this section of report**
 - Summary of process/analysis of findings
 - Review of assistance provided
 - Steps taken to remediate – and remaining steps if not complete
 - Sector-wide issues/concerns
 - **Information, not recommendations**
- **Interagency process follows report transmittal**
 - Discussion of next steps/formulation of recommendations

What This Means for You

- **We recognize that there are certain limitations**
 - Given that names of the small number of non-compliant producers must remain confidential at this stage
- **But still several practical and effective steps we believe you can take as buyers/retailers**
 - Make sure your suppliers understand the objectives of HOPE II – as noted earlier, advancing a strong “Made in Haiti” brand
 - New job opportunities coupled with high levels of protection for the rights of workers
 - Contact your suppliers to encourage compliance with HOPE II statutory requirements
 - Highlight your own expectations and the benefits of adherence to ILO core labor standards and domestic labor laws

For More Information

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Questions?



- If you have a question, please submit it in writing using the “Q&A” or “Ask a Question” feature.
- We will address as many questions as time allows.
- The remaining questions will be addressed via email following the webinar.
- If questions come up later, please contact OTEXA or ILAB.