

PRE-DECISIONAL/DELIBERATIVE

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director
Camp Springs, MD 20588-0009



U.S. Citizenship
and Immigration
Services

[Date]

DECISION

MEMORANDUM FOR THE SECRETARY

THROUGH: (if applicable)
FROM: Kika M. Scott
Senior Official Performing the Duties of the Director
SUBJECT: **Temporary Protected Status for Haiti**

Recommendation: U.S. Citizenship and Immigration Services (USCIS) is presenting a recommendation of “No Decision/Automatic Extension” for Temporary Protected Status for Haiti based on a review of current conditions in Haiti.

Purpose: Haiti’s existing designation for Temporary Protected Status (TPS) will expire August 3, 2025. At least 60 days before a TPS designation expires, the Secretary, after consultation with appropriate U.S. Government agencies, is required to review the conditions in a country designated for TPS to determine whether the conditions supporting the designation continue to be met, and, if so, the length of an extension of the designation.¹ If the Secretary determines that the country no longer meets the statutory conditions for designation, she shall terminate the designation.² If the Secretary does not make a timely decision about whether the country continues to meet the conditions for TPS designation, the designation is automatically extended for an additional period of at least six months.³ Accordingly, USCIS has completed review of the conditions in Haiti to inform the consideration of the TPS action and is presenting a recommendation of “No Decision/Automatic Extension” for your consideration. This recommendation is being made in light of recent escalation of violence; the rapidly evolving nature of the security environment makes it premature to commit to any permanent policy decision at this time.

As part of the review process, USCIS consulted with the Department of State (DOS). As of May 27, 2025, DOS has not provided an assessment of conditions nor a recommendation to inform the

¹ See Immigration and Nationality Act (INA) sec. 244(b)(3)(A); see also Attachment A: Temporary Protected Status Legal Authority.

² See INA sec. 244(b)(3)(B).

³ See INA sec. 244(b)(3)(C).

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consultation requirement. That is another reason why USCIS does not believe that ample information on the current country conditions in Haiti is presently available and that the Secretary should defer her decision.

Temporary Protected Status, as the name itself makes clear, is an inherently temporary status. TPS designations are time-limited and must be periodically reviewed. The statute inherently contemplates advance notice of a termination by requiring the Secretary to make a decision at least 60 days before the current expiration date and delaying the effective termination date by at least 60 days after publication of a *Federal Register* notice of the termination or, if later, the existing expiration date. See INA sec. 244(b)(3), (d)(3); 8 U.S.C. 1254a(b)(3), (d)(3).

TPS Overview: Haiti was initially designated in 2010 on the basis of extraordinary and temporary conditions in Haiti that stemmed from an earthquake and prevented nationals of Haiti from returning in safety.⁴ Following the initial designation, TPS for Haiti was extended and redesignated once from July 23, 2011, through January 22, 2013, based on extraordinary and temporary conditions.⁵ Thereafter, TPS for Haiti was extended four times based on extraordinary and temporary conditions: (1) from January 23, 2013, through July 22, 2014;⁶ (2) from July 23, 2014, through January 22, 2016;⁷ (3) from January 23, 2016, through July 22, 2017;⁸ and (4) from July 23, 2017, through January 22, 2018.⁹ Subsequently, the Secretary announced the termination of the TPS designation of Haiti effective July 22, 2019.¹⁰

The termination of Haiti's 2011 TPS designation was challenged in several lawsuits, and court injunctions required DHS to temporarily continue TPS for Haiti pending a final court order.¹¹ Former Secretary Mayorkas newly designated Haiti on the basis of extraordinary and temporary conditions effective August 3, 2021, through February 3, 2023.¹² Thereafter, TPS for Haiti was extended and redesignated effective February 4, 2023, and ending on August 3, 2024.¹³ In July 2024, DHS issued a notice stating that Secretary Mayorkas had once again determined to extend and redesignate Haiti for TPS for an 18-month period, set to expire on February 3, 2026.¹⁴ Finally, DHS announced in February 2025 that Secretary Noem had decided to partially vacate the July 2024 decision of Secretary Mayorkas regarding the extension and redesignation of Haiti for TPS. Secretary Noem reduced the designation period from the statutory maximum of 18 months to 12

⁴ See *Designation of Haiti for Temporary Protected Status*, 75 FR 3476 (Jan. 21, 2010).

⁵ See *Extension and Redesignation of Haiti for Temporary Protected Status*, 76 FR 29000 (May 19, 2011).

⁶ See *Extension of the Designation of Haiti for Temporary Protected Status*, 77 FR 59943 (Oct. 1, 2012).

⁷ See *Extension of the Designation of Haiti for Temporary Protected Status*, 79 FR 11808 (Mar. 3, 2014).

⁸ See *Extension of the Designation of Haiti for Temporary Protected Status*, 80 FR 51582 (Aug. 25, 2015).

⁹ See *Extension of the Designation of Haiti for Temporary Protected Status*, 82 FR 23830 (May 24, 2017).

¹⁰ See *Termination of the Designation of Haiti for Temporary Protected Status*, 83 FR 2648 (Jan. 18, 2018).

¹¹ On Dec. 28, 2023, the U.S. District Court for the Northern District of California dismissed *Ramos v. Nielsen*, 18-cv-01554 (N.D. Cal. Dec. 28, 2023). *Bhattarai v. Nielsen*, 19-cv-731 (N.D. Cal. Mar. 12, 2019) was consolidated with *Ramos* in August 2023. The court agreed with the government position that subsequent TPS designations rendered the pending litigation moot.

¹² See *Designation of Haiti for Temporary Protected Status*, 86 FR 41863 (Aug. 3, 2021).

¹³ See *Extension and Redesignation of Haiti for Temporary Protected Status*, 88 FR 5022 (Jan. 26, 2023).

¹⁴ See *Extension and Redesignation of Haiti for Temporary Protected Status*, 89 FR 54484 (July 1, 2024).

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months, providing that the Haiti TPS extension and new designation will now expire on August 3, 2025.¹⁵ On March 6, 2025, *Haitian-Americans United Inc., et al. v. Trump* was filed in the U.S. District Court for the District of Massachusetts, challenging the federal government’s decision to reduce Haiti’s Temporary Protected Status from 18 months to 12 months.¹⁶

To be eligible for TPS under Haiti’s current designation, along with meeting the other eligibility requirements, aliens must have continuously resided in the United States since June 3, 2024, and have been continuously physically present in the United States since August 4, 2024. There are currently approximately 348,187¹⁷ beneficiaries and approximately 345,143¹⁸ pending applications under Haiti’s TPS designation.¹⁹

Description of Country Conditions: Haiti’s TPS designation is based on the extraordinary and temporary conditions provision in the TPS statute. That provision requires a determination that extraordinary and temporary conditions in Haiti prevent Haitian nationals from returning to Haiti, unless the Secretary finds that permitting Haitian nationals to remain temporarily in the U.S. is contrary to the national interest of the U.S.²⁰

USCIS conducted a review of conditions in Haiti. Analysis of these conditions shows that Haiti continues to struggle with the collapse of state authority, with pervasive and escalating violence driven by heavily armed gangs who now control much of Port-au-Prince and surrounding areas. As of early 2025, Haitian officials report that gangs control approximately 85% of Port-au-Prince, with violence spreading to other regions.²¹ Criminal groups “have rapidly expanded into previously secure areas of Port-au-Prince, as well as key regions such as the Ouest and Artibonite departments, Haiti’s agricultural hub. Many of these groups have alleged ties to police officers and political and economic elites.”²² The United Nations has documented a significant increase in gang-related violence, including killings, kidnappings, and sexual violence against civilians.²³ Law enforcement is essentially nonfunctional, and there is no meaningful government presence to protect civilians. The Haitian National Police are critically understaffed, poorly equipped, and

Commented [SD1]: Question on the data: In the July 2024 notice, the estimate was that there were a total of ~523,000 beneficiaries between those that were eligible under the extension and those that would be eligible under the redesignation. For the estimates as of April 7th does that mean 348,187 already have their TPS applications decided and another 345,143 who have pending applications covering both re-registrations and new initial registrations?

Commented [SR2R1]: Pending OPQ response

Commented [SD3]: Edit to support the recommendation we’re making here.

Commented [SR4R3]: Will accept

¹⁵ See *Partial Vacatur of 2024 Temporary Protected Status Decision for Haiti*, 90 FR 10511 (Feb. 24, 2025).

¹⁶ Civil Rights Litigation Clearinghouse. “*Haitian-Americans United Inc. v. Trump*.” University of Michigan Law School, 2025. <https://clearinghouse.net/case/46188> (last visited 5/27/2025)

¹⁷ Estimate as of May 1, 2025 .

¹⁸ Estimate as of May 1, 2025..

¹⁹ The DHS Office of Homeland Security Statistics has estimated that an additional 70,000 nationals of Haiti who have entered the United States since June 3, 2024, could become newly eligible for TPS if Haiti is newly designated. Estimate as of April 14, 2025.

²⁰ INA sec. 244(b)(1)(C), (b)(3).

²¹ See *Haitian Gangs Control 85% of Port-au-Prince, Officials Say*,” Associated Press, March 28, 2025, available at: <https://apnews.com/article/65be39eaad9c5a1fd9e2592d4fcb4b3f> (last visited May 23, 2025).

²² World Report 2025 – Haiti, Human Rights Watch (HRW), Jan. 16, 2025, available at: <https://www.ecoi.net/en/document/2120084.html> (last visited Mar. 17, 2025).

²³ See “*Situation of Human Rights in Haiti*,” Report of the United Nations High Commissioner for Human Rights UN Press Release A/HRC/58/76, March 27, 2025, available at: <https://www.ohchr.org/en/documents/country-reports/ahr5876-situation-human-rights-haiti-report-united-nations-high> (last visited May 23, 2025).

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largely ineffective against gang activities.²⁴ The United Nations High Commissioner for Human Rights has emphasized the indiscriminate nature of the violence, stating that all individuals in Haiti are at risk, regardless of their background.²⁵

Improvements

Haiti has experienced some improvements in its infrastructure and risk management and international partnerships.

Although the U.S. Federal Aviation Administration (FAA) has extended its ban on U.S. commercial flights to Port-au-Prince through September 8, 2025 due to ongoing security risks from gang violence, in December 2024, Haiti reopened its main international airport in Port-au-Prince to international flights from non-U.S. markets, marking a significant step toward economic revitalization and improved connectivity.²⁶ The airport in Les Cayes became operational for international flights in early 2025, offering an alternative route for aid delivery and commerce, especially beneficial for the southern regions.²⁷

The deployment of other international forces has bolstered efforts to combat gang violence, with the U.S. providing substantial financial assistance to support these initiatives.²⁸

In March 2025, the World Bank released a plan to make approximately US\$320 million in grant financing available with the aim of building resilience among Haiti's most vulnerable populations.²⁹

Since April 23-25, 2025, UNICEF has reached more than 8,500 displaced individuals and members of the host community through multisectoral interventions, including safe drinking water distribution.³⁰

²⁴ See "Haitian Police Overwhelmed by Gang Violence," Associated Press, March 28, 2025, available at: <https://apnews.com/article/65be39eaad9c5a1fd9e2592d4fcb4b3f> (last visited May 23, 2025).

²⁵ See *UN Experts Urge Immediate Action to End Spiraling Violence in Haiti*, Report of the Office of the High Commissioner for Human Rights (OHCHR), April 5, 2025, available at:

<https://www.ohchr.org/en/stories/2025/04/restoring-dignity-global-call-end-violence-haiti> (last visited May 23, 2025).

²⁶ "FAA Extends U.S. Flight Ban to Haiti's Capital Through Summer 2025," Haitian Times, March 12, 2025, available at <https://haitiantimes.com/2025/03/12/faa-extends-u-s-flight-ban-to-haitis-capital-through-summer-2025> (last visited May 27, 2025).

²⁷ "Flights Resume at Haiti's Second International Airport," Associated Press, January 19, 2025, available at <https://apnews.com/article/974f97f68a9a01c0a73436bc592fa515>, (last visited May 23, 2025).

²⁸ "Haiti Receives Support from Kenyan Police as Multinational Security Mission Begins," Associated Press, February 6, 2025, available at <https://apnews.com/article/58a8297e9e495ad0ba329407cf8628a6> (last visited May 23, 2025).

²⁹ "World Bank Announces New Strategy for Haiti," World Bank, March 4, 2025, available at <https://www.worldbank.org/en/news/immersive-story/2024/12/20/glimmers-of-hope-as-haiti-navigates-its-lingering-crisis> (last visited May 12, 2025).

³⁰ UNICEF, Haiti Humanitarian Flash Update No. 2, May 2025, available at <https://www.worldbank.org/en/news/immersive-story/2024/12/20/glimmers-of-hope-as-haiti-navigates-its-lingering-crisis> (last visited May 12, 2025).

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The American Red Cross has also improved access to safe drinking water for thousands of households through construction of over 5300 water points that serve over 246,000 people.³¹

A citizen of a foreign country who wishes to travel to the United States for a temporary stay must first obtain a nonimmigrant visa by showing an intent to return to their country of residence. In Fiscal Year (FY) 2024, 7,938 nonimmigrant visas (NIV) were issued to Haitian nationals. In FY2025 (October 2024 through February 2025), 3,840 nonimmigrant visas were issued to Haitian nationals. If this trend continues, FY2025 will see an estimated 9,200 nonimmigrant visas issued to Haitian nationals.³²

Haitian nationals in the United States have requested advance parole documents (APDs) for travel back to Haiti, suggesting that nationals may safely travel there. From October 1, 2022, through April 24, 2025, approximately 3,900 Haitian nationals requested APDs, of which approximately 2,506 were for intended travel to Haiti (64%).³³

Additionally, U.S. Immigration and Customs Enforcement (ICE) is currently removing aliens to Haiti. From January through April 2025, ICE removed approximately 210 aliens to Haiti.³⁴

TPS and Alignment with National Interest

By statute, the Secretary is prohibited from designating a country for TPS or extending a TPS designation if she finds that “permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.”³⁵

“National interest” is an expansive standard that may encompass an array of broad considerations, including foreign policy, public safety (e.g., potential nexus to criminal gang membership), national security, migration factors (e.g., pull factors), immigration policy (e.g., enforcement prerogatives), and economic considerations (e.g., adverse effects on U.S. workers, impact on U.S. communities).³⁶ Determining whether permitting a class of aliens to remain temporarily in the

³¹ Red Cross, Preventing disease and improving health care factsheet, November 2024, available at https://www.redcross.org/content/dam/redcross/atg/Photos/What_We_Do/Preventing_Disease_and_Improving_Healthcare_Factsheet.pdf?srsltid=AfmBOor7uRPPGVqOzAjhWTi4b5ssffhMzK4Q7SZxbK1H-73K9kUTC7e3 (last visited May 12, 2025).

³² Estimates as of May 12, 2025

³³ Estimates as of April 24, 2025. These figures do not necessarily include TPS beneficiaries, who receive a TPS Travel Authorization Document rather than an Advance Parole Document. USCIS does not collect intended destination country from TPS beneficiaries on form I-131, Application for Travel Documents, Parole Documents, and Arrival/Departure Records.

³⁴ Estimates as of April 18, 2025. Note that unable to confirm whether all aliens removed to a particular country are actually nationals of that country.

³⁵ See INA 244(b)(1), 8 U.S.C. 1254a(b)(1).

³⁶ See, e.g., *Poursina v. USCIS*, 936 F.3d 868, 874 (9th Cir. 2019) (observing, in an analogous INA context, “that the ‘national interest’ standard invokes broader economic and national-security considerations, and such determinations are firmly committed to the discretion of the Executive Branch—not to federal courts” (citing *Trump v. Hawaii*, 585 U.S. 667, 684-86 (2018)); *Flores v. Garland*, 72 F.4th 85, 89-90 (5th Cir. 2023) (same); *Brasil v. Sec’y, Dep’t of Homeland Sec.*, 28 F.4th 1189, 1193 (11th Cir. 2022) (same); cf. *Matter of D-J-*, 23 I&N Dec. 572, 579-81 (A.G. 2003) (recognizing that taking measures to stem and eliminate possible incentives for potential large-scale migration from a

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United States is contrary to the U.S. national interest therefore calls upon the Secretary's expertise and discretionary judgment, informed by her consultations with appropriate U.S. Government agencies. Additionally, Executive Order 14150, "America First Policy Directive to the Secretary of State" (January 20, 2025), assists in further explaining "national interest", as the EO clearly sets out the President's vision that "the foreign policy of the United States shall champion core American interests and always put America and American citizens first."³⁷

Regarding foreign policy, the DOS's DATE 2025 recommendation indicates that it is not contrary to the national interest of the United States to permit those who would meet the eligibility requirements of TPS to remain in the United States temporarily.²⁵ The DOS report states while the government of Haiti has made some efforts to stabilize and secure reconstruction of crisis areas, the underlying cause of the crisis has not been resolved. Additionally, DOS recommended an XX month extension of TPS for Haiti.

Commented [SR5]: This is placeholder language, as no DOS report has been received.

National Security Considerations

DHS records indicate that there are Haitian nationals (or aliens who last habitually resided in Haiti) who are TPS recipients or applicants who are or have been the subject of administrative investigations for fraud, public safety and national security.³⁸ Of the approximately 348,187 TPS recipients and 345,143 pending applications from Haiti, there are 897 alien numbers associated with a fraud record, and 275 numbers associated with an egregious public safety record. [REDACTED]

Approximately 70,000 nationals of Haiti have entered the United States since June 6, 2024.³⁹ Of these new entrants, approximately 3,000 are nonimmigrants in valid status, approximately 700 entered as nonimmigrants but are now out of status, and approximately 2,200 were encountered at a border or port of entry. DHS OHSS also estimates that approximately 300 entered the United States irregularly and were not apprehended by U.S. government officials. Overstays and unlawful entry conflict with the national interest.

Options

Your options include the following actions:

1) *No Decision/Automatic Extension (USCIS Recommendation)*

- After review of the assessment, you could choose not to make a determination about whether Haiti's TPS designation should be extended or terminated at this time. If you

given country is "sound immigration policy" and an "important national security interest"); *Matter of Dhanasar*, 26 I&N Dec. 884, 890-91 (AAO 2016) (taking into account impact on U.S. workers in "national interest" assessments).
³⁷ See *America First Policy Directive to the Secretary of State*, Executive Order 14150, 90 FR 8337 (Jan. 29, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/01/america-first-policy-directive-to-the-secretary-of-state/> (last viewed on Feb. 10, 2025).

³⁸ Estimates as of May 7, 2025

³⁹ Estimates as of April 15, 2025.

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do not make a decision at least 60 days prior to its expiration date, by statute, its period of designation will be automatically extended for 6 additional months (or, in your discretion, a period of 12 or 18 months).

- Should you choose not to make a decision about whether the conditions supporting Haiti's designation continue to be met, an announcement of the automatic extension is required via *Federal Register* notice, including information to beneficiaries and employers about continued employment authorization and the period of extension. Note that you would then have to review conditions prior to the expiration of that extension.

2) *Terminate Haiti's Designation for TPS*

- If you determine that Haiti no longer meets the statutory requirements for its TPS designation, you must terminate TPS for Haiti. Termination would end TPS benefits for existing Haiti TPS beneficiaries after notice in the Federal Register. Upon the termination of TPS benefits, former beneficiaries without another immigration status or authorization to remain would no longer have permission to work and remain in the United States. They may, however, apply for any other immigration benefits for which they may be otherwise eligible (e.g., asylum, lawful permanent residence).
- If you decide to terminate Haiti's designation, the effective date of termination may not be earlier than 60 days after the date the Federal Register notice announcing the termination is published or, if later, the expiration of the most recent previous extension.

3) *Extend Haiti's Designation for TPS*

- Under the TPS statute, if you determine that the statutory conditions for designation continue to be met, you must extend the TPS designation for an additional period of 6, 12, or 18 months.⁴⁰ Haiti was initially designated for TPS on January 21, 2010, based on extraordinary and temporary conditions in Haiti that stemmed from an earthquake.
- Should the decision be made to extend the designation of TPS for Haiti, only existing TPS Haiti beneficiaries may re-register for TPS, and any Haitian nationals who may have entered the United States after the current continuous residence date will not be eligible for an initial application for TPS.

Signature Level Justification: The decision to designate any foreign state (or part thereof) is a discretionary decision, and the statute provides that there is no judicial review of any determination with respect to the designation, termination, or extension of a designation.⁴¹ At least 60 days before the expiration of a foreign state's TPS designation or extension, the Secretary, after consultation with appropriate U.S. Government agencies, must review the conditions in the foreign state designated for TPS to determine whether they continue to meet the conditions for the TPS designation.⁴²

⁴⁰ Along with an extension of the TPS designation, the statute also provides that the Secretary may newly designate the country for TPS. See INA sec. 244(b)(1), 8 U.S.C. 1254a(b)(1).

⁴¹ INA sec. 244(b)(5)(A), 8 U.S.C. 1254a(b)(5)(A).

⁴² INA sec. 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A).

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Timeliness: You are required by statute to decide whether to extend or terminate an existing TPS designation at least 60 days before the expiration of the current designation, or the designation is automatically extended for a minimum of 6 months.⁴³ For Haiti's designation, which expires on August 3, 2025, you must make a decision by June 4, 2025, or the automatic extension occurs. You are further required to provide timely notice of your decision through publication in the *Federal Register*.⁴⁴ Your earliest decision will facilitate publication of the *Federal Register* notice, which communicates policy and appropriate procedures to TPS beneficiaries, their employers, and benefit-granting agencies.

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⁴³ See INA sec. 244(b)(3)(A), (C).

⁴⁴ See INA sec. 244(b)(3)(A).

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USCIS Recommendation: USCIS recommends that you defer your decision on TPS for Haiti and allow the automatic 6-month extension based on the rapidly changing environment in Haiti. We also recommend the same because as of May 23, 2025, USCIS has not been able to receive information from the Department of State to further inform the country condition assessment. This will have the effect of extending TPS for Haiti back to Feb. 3, 2026, the original expiration date prior to your action to partially vacate prior Secretary Mayorkas' July 2024 TPS extension and redesignation.

Secretary's Decision:

1. *No Decision/Automatic Extension:* Delay a decision on Haiti's designation, resulting in an extension of 6 months

Approve/date _____

2. *Terminate:* Terminate Haiti's designation

Approve/date _____

3. *Extend:* Extend Haiti's existing designation for 6, 12, or 18 months

Specify duration of extension (6, 12, or 18 months): _____

Approve/date _____

Attachments:

Attachment A: Temporary Protected Status Legal Authority
Attachment B: USCIS RAIO Country Conditions Report, Haiti
Attachment C: USCIS OP&S Country Conditions Report, Haiti