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REPORT ON THE SITUATION OF HUMAN RIGHTS IN HAITI

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INTRODUCTION

1. Given the critical situation of human rights persisting in Haiti, aggravated by the military coup of September 29, 1991, the Inter-American Commission on Human Rights (IACHR) has continued to assign priority to the country, and has been presenting a report on the situation of human rights in Haiti every year.
2. During this period, the Commission has repeatedly been asked by the Permanent Council and the Ad Hoc Meeting of Ministers of Foreign Affairs of the Organization of American States to conduct on-site visits to Haiti. It has also received requests from President Jean-Bertrand Aristide to visit the country. Unfortunately, each attempt taken by the Commission to organize such a visit to Haiti was either ignored or rejected by those who exercise power in Haiti. Finally, after President Aristide asked the Commission on July 6, 1993 to conduct an on-site investigation, on July 19, 1993, the Ministry of Foreign Affairs, indicated a willingness to allow the Commission to visit the country.

3. The Commission conducted the visit from August 23 to 27, 1993. All of the information compiled by the Special Delegation pointed to a systematic pattern of human rights violations lodged against supporters of President Aristide by the military, the police and their collaborators. Most of the reported cases of extrajudicial executions and arbitrary, unlawful detention, (which were always accompanied by beatings and mistreatment), took place in the poor neighborhoods of Port-au-Prince, where the vast majority of President Aristide's supporters live.

4. The Commission also observed that the number of human rights violations in rural areas had increased, especially in the Artibonite region and the Central Plateau. Witnesses interviewed by the IACHR Delegation testified to the repression they were suffering at the hands of the military, including the destruction of their homes. This has led to a mass displacement of people constantly fleeing the violence.

5. During the period covered by this report, human rights violations increased in Haiti, despite the signing of the Governors Island and New York Agreements. Such violations, which include extra-judicial executions; disappearances; arbitrary detention; torture; mistreatment; extortion; prohibition of the right of assembly and repression of the media, increased greatly in number. In the capital, violence by gunmen operating on the instructions of the Army has escalated. Assaults by zenglendos - gangs of gunmen trained by former members of the military - have contributed towards heightening the atmosphere of fear and insecurity among the population. Paramilitary groups called attachés, as well as the zenglendos, operate with full impunity. In the provinces, violations are being committed not only by section chiefs and their associates, but also by new "militia" recently created by the Army to continue the repression. Most of the violations have occurred in a political climate promoted by the armed forces in their efforts to remain in power.

6. In Chapter I, this report describes the activities carried out by the Commission as of December 1991 and its most recent visit to Haiti in August 1993. Chapter II reviews the political and legal system in Haiti, as established by the 1987 Constitution. Chapter III provides background information on the political developments in Haiti after the 1991 coup d'etat, and on the steps taken by the Organization of American States and the United Nations to facilitate a political dialogue between the parties concerned so as to bring about the return of President Aristide and the restoration of democracy to Haiti.

7. Chapter IV of the report analyzes the current human rights situation in Haiti. This report is based mainly on the testimony given by either the victims of human rights violations themselves or their family members during the last visit conducted by the Commission. Claims of violations of individual rights received at IACHR headquarters are similarly considered. Also included in this Chapter is the information presented by the OAS/UN Civilian Mission and documentation provided by a number of human rights groups working both inside and outside Haiti. Chapter IV additionally gives a brief description of the military structure in Haiti as background to the subsequent analysis of the various institutional factors contributing to the aggravation of the human rights situation in the country. In addition, a few of the many claims of human rights violations received by the Commission are illustrated. The last chapter of the report, Chapter 5, discusses the issue of Haitian refugees, the vast majority of whom seek asylum in the United States because of the critical situation they face in Haiti today.

CHAPTER I: IACHR ACTIVITIES IN HAITI

A. Background

8. The Inter-American Commission on Human Rights has been paying special attention to the situation of human rights in Haiti practically since its inception. The systematic violation of basic human rights during the Duvalier family dictatorship compelled the Commission to conduct a visit to Haiti and further, to issue a special report in 1979. During the almost thirty years of the Duvalier regime, a complex legal and political structure was instituted and continues to this day to have an impact on the exercise of human rights. After former President Jean-Claude Duvalier left Haiti on February 6, 1986, the Commission continued its work by issuing a follow-up report on the human rights situation in the country.

9. A few weeks before leaving the country in 1986, President Jean-Claude Duvalier invited the Commission to conduct a visit to Haiti. That visit, however, did not materialize. It was only on July 29th 1986, that the National Government Council, which succeeded Duvalier, issued another invitation to the Commission to observe the human rights situation in Haiti. The full Commission conducted a visit from January 20 to 23, 1987.

10. Considering that at that time a process of democratization had been undertaken, (a process which included the drafting of a new constitution and the organization of free, multiparty elections in Haiti by November 1987), the Commission expressed its concern about human rights to the Haitian Government by means of a communication to the Minister of Foreign Affairs, in which it requested that it be granted the authorization necessary to continue to observe in situ the human rights situation during that period. The full Commission conducted another visit to the country in January 1987.

11. After the elections scheduled for November 29, 1987 were cancelled due to tragic events occurring on that date, the Commission reviewed the situation and issued a press release on March 25, 1988, announcing its decision to prepare a special report on the human rights situation in Haiti. It also expressed its desire that the government allow it to conduct a visit to the country for this purpose. On April 26, 1988, the government of President Manigat invited the Commission to conduct an on-site investigation.

12. After a period of extreme tension, the government of President Manigat was overthrown and General Henry Namphy took power on June 20, 1988. Given these developments, the Permanent Council of the Organization of American States again met on June 29 1988 to review the situation in Haiti. It adopted Resolution 502, in which, among other steps, it instructed the IACHR to examine the status of human rights in the country and to report to the next regular meeting of the General Assembly. In that resolution, the Permanent Council reasserted "the full validity of all the principals of the Charter ... that call for the effective exercise of representative democracy ... and the full enjoyment of fundamental human rights."

13. After taking the necessary steps, a Special Delegation of the IACHR conducted a visit to Haiti from August 29 to September 2, 1988. The findings of the visit are discussed in a Special Report on the Situation of Human Rights in Haiti, which extensively reviews the problem of human rights in the context of the 1987 Constitution. The Commission noted in the report that it was essential that a timetable for elections be established so that free, fair elections could be held and a democratic, civilian government could take office. It stressed that in order for the Haitian electoral process to be acceptable in light of the November 29, 1987 elections which had been violently obstructed by the military, coupled with the widespread distrust of the military's capacity or willingness to turn power over to a civilian government elected by universal suffrage, it should be subject to international supervision by UN and OAS observers./

14. On September 17, 1988, a coup d'etat led by a group of noncommissioned officers removed Lieutenant General Henry Namphy and replaced him with Brigadier General Prosper Avril. Recently promoted, General Avril agreed to be President of the military government "in order to save the country from anarchy and chaos" and declared that he and the noncommissioned officers would respect all the international commitments of Haiti. The Avril government weathered two attempted coups d'etat on October 14, 1988 and April 2, 1989. The state of emergency was imposed for so long that it became the norm. As a consequence, disillusionment proved the only outcome of the post-Duvalier experiment in government, with the population at large being pushed out of political life, which was now boiling down to internal power struggles within the Army.

15. Given the escalating violence and deteriorating human rights situation, the Permanent Council of the OAS met again on February 23, 1990, to discuss the situation in Haiti. It decided to ask the Commission to continue assigning priority to the human rights situation in Haiti, and, with the consent of the Haitian Government, to conduct another visit to the country and prepare a special report./ However, due to the worsening conflicts in Haiti, the Avril government was unable to respond to the invitation before it was replaced by the provisional government led by Ertha Pascal Trouillot. The Commission arranged with Trouillot to conduct an observation mission from April 7th - 10th 1990.

16. As a result of the observation mission, the IACHR presented a special report to the General Assembly of the OAS at its June 1990 session in Paraguay. Taking into account that report, which covered the period of the Avril government and specially emphasized the Commission's concern about the problem of security during the elections,/ the General Assembly approved a resolution entitled "Support for the Democratic Process in the Republic of Haiti" ./

17. After the observation mission conducted in April 1990, the Commission was advised of a serious deterioration in the human rights situation in Haiti, as ongoing efforts were made in preparation for upcoming elections. On these grounds, and following instructions from Leo Valladares Lanza, Chairman of the Commission, Bertha Santoscoy, attorney for Haitian affairs in the Commission's Secretariat, visited Port-au-Prince from September 10 to 14, 1990, in order to obtain further information on the situation of human rights there. That information was considered by the IACHR during its 78th meeting, and it was decided that another visit to Haiti should be conducted with a view to following up on the situation and providing support for the democratization process undertaken.

18. At the invitation of the government, the full Commission visited Haiti from November 14 to 16, 1990, to observe, in general, the situation in the country and political rights in particular, within the framework of the elections. During its visit, the Commission observed encouraging signs that the electoral process under way could indeed result in genuinely democratic elections. The first such sign was that the number of registered voters was the highest in the history of Haiti, which could be interpreted as reflecting the deep desire of the Haitian people to achieve change peacefully. The second sign was the will of the provisional government to successfully carry out the elections - its primary objective, according to the highest government authorities.

19. In its follow-up report of 1990-1991, the Commission reported that the general elections had been held peacefully, in the presence of international observers from the OAS and the UN (ONUVEH), who declared that the elections had been free and democratic. Father Jean Bertrand Aristide was elected as Constitutional President, a post he held until a coup d'etat ousted him from office on September 29, 91.

B. IACHR activities during the period 1991-1993

a. IACHR exploratory mission from December 5 to 7, 1991

20. Given the grave events that had taken place with the September 1991 coup d'etat in Haiti, the Secretary General of the OAS, exercising the powers conferred upon him through the "Santiago Commitment", called a Meeting of Ministers of Foreign Affairs. At the meeting, which was held in Washington on October 2, 1991, a Resolution entitled "Support for the Democratic Government in Haiti" (MRE/RES.1/91) was approved, whereby it was decided: "To urge the Inter-American Commission on Human Rights, pursuant to the request by President Jean-Bertrand Aristide, to immediately take every measure within its purview to protect and defend human rights in Haiti and to report to the Permanent Council of the Organization in this connection."

21. During its 80th meeting on October 3, 1991, the Commission met at its headquarters in Washington, D.C. with President Aristide, the Secretary General of the OAS, Ambassador João Clemente Baena Soares, and the Representative of the Permanent Haitian Mission to the OAS, Ambassador Jean Casimir. During the meeting, there was a constructive discussion on how the Commission could be useful in defending human rights in Haiti, given developments since September 29, 1991, and to contribute towards prompt restoration of democratic rule and the legitimately elected authorities. Ideas were also exchanged as to how to implement the recommendation made by the Ad Hoc Meeting of Ministers of Foreign Affairs, at President Aristide's request, that the Commission take the measures within its purview to protect and defend human rights in Haiti.

22. Taking into account Resolution MRE/RES. 1/91 (referred to above) and the numerous reports of human rights violations, the Commission carried out an exploratory mission to Haiti on December 5 to 7, 1991. The purpose of the mission was to determine whether the conditions existed in the country for the Commission to perform its work, to identify the problems that

would require further investigation and, if special situations were detected, to refer them to the government so that they could be resolved.

23. The Special Delegation of the IACHR consisted of the Chairman of the Commission, Patrick L. Robinson, the Deputy Chairman, Marco Tulio Bruni Celli, the Commission Secretariat's attorney for Haitian affairs, Bertha Santoscoy-Noro, and Luis Jiménez.

24. During its stay in Haiti, the Delegation met with Mr. Jean-Jacques Honorat, who had been appointed Minister of Foreign Affairs by those who exercised the power in Haiti and with members of Parliament, Senator Ebrané Cadet and Deputies Duly Brutus and Pierre Carel Rindal. It also interviewed the Chief of the Armed Forces, General Raoul Cédras, who was accompanied by personnel from Army Headquarters.

25. In addition, the IACHR Delegation met with representatives of human rights organizations and political parties in order to collect information on the political situation in the country. It visited the "La Famille C'est La Vie" child welfare center and later interviewed representatives of the print and broadcast media to ascertain the status of the exercise of freedom of expression. The Delegation interviewed representatives of trade unions, the Catholic church and other major interest groups in the country.

26. During its visit, the Delegation was advised that the persons interviewed had not had any trouble reporting to it, nor, prior to its departure, had they suffered any reprisals. The Delegation was able to observe that this was a change in comparison to the previous visit of the Civil Mission of the OAS, during which, according to information received, several people had had serious trouble contacting the mission.

27. During its three day stay in Haiti, the Delegation did not encounter any obstacles to its work, was able to move easily to different parts of Port-au-Prince without feeling that its independence, security or the necessary discretion of its activities was at all jeopardized. Given its short stay, due to the exploratory nature of its mission, the Delegation was unable to travel to cities in the interior, although it would have liked to.

28. The Chairman of the Commission, Patrick Robinson, and the Deputy Chairman, Marco Tulio Bruni Celli, presented the findings of the exploratory mission to Haiti to the Permanent Council of the OAS on January 9, 1992. They pointed out that the human rights situation in Haiti was highly volatile and extremely dangerous for a number of reasons: a very grave institutional crisis had been created in the country; the vast majority of the Haitian people existed in desperately poor living conditions; the public was politically polarized; violence was routinely used to settle social differences; and there was no tradition of democratic custom and practice. Such serious problems could only be resolved by the Haitian people themselves, with the cooperation of the international community. With regard to the business of the Commission, its contribution would be to continue working with other OAS bodies and with the Haitian Government and people to achieve unrestricted respect for human rights and the full force of political rights and the institutional framework necessary for a representative democracy.

b. IACHR's On-site visit to Haiti on August 23rd to 27th, 1993

i) Background

29. Prior to the on-site August 1993 visit, the Inter-American Commission on Human Rights had requested consent from those who exercised power in Haiti to conduct an observation mission on the situation of human rights in the country. The IACHR proposed two visits: an exploratory mission from December 13 to 15, 1992, and an on-site visit from January 11 to 15, 1993.

30. Those exercising power in Haiti did not give such consent. Instead, by communication of December 8, 1992, they indicated that the date on which the visits could be conducted would be announced shortly, but it was not until a month later did it reply that "the Haitian Government had, in goodwill, already allowed the presence of a Civilian Mission of the OAS, one of the purposes of which was precisely to evaluate the situation of human rights in the country. The visit of the Inter-American Commission on Human Rights, scheduled for January 15, 1993, therefore did not seem necessary."

31. Since it could not conduct the visit, in a press release issued on January 8, 1993, the Commission reasserted its desire to travel to Haiti, and appealed to all nongovernmental human rights organizations, particularly those operating in Haiti, to the victims and their families, and, in general, to all persons whose individual rights had been violated in any way because of the political crisis to forward their claims to the IACHR.

32. The Commission was able to prepare its special report on Haiti for 1992, thanks to the many claims of human rights violations received from the victims themselves and from human rights groups operating inside and outside the country as well as other reliable sources.

33. During its 83rd meeting from March 1 to 12, 1993, President Jean-Bertrand Aristide addressed the Commission on the situation of human rights in Haiti. He emphasized that human rights were being violated with impunity by the military. He stated that the presence of the IACHR in Haiti was necessary and asked it to take the steps necessary to obtain the support of the member states to pressure the military regime into accepting the visit of the Commission in the country.

34. President Aristide also said that the permanent presence of the IACHR in Haiti would make it possible to develop strategies in order to carry out projects and programs designed to protect human rights. The army and police could thus be modernized and the judicial system could be strengthened. At the same time, a public information campaign could be carried out targeting the Haitian population at large.

35. At the end of the meeting, the Commission again agreed to seek the consent of those who exercised power in Haiti to conduct an on-site visit, setting May 1993 as an appropriate time. To this request however, no response was forthcoming. The request was resubmitted on June 25, and by communication of July 19, 1993, Mr. François Benoit, who had been appointed Minister of Foreign Affairs by those exercising power in Haiti, advised that the Commission would be permitted to visit the country.

36. Pursuant to the July 3, 1993 Governors Island Agreement made between President Aristide and the leader of the Armed Forces, General Raoul Cédras, the Representative of the Permanent Haitian Mission to the OAS, Ambassador Jean Casimir, addressed an invitation to the Executive Secretariat of the IACHR from the democratically elected government of President Aristide for the Commission to conduct a visit to observe the human rights situation in Haiti and to maintain a permanent presence in the country during the transition period that had been established for the return of President Aristide. The invitation noted the need for the Commission to make the visit as quickly as possible, that is, before ratification by Parliament of Prime Minister-Designate Robert Malval, in order to observe the political climate and any street demonstrations in support of President Aristide, and to determine whether the climate was appropriate for the protection of human rights during the transition.

ii) On-site visit

37. The IACHR Delegation conducted the visit from August 23rd to 27th, 1993. It consisted of the following members: Michael Reisman, Deputy Chairman of the Commission and Head of the Delegation; Ambassador Oliver Jackman, Marco Tulio Bruni Celli, Leo Valladares Lanza and Patrick Robinson, members of the IACHR; David Padilla, Assistant Executive Secretary of the IACHR; Bertha Santoscoy, Senior Specialist for Haitian Affairs; Relinda Eddie and Meredith Caplan, attorneys for the Commission; María Julia Meyer, administrative officer; and Serge Bellegarde from the OAS language services staff.

38. At the beginning of the visit, the IACHR Delegation held an official meeting at the Ministry of Foreign Affairs. During its stay, the IACHR Delegation met with the following members of the OAS/UN Civilian Mission: Ambassador Colin Granderson, Director of the Mission; Ian Martin, Director of Human Rights; William O'Neill, Legal Advisor; Tiebilé Dromé, Deputy Director of Research and Investigations; and María Clara Martin, also of Investigations. The Delegation interviewed Father Antoine Adrien and Chavannes Jean-Baptiste, members of the Presidential Commission established by President Aristide to conduct the political negotiations.

39. On the first day of the visit, the Delegation also interviewed the following representatives of nongovernmental human rights organizations: Nekker Dessables, Paul Dejean and Jean-Claude Jean of the Haitian Human Rights Organizations Platform [Plateforme des organisations haïtiennes des droits de l'homme]; Jean-Claude Bajoux, Jean-Robert Vaval and Jean Robert Benoit of the Ecumenical Human Rights Center [Centre oecuménique des droits humains]; Gladys Joseph of Sant Karl Levek; Georgette Senatus of the Haitian Lawyers Committee [Comité des avocats haïtiens]; Ann Fuller and Pierre Espérance of the National Coalition for Haitian Refugees; Father Hugo Triest, Polycarpe Joseph and Marcel Hilaire of Justice and Peace [Justice et Paix]; Jessie Ewald Benoit of the Human Rights Commission [Commission des Droits Humains] and Agency for Comprehensive Economic Development [Agence de Développement Economique Intégré]; Freud Jean of the Alternative Program for Justice [Programme alternatif de justice]; and attorney Jean Joseph Exumé. The Delegation received a great deal of information from these sources on current human rights violations in the country.

40. On August 24, the Delegation met with the Commander-in-Chief of the Armed Forces in Haiti, General Raoul Cédras, who was accompanied by Army headquarters staff. The Delegation

also met with a number of Members of Parliament: Senate president Jean-Louis Firmin and Senators Turnep Delpé, Rony Mondestin and Ebrané Cadet. That same day, the Delegation interviewed the following media representatives: Evans Dubois of Le Nouvelliste; Jean-Marie Dorsainvil of Radio Soleil; Evariste P. Michel and Yolette Mengual of Arc-en-Ciel; Jean-Germain Alexandre and Patrick Moussignac of Radio Caraïbes. Subsequently, the Delegation met with Antoine Izméry and Father Ivon Massak, representatives of the Freedom Committee (KOMEVEB) and thereafter with following representatives of Haitian trade unions: Marc Antoine Destin of the Confederation of Haitian Workers [Confédération des travailleurs haïtiens] (CTH); Gabriel Miracle, Raymond Viau and Gesner Milcent of the Autonomous Haitian Workers Organization [Centrale autonome des travailleurs haïtiens]; Gesner Jean-Philippe and Patrick Numas of the General Independent Organization of Men and Women Workers of Haiti [Organisation générale indépendante des travailleurs et travailleuses haïtiens] (OGITH); and Joseph Lefils and Daceus Louisius of the Federation of Union Workers [Fédération des ouvriers syndiqués] (FOS).

41. On August 25, the Delegation divided up into three groups. Group One, made up of Michael Reisman, Leo Valladares Lanza and Bertha Santoscoy, traveled to the Central Plateau region, where it was given valuable support by members of the Civilian Mission based there. In Hinche, this delegation observed the climate of repression that the population was subjected to. In fact, a number of people who belonged to Ti'Léglise refused to meet in public places for fear of being identified and suffering reprisals on the part of the local authorities.

42. Group One met with certain authority figures who had been appointed by those exercising the power in Haiti, such as the Justice of the Peace, the Commissioner and a Magistrate. At its visit to the Hinche Prison, this Delegation received abundant information on arbitrary detention, prison conditions, mistreatment and torture inflicted upon the prisoners at the time of arrest and in prison, and on unjustified delays in court hearings for the defendants — in some cases up to two years.

43. A second group, consisting of Marco Tulio Bruni Celli, Oliver Jackman, David Padilla and Relinda Eddie, travelled to the Artibonite region. In Saint-Marc, the Delegation group met with members of the Civilian Mission, interviewed the military commander of the area and visited the Saint-Marc Prison. In Gonaïves, it met with Archbishop Gérard Dormevil and interviewed victims of human rights violations by the military.

44. The third group, made up of Patrick Robinson and Meredith Caplan, visited the Port-au-Prince penitentiary and questioned a large number of prisoners on their legal status and prison conditions. In the afternoon, the Delegation group received individual claims of human rights violations from victims and family members.

45. On August 26, the full Delegation met with recently ratified Prime Minister Robert Malval at his home. It also interviewed representatives of some of the major political parties: Victor Benoit, Pierre André Guerrier, Dunois Eric Contave, Lucien Pardo, Evans Paul and Turnep Delpé of the National Front for Change and Democracy [Front national pour le changement et la démocratie] (FNCD) and the National Committee of the Congress of National Democratic Movements [Comité national du Congrès des mouvements démocrates] (KONAKOM); Gérard

Pierre-Charles, Irvelt Chery and Patrick Norzéus of the Lavalas Political Organization [Organisation politique Lavalas] (OPL); René Théodore of the National Reconstruction Movement [Mouvement de reconstruction nationale] (MRN); Reynolds Georges, Luc Audaute and Marcel Moise of the Alliance for the Liberation and Advancement of Haiti [Alliance pour la libération et l'avancement d'Haïti] (ALAH) and Leslie Manigat of the Union of Progressive Democrats [Rassemblement des démocrates nationaux progressistes] (RDNP). That afternoon the Delegation met with Claude Lévy and Raymond Lafontant, representatives of the Business Association [Association des industries] (ADIH), and with Amos Jonas, Aldajiste Pierre, Belanot Augustin, Jilaire Josef, Vilsaint Destinasse and Martine Alvarez, representatives of the Peasant Women's Movement [Mouvement des paysannes].

46. The many claims of human rights violations the Delegation received during its on-site visit shared the following features. First, there was repeated testimony that the rights to life, personal freedom and safety, freedom of expression and freedom of assembly were being constantly violated. Second, the climate of fear and insecurity that had developed in the country had led to large-scale displacement of people fleeing repression by the military from the provinces to the capital and vice versa. In the interior of the country, witnesses interviewed by the Delegation were so fearful of the reprisals they might suffer on the part of the military authorities that many insisted on clandestine meetings. The pattern that emerges from these testimonies is that grave physical abuse is taking place, sometimes involving entire families merely suspected of being supporters of President Aristide. The information obtained during this on-site visit will be discussed in greater detail in Chapter IV of this report.

47. At the end of its visit, the Delegation issued a press release at a press conference held on August 27 at the Hotel Holiday Inn.

CHAPTER II: THE POLITICAL AND LEGAL FRAMEWORK IN HAITI

A. The 1987 Constitution

48. The Constitution adopted in 1987 reflects the Haitian people's outright rejection of the 29 years of Duvalier family dictatorship./

49. The most popular provision of the 1987 Constitution was Article 291, which bars supporters of the previous dictatorship regime from holding any public office for a 10-year period. This measure was designed to make a clear break with the Duvalier past and move on to a Duvalier-free future.

50. Another important feature of the 1987 Constitution was Article 289, which establishes a Provisional Electoral Council (CEP). This Council practically became a parallel power to the National Government Council (CNG) since it was assigned control of the elections, one of the duties the CNG had previously assigned itself.

51. The 1987 Constitution declares that Haiti is "an indivisible, sovereign, independent, cooperative, free, democratic and social republic."/ The condition of "cooperative" was added to the wording of the 1983 Constitution (as amended). As provided for in the 1983 Constitution, the political structure is that of a traditional democracy. Articles 58, 59 and 60 stipulate that sovereignty is vested in all citizens, who delegate the exercise of such sovereignty to the three branches of government: legislative, executive and judiciary. Each branch of government is independent of the other two and none may go beyond the boundaries set for them by the Constitution and by law.

i) The Executive Branch

52. According to the Constitution, the President must be elected by direct universal suffrage with an absolute majority of votes. If an absolute majority is not obtained in the first round of elections, a runoff election must be held between the two main contenders./

53. The term of office of the president must begin on the February 7 following election day and end on February 7 five years later./ Presidential elections must be held on the last Sunday in November during the fifth year of the president's term of office./ The same individual may not serve more than two terms of office and such terms may not be consecutive./

54. Among the duties of the President is the designation of the Prime Minister from among the members of the majority party of the Parliament, which must ratify the President's choice./ The President has the power to declare war,/ and, with the approval of the Senate, to appoint the commander-in-chief of the armed forces./ The President is also the nominal head of the armed forces./ Should the position of the President become vacant, the resident of the Supreme Court assumes the duties of the President and is sworn in by the National Assembly, duly convened by the Prime Minister./

55. According to Article 135 of the Constitution, to be elected President of Haiti, a candidate must:

- a) Be a native Haitian and never have renounced Haitian nationality.
- b) Have attained 35 years of age by election day.
- c) Enjoy civil and political rights and never have been sentenced to death, personal restraint or penal servitude or the loss of civil rights for a crime of ordinary law.
- d) Be the owner in Haiti of at least one piece of real property and have his or her primary residence in the country.
- e) Have resided in the country for five consecutive years prior to the date of the elections.
- f) Have been relieved of his or her responsibilities if he or she has been handling public funds.

56. The Prime Minister is the head of the government and conducts the policy of the nation./ The conditions to be met in to be designated Prime Minister are similar to those pertaining to the President, except that, with respect to age, a candidate must have attained 30 years of age, and must have resided in the country for five consecutive years before elections.

57. The Prime Minister selects the members of his or her cabinet with the approval of the President and a vote of confidence from the Parliament./ In concert with the President, the Prime Minister is responsible for national defense/ and law enforcement./

58. In short, the 1987 Constitution reduces the power of the executive branch by establishing the duties of the President and the Prime Minister, bans consecutive reelection and institutes a democratic form of government effectively separating powers.

59. It provides that the executive power is exercised by the President and the government. Thus, according to the Constitution, the President appoints the Prime Minister, and it is the latter, not the President, who has the authority to conduct national policy./ Cabinet members are selected by the Prime Minister with the approval of the President./

60. The Constitution provides that the High Court of Justice may indict the President and the Prime Minister for certain offenses such as high treason or other crimes committed in the discharge of their duties./

61. Furthermore, the Constitution calls for establishment of a Conciliation Committee to settle disputes between the executive and the legislative branches of government or between the two houses of Parliament./ Operation of the Conciliation Committee is to be determined by law./

ii) The Legislative Branch

62. The 1987 Constitution provides for a two-house parliamentary system consisting of the Chamber of Deputies and the Senate./ The conditions set forth by the Constitution for election to a four-year term as deputy with limitations on re-election are similar to those established for candidates for President and Prime Minister, except that the minimum age is 25, and the residency requirement is two consecutive years prior to election day in the electoral ward the candidate seeks to represent.

63. The conditions for election for senator/ are similar to those for deputy, except for the minimum age, which is 30, and the residency requirement, which is four consecutive years prior to election day in the electoral ward the candidate seeks to represent.

64. Senators are elected for a six-year term and may be re-elected. In addition, according to Article 291, the most important prerequisite for a candidate for deputy or senator is that he or she not have had any ties to the dictatorship regimes, since that would mean automatic disqualification from any public office.

65. The Constitution provides that joint meetings of the Chamber of Deputies and the Senate constitute the National Assembly. The Senate is permanently in session./ In no case may either house be dissolved or adjourned./ In the event of disagreement between the Legislative and the Executive branches, the 1987 Constitution provides for a Conciliation Committee to which such disputes are to be referred for resolution.

66. The 1987 Constitution sets out the duties of the legislative branch with regard to its power to enact laws. Both houses, as well as the executive, may submit bills./ Similarly, additional powers are granted to Parliament in its capacity as the National Assembly, such as swearing in the President, ratifying a declaration of war, approving or rejecting treaties and amending the Constitution./

67. Meetings of the National Assembly are public, unless at least five members request a closed session./ Members of the legislature have immunity from the day they are sworn in until their term of office expires./

iii) The judiciary branch

68. According to the 1987 Constitution, judiciary power is vested in the Supreme Court, the Court of Appeals, County Courts, Courts of Peace and Special Courts./ The Constitution also provides that the Senate may act as High Court of Justice to hear political cases, such as the public trial of a president for treason.

69. Supreme Court justices and Court of Appeals judges are appointed by the president for a 10-year term of office/ from a list of at least three candidates for each court seat submitted by the Senate./ County Court judges are appointed for a seven-year term. Supreme Court justices, and Court of Appeals and County Court judges may not be removed from office./

70. For political crimes, the Constitution establishes special courts, the jurisdiction of which is to be determined by law./ It also provides that sentences may not be delivered in closed session in the case of political offenses or offenses involving the media./

B. Rights and guarantees established by the Constitution

71. The Constitution consists of a preamble, fifteen titles and 298 articles. Of the fifteen titles, Title III, entitled "Basic Rights and Duties of Citizens", concerns individual rights, and Title IV concerns aliens.

72. The Constitution declares that all Haitians are equal before the law,/ but confers certain advantages on native Haitians, such as allowing only native Haitians to be candidates for such offices as President of the country, Prime Minister or Member of Parliament. The provisions of previous constitutions whereby any individual born in Haiti, even of foreign parents, was granted the status of native Haitian, were not included in the 1987 Constitution.

73. The Constitution establishes both the basic rights and the duties of Haitian citizens. The age of majority is 18 years,/ at which age, all political and civil rights may be exercised./ Capital punishment is abolished in all cases./

74. Individual liberty is guaranteed, and persons may only be prosecuted, arrested or detained according to law./ No one may be detained without an arrest warrant, unless the perpetrator is caught in the act,/ and arrest warrants may not be served between 6:00 p.m. and 6:00 a.m./ No one may be detained for more than 48 hours unless he or she has appeared before a judge who has been asked to rule on the legality of the arrest and the judge has confirmed the arrest by a well-founded ruling./ Torture and any form of coercion are prohibited/ and the detainee may only be interrogated in the presence of his or her attorney or a witness of his or her choice./

75. Anyone violating the constitutional guarantees of individual liberty is subject to legal proceedings, and government employees are liable under civil and administrative criminal law for acts committed in violation of such rights./

76. Freedom of expression is guaranteed by the Constitution and all offenses involving the media and abuses of the right of expression come under the code of criminal law./

77. Freedom of assembly and association are also guaranteed, but the police must be notified in advance of any meetings or demonstrations./

78. The right to education is guaranteed and primary school is mandatory "under penalties to be prescribed by law."/ Secondary education is "open to all" but is not compulsory./

79. Freedom to work is guaranteed. The state guarantees equal working conditions to all workers regardless of their sex, and the right to fair wages, to rest, to a paid annual vacation and to a bonus./ The right to strike is recognized, but may be limited by law./

80. Private property is recognized and protected. Although nationalization and confiscation are prohibited, an exception is made for land reform./ Landowners in rural areas are obligated under the Constitution to protect their property against erosion, subject to the penalty prescribed by law for failure to fulfill this obligation./ The purpose of this provision is to address the problem of erosion of arable land, which has devastated Haiti's farming capacity.

81. Personal safety is guaranteed by the Constitution, and no Haitian may be deported or expelled "for any reason." Furthermore, no one may be deprived of his or her legal capacity or nationality for political reasons./ No Haitian needs a visa to leave or enter the country./ No house search or seizure of papers may take place except under the terms of the law./ Mail and other forms of communication are inviolable, and may only be limited by judicial ruling./

82. Persons detained temporarily awaiting trial must be held separately from those who are serving sentence/ and prisons must be operated "in accordance with standards reflecting respect for human dignity according to applicable legislation."/

83. Recognizing that both Creole and French are the official languages of Haiti,/ all laws, orders, decrees, international agreements, etc. must be published in both languages, except for "information concerning national security."/

C. Means to ensure protection of individual rights

84. The Constitution establishes the position of Protector of Citizens in order to protect all individuals against any type of abuse committed by the government./ The position is to be held for a seven-ear term by a person elected by consensus by the President of the country, the President of the Senate and the President of the Chamber of Deputies./ The Protector of Citizens intervenes free of charge on behalf of any complainant, who does not need to be a Haitian citizen./

85. Other provisions of the Constitution designed to protect individual rights include the limitations and safeguards imposed on the government with respect to declaration of a state of siege and separation of the army and the police.

86. A state of siege may only be declared in the event of civil war or foreign invasion./ Accordingly, it cannot be declared to silence dissension, demonstrations or other disturbances. A state of siege must be declared by the President, with the approval of the Prime Minister and the entire Cabinet, and must include an immediate convening of the National Assembly to rule on the measure./ The state of siege is lifted if it is not renewed every two weeks by a vote of the National Assembly,/ which must remain in session for the entire duration of the state of siege./

87. The Constitution provides that no other armed corps besides the army and the police may exist in the country. In fact, it specifically stipulates: "No other armed corps may exist in the national territory,"/ a reference to dissolution of the notorious National Security Volunteers, popularly known as the "Tontons-Macoutes."

88. The duties of the Armed Forces consist of defending the state against any foreign aggression, although they may also be called upon to provide assistance in the case of natural disasters or for development work and "at the well-founded request of the executive, they may lend assistance to the police when the latter are unable to handle a situation."/

89. Military service is compulsory for all Haitian citizens who have attained eighteen years of age./ Haitians have the right to bear arms for use in self-defense, but only with express authorization from the Chief of Police,/ and the possession of firearms must be reported to the police./

90. The Constitution stipulates that the police operates under the authority of the Ministry of Justice/ and that its purpose is to "investigate violations, offenses and crimes committed, in order to identify and arrest the perpetrators."/

91. The Constitution also establishes that the members of the Armed Forces and the police are subject to "civil and penal liability according to the terms set forth in the Constitution and applicable legislation."/

D. Haiti's international obligations with respect to human rights

92. Haiti is a member of the Organization of American States and of the United Nations, the respective Charters of which establish respect for human rights.

93. On September 27, 1977, Haiti deposited its instrument of accession to the American Convention on Human Rights signed at San José. The American Convention entered into force on July 18, 1978, and Haiti is accordingly legally bound to respect the rights and freedoms established in the Convention and to guarantee for all persons under its jurisdiction, the full and free exercise of their rights, regardless of their race, color, gender, language, creed, political or other opinion, ethnic origin, social standing, financial situation, birth or any other social condition.

94. Article 276-2 of the Haitian Constitution stipulates that once treaties are ratified by Haiti they become part of the legislation of the country./ This provision is extremely important since the effect of it is that the American Convention on Human Rights is part of Haitian law, Haiti having ratified the Convention.

95. The American Convention is the only general instrument on human rights to which Haiti is a party. Haiti is, however, party to the following human rights instruments on prevention of discrimination: the International Convention on the Elimination of All Forms of Racial Discrimination (1965); the International Convention on the Elimination and Punishment of the Crime of Apartheid (1978); The ILO Convention concerning Remuneration for Men and Women Workers for Work of Equal Value (No. 100) (1951); and the ILO Convention concerning Discrimination in respect of Employment and Occupation (No. 111) (1958).

96. Haiti is likewise party to human rights conventions relating to the following: The Convention on the Prevention and Punishment of the Crime of Genocide (1948); the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (1956); the Convention for the Suppression of the Traffic in and of the Exploitation of the Prostitution of Others (1949); the ILO Convention concerning the abolition of Forced labour (No. 29) (1930); the ILO Convention on the Abolition of Hard Labor (No. 105) (1957); the OAS Convention on Asylum (1928); the OAS Convention on Political Asylum (1933); the OAS Convention on Diplomatic Asylum (1954); and the OAS Convention on Territorial Asylum (1954).

97. Haiti is party to human rights instruments on the protection of particular groups such as: the ILO Convention concerning Freedom of Association and Protection of the Right to Organize (No. 87) (1948); the ILO Convention on the Application of the Principles of the Right to Organization and Collective Bargaining (No. 98) (1949); the United Nations Convention on the Political Rights of Women (1952); and Inter-American Convention on the Granting of Political Rights to Women (1948); and the four Geneva Conventions (1949, 1950).

CHAPTER III: THE POLITICAL SITUATION IN HAITI

A. Background

i) The December 16, 1990 elections

98. The election campaign officially began on November 7, 1990 in a calm atmosphere under the reinforced supervision of the Army. This situation changed, however, on December 6 when a bomb exploded during an election meeting in Pétienville. Six people died and 52 were wounded. They were among the supporters of Jean-Bertrand Aristide, the candidate presented by the National Front for Change and Democracy [Front national pour le changement et la démocratie] (FNCD). Aristide accused the Union for National Reconciliation [Union pour la réconciliation nationale] of planting the bomb and called for the arrest of its leader, Roger Lafontant. A few days earlier, Lafontant announced that there was a conspiracy afoot which involved murder and other acts of political terrorism. He had also on previous occasions, publicly threatened the pro-democracy camp.

99. The general elections were held peacefully in the presence of international observers from the Organization of American States, the Caribbean Community (CARICOM) and the United Nations (ONUVEH), and representatives of the following nongovernmental organizations: the Carter Center, the Socialist International and the Permanent Conference of Political Parties of Latin America (COPPAL). The observers reported a few minor irregularities, due to disorganization or to certain fiscal inadequacies experienced by the Electoral Council, but they declared that the elections had indeed been free and democratic.

100. On December 23, the Electoral Council officially proclaimed that Jean-Bertrand Aristide had been elected president of Haiti, having obtained the absolute majority of votes. The former Roman Catholic priest garnered 67.39 percent of the votes cast at the December 16 ballot, in which 75 percent of the electorate had participated.

ii) Attempted coup d'etat

101. One month before the President-elect was to take office, an attempted coup d'etat occurred in the early hours of January 7. Neo-Duvalierist leader Roger Lafontant, supported by a segment of the Army, forced provisional president Ertha Pascal Trouillot to step down and proclaimed himself president of the country on national radio, announcing that he "had joined with the armed forces and the police to take power in order to defend the interests of the common fatherland, to guide it along the path to true democracy" and to "reveal to the world the errors and outright failure of international communism."

102. The attempted coup was preceded by sustained shooting in the area of the President's Office and Dessalines barracks, adjacent to the Palace. The Tontons-Macoutes patrolled in armored vehicles shooting at passers-by to intimidate the population, which immediately reacted by taking to the streets and raising barricades with burning tires in various areas of the city to prevent the former Duvalierist militia from circulating and to demand that the outcome of the elections be respected.

103. The Chief of the Armed Forces, General Abrahams, crushed the coup led by Lafontant to prevent Aristide from taking office. Lafontant and 15 followers, both military and nonmilitary, were taken to the general headquarters of the armed forces where they were detained pending trial.

104. The international community condemned the attempt to overthrow the government in Haiti. On the very day of the coup, the Permanent Council of the OAS held an emergency meeting to discuss the situation in Haiti and decided to support the provisional government

of President Ertha Pascal Trouillot and the democratic process through which Jean-Bertrand Aristide had been elected president by the unquestionable will of the people./

105. Some 75 people lost their lives and over 150 were wounded during the violence that broke out in Port-au-Prince on January 7. Most of the victims, Tontons-Macoutes or associates of Lafontant, were lynched by the mob. The Government of Haiti established a curfew because of the continued assaults on persons suspected of being linked to the January 7 coup. Meanwhile, President Aristide appealed to his supporters and to the public at large for peace and discipline so that calm could be restored in the country and lamented the violence that church property had suffered.

106. Despite the climate of terror and intimidation maintained by rumors of another attempted coup d'etat by the neo-Duvalierists, on February 7, 1991, Jean-Bertrand Aristide took office as the new president.

107. On that occasion, the Commission expressed its satisfaction with the four years of democratization concentrated on turning power over to a civilian government through the election held on December 16, 1990 - a true reflection of the will of the people. The efforts undertaken by the provisional government and the armed forces had been decisive for the election to take place in conditions of security that allowed the entire political spectrum to participate and the Haitian population at large to express itself freely in the election process. The Commission stated also that the presence of international observers from the Organization of American States and the United Nations had contributed towards instilling a climate of greater confidence in the Haitian population, while highlighting the international community's concern about a democratic and peaceful outcome to the elections.

108. The December 16th, 1990 presidential elections marked a new stage in the political history of Haiti. President Aristide's assumption of power embodied the hopes of the Haitian people, who sought a democracy based on grassroots participation and social and economic justice.

iii) The government of President Aristide

109. While in power, President Aristide had to cope with a number of problems and pressure from such segments as the conservatives, Duvalierists, politicians and the military, who perceived the sweeping changes and social reforms as a threat to their interests.

110. At the beginning of his term, President Aristide committed himself to adopting concrete measures to ensure respect for human rights. One of the first steps taken by his government was thus to ask the Commander of the Armed Forces, General Abrahams, to remove six Army generals and one colonel and replace them with some of the colonels who had supervised the presidential elections. Colonel Raoul Cédras, who headed the Electoral Security Committee, was promoted to Major General, and a few months later was appointed Commander-in-Chief of the Armed Forces. In addition, President Aristide ordered that a number of officers who were known for human rights violations be transferred to remote areas of the country and in their stead, officers and privates who had suffered abuses during the rule of General Avril were to be promoted. These measures were not well received by the Armed Forces.

111. Another initiative taken by the new Aristide government was to prohibit certain officials of the previous government from leaving the country. One such official was the former provisional President Ertha Pascal Trouillot, who was associated with the January 7 attempted coup.

112. Violence continued during the first few months of the Aristide government, with several cases of "street justice." One incident in particular took place on March 19, in Montrouis in the Artibonite region, when two policemen killed 14-year-old Phanos Mérantus for refusing to give them 150 dollars. Upon learning of the incident, the townspeople stormed the local police station where they found the two officers and killed them using the "Père Lebrun" torture, which consists of placing a tire around the victim's neck and setting it on fire.

113. To address the crimes and human rights violations perpetrated by the previous governments, on February 25, 1991, a Special Commission was established to review known cases, such as the Rabel, Danti and Labadie massacres. The commission consisted of the Ministers of Justice; Social Affairs; Agriculture and Planning. A second commission was later set up to investigate human rights abuses committed during the period from 1986 to 1990. This second commission was made up of prominent independent individuals such as Necker Dessables, a member of the Justice and Peace Commission; Jean-Claude Bajoux, Director of the Ecumenical Human Rights Center; Lucien Pardo, an Artibonite statesman and Patrick Henry and Georges Moises, members of grassroots organizations.

114. In mid-March, the Aristide government discovered a conspiracy instigated by certain persons. On March 26, 1991, Anthony Virginie Saint-Pierre, former Minister of Information under the General Avril government, and André Isidore Pongnon, former Commander of Fort Dimanche, were arrested and indicted for conspiracy against state security.

115. Among the persons wanted by the new government were General Williams Regalá, former Minister of Defense under the Namphy government, for allegedly organizing the massacres committed during the 1987 elections, and the former Mayor of Port-au-Prince, Frank Romain, accused of having organized the massacre of the San Juan Bosco Church in 1988.

116. In the context of these arrests, on April 4, 1991, a second summons was served on Ertha Pascal Trouillot for a hearing on her alleged complicity in the January 7, 1991 coup. Trouillot spent one night in jail and was then ordered under house arrest, which was suspended on April 10th.

117. The violence and abuse of authority committed in rural areas of the country led the Aristide government to seek to eliminate the 'section chief' system. A press release dated April 4, 1991 announced the dismissal of all section chiefs and the transfer of their duties from the Armed Forces to the Ministry of Justice. The section chiefs relinquished their weapons to the Army and new rural officials were appointed by the Justices of the Peace. Despite the government's good intentions, however, many problems arose. First, although it had indeed been decided to eliminate the section chief system, a proper selection procedure for the appointment of new officials had not been instituted, and in many localities, the population could not agree on the persons to be appointed, given their lack of capacity and experience. In addition, it was very difficult for the new rural officials to fight crime since they were no longer armed, and violence proliferated to the point where criminals could act with total impunity. At the same time, the military continued to operate in rural areas, hindering law enforcement.

118. In June 1991, grassroots organizations demonstrated in both the capital and the provinces to protest the measures taken by Prime Minister René Préval to increase the prices of food staples. The economic crisis was compounded by the mass expulsion of Haitians who had been working in the Dominican Republic./

119. In the midst of this climate of violence and discontent due to the serious economic crisis, relations between the Executive and Parliament deteriorated even further. According to various statements, this conflict arose when President Aristide, pursuant to Article 295 of the Constitution, appointed René Preval Prime Minister without consulting Parliament. According to Article 158 of the Constitution, the Prime Minister must present his declaration of general policy to Parliament and therefrom, obtain a vote of confidence. Ultimately, however, the Prime Minister was later approved by Parliament on February 14, 1991.

120. In March, as reported to the Commission, tension rose between the Executive and Parliament when the President appointed Supreme Court justices without advising the Senate, which thereafter responded by declaring the appointments null and void according to Article 175 of the Constitution. The justices nevertheless held office until October. Subsequently, President Aristide again, without consulting the Senate, appointed ambassadors and members of the Official Auditing Office and the Administrative Court.

121. Political tension was also present between the members of the National Front for Change and Democracy (FNCD) alliance of parties, which had supported Aristide's candidacy, and the members of the Lavalas Movement. FNCD leaders criticized appointments of persons with little political experience to key positions, while the Lavalas leaders accused the FNCD of seeking government appointments so that they could distribute administrative positions among their supporters. The conflict actually stemmed from differences in their concepts of democracy.

122. During the last few days of July 1991, Roger Lafontant and his accomplices were tried for the January 7, 1991 coup d'etat. The government had to appoint public defenders for the accused, since most of the attorneys interviewed by the families of the defendants refused to represent them after receiving death threats. Lafontant refused to be represented by the public defender. The trial took place in a tense atmosphere, with crowds gathered outside the courthouse

clamoring for the defendants to be submitted to the "Père Lebrun" torture. The defendants were found guilty and sentenced to life imprisonment, even though the maximum sentence for crimes against state security is only 10 to 15 years according to the Penal Code. Only one of the defendants was allowed to appeal. The trial was perceived by the Haitian people as the end of Duvalierism and the Tonton-Macoute system.

123. Despite the problems which faced the Aristide government, attempts were made to carry out social reforms and to help meet the basic needs of the Haitian people. For example, efforts were made to reform the judiciary and the penitentiary system and a bill which would have established separation of the armed forces and the police was never passed by Parliament. In addition, efforts were also made to eliminate the section chief system. While a Human Rights Committee was established in the Senate and a Special Committee to investigate human rights violations was created, these too were short lived due to chronic problems such as: inadequate judicial resources leading to a climate of insecurity among the people, compelling some of them to take the law into their own hands; police dependance on the Armed Forces; land ownership; the existence in practice of the section chief system; serious economic problems and the conflicts among the different branches of government. Such inherent difficulties prevented the effective implementation and enforcement of human rights from being carried out.

iv) The September 29, 1991 coup d'etat

124. On September 29, 1991, the Armed Forces of Haiti overthrew the democratically elected president, Jean-Bertrand Aristide, in a coup d'etat. After a shootout in his home, Aristide fled to the National Palace, along with 150 soldiers and policemen who remained loyal to him, but the loyal forces were overcome and the Chief of the Presidential Guard was assassinated. The President was forced to leave the National Palace and was taken to the military headquarters, where he was compelled to resign. Later, through mediation by the Ambassadors of France, the United States and Venezuela to Haiti, President Aristide was given safe-conduct to travel to Venezuela, along with certain officials from his government.

125. A military junta made up of General Raoul Cédras, Commander-in-Chief of the Haitian Armed Forces, Colonel Alix Sylva, Deputy Commander-in-Chief, and Colonel Henri Robert Marc Charles, former member of the military assigned to Washington, declared that it had taken control of the government.

126. Upon learning of the coup, the Haitian population took to the streets and raised barricades in certain areas of Port-au-Prince. Some organizations called for general strikes and demonstrations, but the military violently repressed any street protests with random shooting, thus preventing the population from organizing a mass uprising, as had occurred during the January 7, 1991 attempted coup. A number of sources reported to the Commission that hundreds of people had been killed and wounded during the first few days of fighting, especially in the poor neighborhoods of the capital.

127. The first week of October 1991, the Haitian Parliament pursuant to Article 149 of the Constitution, named Justice Joseph Nérette, President of the Supreme Court, as Provisional President to replace ousted President Aristide. Article 149 provides that a member of the

Supreme Court may temporarily act as Chief of State should the position become vacant. The procedure took place after a detachment of soldiers had surrounded Parliament and fired on the building.

128. The provisional President was to appoint a new cabinet and to thereafter organize elections within a period of 45 to 90 days. The founder and director of the Haitian Center for Human Rights and Freedoms (CHADEL), Jean-Jacques Honorat, was appointed Prime Minister of the provisional government.

B. Political developments and steps taken by the OAS and the UN to facilitate dialogue

129. Throughout the political crisis in Haiti, the Organization of American States and the United Nations have played a crucial role in seeking to promote political negotiations between the various parties concerned, in order to restore democracy to the Republic of Haiti.

130. As noted earlier, the military coup that overthrew President Aristide on September 29, 1991 was immediately condemned by the Organization of American States: the Permanent Council held an emergency meeting on September 30 and voiced its most energetic condemnation of the events and demanded that the democratically elected President be restored to power./ It denounced the loss of lives and called for the punishment of those responsible in accordance with strictly observed international laws.

131. In a press release issued on October 1, 1991, the Inter-American Commission on Human Rights expressed its grave concern over the events in Haiti, which had cost so many lives. It pointed out that the coup was an obvious violation of the political rights and other basic rights and freedoms recognized by the American Convention on Human Rights./

132. Because of the gravity of the events in Haiti, the Secretary General, exercising the authority conferred upon him pursuant to Resolution 1080 and the "Santiago Commitment," convened an Ad Hoc Meeting of Ministers of Foreign Affairs, which was held in Washington on October 2nd, 1991. At that meeting, a resolution entitled "Support for the Democratic Government of Haiti" (MRE/RES. 1/91) was adopted and the following resolved: "To urge the Inter-American Commission on Human Rights, in response to President Jean-Bertrand Aristide's request, to take immediately all measures within its competence to protect and defend human rights in Haiti and to report thereon to the Permanent Council of the Organization."

133. On October 4, 1991, an OAS Delegation headed by Secretary General, Ambassador João Baena Soares, and comprising six Ministers of Foreign Affairs from the member countries, traveled to Port-au-Prince to undertake negotiations for the restoration of democracy in Haiti. The Haitian military refused to negotiate and the Delegation immediately returned to Washington.

134. On October 8, the Meeting of Ministers of Foreign Affairs urged the member states of the OAS to freeze the assets of the Haitian State and to level a trade embargo against Haiti. It created a Civilian Mission (OEA/DEMOC) to reestablish and strengthen democratic institutions

(MRE/RES.2/91). On December 10th, 1991, the Permanent Council of the OAS issued a resolution entitled "Program to support the promotion of democracy."/

135. On November 9, the OAS Civilian Mission, headed by Augusto Ramírez Ocampo, former Minister of Foreign Affairs of Colombia, who had been appointed by the Secretary General of the OAS, began discussions which would later be continued in Cartagena de Indias, Colombia (November 21st to 23rd, 1991). Unfortunately, these discussions did not result in any agreement.

136. During the second week of December 1991, Ramírez Ocampo returned to Haiti to resume the negotiations that had been suspended since the Cartagena meeting. On that occasion, three names were mentioned as possible candidates for prime minister: Victor Benoit, Secretary General of the National Committee of the Congress of Democratic Movements (KONAKOM), whom President Aristide supported; Marc Bazin, former presidential candidate and leader of the Movement to Establish Haitian Democracy (MIDH); and René Théodore, Secretary General of the Haitian Communist Party (PUCH) which was subsequently intergrated into called the National Reconstruction Movement (MRN). Near the end of December, Théodore agreed to be a consensus candidate and by mid-February, the Chamber of Deputies of Haiti publicly announced its support for his appointment as Prime Minister.

137. Taking into consideration Resolution MRE/RES.1/91 and the many complaints of human rights violations, the Commission, as previously indicated, conducted an exploratory mission to Haiti on December 5 to 7, 1991. The Chairman of the IACHR, Patrick Robinson, and its Vice Chairman, Marco Tulio Bruni Celli, presented their findings to the Permanent Council of the OAS on January 9th, 1992./ After hearing the report of the Secretary General, on January 22, the Permanent Council approved Resolution CP/RES 575 885/92, establishing a Special Commission to observe enforcement of the embargo.

i) The Washington Agreements

138. Because the timing seemed right to undertake further negotiations, the Organization of American States sought to sponsor a January meeting in Washington. This meeting never eventualized because the negotiating parties could not reach an agreement. In an effort to work out a comprise in formulating a political solution to the Haitian situation, on February 23rd - 25th, the OAS sponsored yet another meeting. Participating in this meeting were deposed President Aristide, who was accompanied by Mayor of Port-au-Prince Evans Paul; Prime Minister-designate, René Théodore and a parliamentary delegation headed by the respective presidents of the two houses of Parliament, Senator Déjean Bélizaire and Deputy Alexandre Médard.

139. At the close of that meeting, the negotiating parties signed the Washington Protocol of Agreement, whereby they agreed to guarantee civil liberties and allow political parties and civic organizations to operate freely in Haiti in accordance with the Haitian Constitution.

140. The Protocol acknowledged the need to: ensure the return of President Aristide and to restore him to his functions in government; to draft and enact laws which would implement the institutions provided for under the Constitution. These would include the law on local

communities, the law on the separation of the police from the Armed Forces, and the law governing the Office of Citizens' Protection. The accord also called for an agreement on the fostering through laws and regulations, the implementation of a policy of social harmony and economic recovery.

141. The parties acknowledged the need to declare a general amnesty, save for common criminals, and to request the OAS and the international community to provide urgent and substantial assistance to the national consensus government. Such assistance would allow for the rejuvenation of the Haitian economy, the promotion of social welfare, transformation of the Armed Forces and the police into professional institutions and the strengthening of democratic institutions. At that meeting, a Protocol of Agreement was also signed between President Aristide and the Prime Minister-designate, René Théodore, who pledged to create the conditions necessary for President Aristide's return.

142. Though the international community reacted very favorably to the Protocols of Washington, problems surfaced and hampered their acceptance in the Haitian Parliament. In a television interview some days later, President Aristide reiterated that he was opposed to the amnesty for the military involved in the coup d'etat and noted that the accords did not specify an exact date for his return.

143. Moreover, while the Protocols represented an enormous effort to find a political solution to the Haitian situation, it was very difficult to translate the agreements into practice. First, the fact that the military and those exercising power in Haiti were not parties to the Agreements suggested from the onset that they would not be accepted and the army would be opposed to any type of investigation into the human rights violations that had occurred during and after the coup d'etat. Furthermore, Parliament was unable to ratify the accords due to both Houses not having the requisite number of members present for that purpose. Later, those who exercised power in Haiti submitted the Washington Accords to the Supreme Court for an opinion on their legality, and the Court ruled them unconstitutional and without legal foundation. According to statements presented to the Commission of Human Rights, the decision did not seem to correspond with the Court's jurisdiction.

ii) The Villa d'Accueil Agreement

144. The authorities exercising power in Haiti did not recognize the Washington Agreements and decided instead to create a Tripartite Commission in which they were represented by their appointed Prime Minister, Mr. Jean-Jacques Honorat; the House of Parliament was represented by Senate President Déjean Bélizaire and Chamber of Deputies by its President Alexandre Médard. Representing the Armed Forces was their Commander-in-Chief Raoul Cédras. At this session however, President Aristide and his supporters were excluded.

145. The negotiations culminated on May 8, 1992, with the so-called Tripartite Agreement of Villa d'Accueil, which, as one might expect, did not recognize President Aristide as the constitutional President. Under the Agreement, a consensus government was to be established for the purpose of negotiating the lifting of the embargo and resuming negotiations with the Organization of American States. Later, Mr. Nérette, who had subsequently been appointed

President by those who exercised power, resigned his post. Marc Bazin was designated Prime Minister, with the approval of the military and a questionable Senate majority. These negotiations and the Prime Minister's designation were in direct contravention of the resolutions adopted by the Ad Hoc Meeting of Ministers of Foreign Affairs (MRE/RES 2/91 and MRE/RES 3/92).

146. On the occasion of the OAS General Assembly, held in Nassau, The Bahamas, May 18th through 22nd, 1992, the Ad Hoc Meeting of Ministers of Foreign Affairs adopted a resolution entitled "Restoration of Democracy in Haiti" (MRE/RES. 3/92), wherein it reiterated the previous resolutions and urged the member states to adopt additional measures to extend and step up enforcement of the trade embargo against Haiti and increase the humanitarian relief targeting the poorest segments of the Haitian population. The member states were also urged either not to grant or to revoke, as the case may be, any entry visas extended to the authors of the coup d'etat and their supporters and to freeze their assets. The Ministers of Foreign Affairs again asked the Inter-American Commission on Human Rights to continue to monitor closely the situation in Haiti and to keep the Ad Hoc Meeting informed by way of the Permanent Council.

iii) The Florida Declaration

147. After the Washington Agreements were abandoned and changes occurred on the political scene in Haiti, President Aristide launched a new negotiating campaign and called a meeting, which was held in Miami on June 26th through 29th, 1992. Present were a number of political leaders who supported the restoration of democracy in Haiti. At the end of the meeting, a document entitled "Towards a National Consensus" was adopted. Also known as the "Florida Declaration," it reasserted the need to find a negotiated political solution and, to that end, the assistance of the Secretary General of the Organization of American States and the Secretary-General of the United Nations was requested. The Declaration reiterated the request that the OAS send a Civilian Mission to resume the political dialogue in Haiti.

iv) Steps towards establishment of the Civilian Mission

148. In an effort to determine new opportunities and to set the stage for the resumption of political negotiations, the Organization of American States sent a mission to Haiti August 18th through 21st, 1992, headed by Secretary General Ambassador João Clemente Baena Soares. The Mission comprised several Ambassadors, including the Chairman of the Inter-American Commission on Human Rights, Marco Tulio Bruni Celli, and representatives of the Caribbean Community (CARICOM), the United Nations (UN) and the European Economic Community (EEC). This mission represented the first step towards the subsequent establishment of the Civilian Mission.

149. The mission's efforts led to a new round of talks at the OAS on September 1st between Father Antoine Adrien, President Aristide's envoy and Mr. François Benoit who represented Mr. Marc Bazin who had been appointed Prime Minister by those exercising power in Haiti. There it was decided that an 18-man mission would be sent to help reduce the violence in general and to encourage respect for human rights. The team was further to cooperate in the distribution of humanitarian aid and the assessment of progress made toward a political solution to the Haitian

crisis. The Civilian Mission, in which former Prime Minister of Jamaica Michael Manley participated, began its work in mid-September 1992.

150. Even though the Ministry of Foreign Affairs had authorized the arrival of the 18 OAS observers to be deployed throughout the country's geographic departments, after three months, officials in Port-au-Prince told the civilian delegation that their presence "had no legal grounds" and that "there was no way their safety and their freedom of movement in the country's interior could be guaranteed."

151. Through a resolution passed on November 10, 1992 (CP/RES. 594 923/92), the Permanent Council of the OAS decided to urge the member states of the United Nations to renew their support by adopting measures that were consistent with the previous resolutions approved by the OAS. It also urged the member states of the OAS and the United Nations to increase their humanitarian assistance to the Haitian people and asked the United Nations to participate in the OAS Civilian Mission to bring about a peaceful solution to the crisis.

152. In the face of human rights violations persisting and worsening in Haiti attendant with the repercussions arising with thousands of Haitians seeking refuge in neighboring member countries, the Ad Hoc Meeting of Ministers of Foreign Affairs adopted resolution (MRE/RES. 4/92) dated December 13th. This Resolution reaffirmed earlier resolutions and instructed the Chairman of the Ad Hoc Meeting and the Secretary General of the OAS to make an additional effort with all Haitian interests as a matter of urgency and in close cooperation with the United Nations Secretary-General, to facilitate political dialogue among them to restore democratic institutions in Haiti. The objective of this effort should initially be to bring about, as soon as possible, a substantial increase in the OAS civilian presence. The OAS Secretary General was given a mandate to explore, in conjunction with the UN Secretary-General, the possibility and advisability of bringing the Haitian situation to the attention of the United Nations Security Council as a means of bringing about global application of the trade embargo recommended by the OAS. In that resolution the Chairman of the Ad Hoc Meeting and the Secretary General of the OAS were also instructed to "cooperate in the efforts of the Chairman of the Inter-American Commission on Human Rights, in light of the serious and continuing human rights violations in Haiti and the refusal those exercising power in Haiti to allow the Commission to conduct an on-site visit as soon as possible."

153. From the onset of the Haitian crisis, the United Nations had condemned the coup d'etat and recognized President Aristide's government as the legitimate one. Cooperation between the OAS and the UN led to the strengthening of the Civilian Mission. In December, the Secretary-General of the United Nations, Boutros Boutros-Ghali, appointed former Argentine Minister of Foreign Affairs Dante Caputo as his Special Envoy. Caputo immediately flew to Haiti on an exploratory mission to seek a solution to the crisis. On January 13, 1993, the OAS Secretary General, Baena Soares, announced to the Permanent Council that Caputo had been appointed as his personal representative.

154. In late January, complications arose in the OAS/UN representative's efforts to reach an agreement on acceptance of a Civilian Mission of some 400 observers. Mr. Marc Bazin objected to the mission by declaring that although those who exercised power, i.e., the Army and

Parliament had accepted that a mission would be sent and a solution to the Haitian crisis would be negotiated, in his opinion, the proposed arrangement represented "a risk of international subjugation."

155. In early February 1993, agreement was reached between those who exercised power in Haiti and the Special Envoy of the OAS Secretary General to allow the deployment of the OAS/UN Civilian Mission in Haiti. The main purpose of the mission was to help ensure respect for human rights, thereby creating a suitable climate in which a political solution for the restoration of democratic constitutional government in Haiti could be achieved. If the situation improved, the Civilian Mission was additionally to assist in institutional strengthening and modernization, particularly with respect to the reform of the judicial system reform, modernization of the armed forces, establishment of a specialized police force and the resumption of international technical cooperation, as set forth in the respective resolutions adopted by the Ad Hoc Meeting of Ministers of Foreign Affairs.

156. Ambassador Colin Granderson was appointed head of the OAS/UN Mission, with the collaboration of a team of human rights experts headed by Ian Martin, former Secretary General of Amnesty International. Both organizations increased the number of observers in the Mission, who by the end of March had been set up in the nine departments of Haiti.

157. During the first three months of 1993, the Special Envoy, Dante Caputo, made several trips to Haiti and met with certain authorities appointed by those exercising power, General Cédras, various church representatives and with the Presidential Commission. In late March, Caputo suggested a six months deadline for the return of President Aristide, but the military hardened their position in response, with Prime Minister Bazin accusing the OAS and the UN of interference in domestic affairs. Caputo initiated new negotiations and in May announced his plan which called for the deployment of an international police force. The plan was subject to consent by all parties involved and to approval by the UN Security Council, prior to the return of President Aristide to the country. The plan also called for the appointment of a new Prime Minister to be designated by President Aristide and approved by Parliament. Not only that, but amnesty and guarantees for the military, along with a financial aid package of one billion dollars to be disbursed over a five-year period under programs to be prepared by a mission of experts from the World Bank, IDB, IMF and UNDP, were included.

158. During the following three months, those who exercised power in Haiti proved unwilling to reach an agreement on the political crisis. On June 23, Caputo indicated that if there was no dialogue with the representatives of the democratic government, then the sanctions called for under Article VIII of the United Nations Charter would be instituted. That day the embargo imposed by the United Nations Security Council (Res. 841) entered into effect. The shipment of oil and weapons to Haiti was banned and foreign assets of those who exercised power in Haiti and their supporters were frozen. The pressure from the Security Council left the authorities who exercised power in Haiti with a total dearth of fuel, and led to negotiations at the highest level — albeit indirect — between President Aristide and the Chief of the Armed Forces, General Cédras, at Governors Island in New York.

v) The Governors Island Agreement

159. On July 3, 1993, Haitian President Jean-Bertrand Aristide and Haitian Commander-in-Chief of the Armed Forces General Raoul Cédras signed the Governors Island Agreement in New York. In the accord, the parties agreed to take the measures necessary to resolve the Haitian crisis. To this end, they pledged to reach a solution by means of political dialogue, consolidation of democratic institutions, the separation of state powers, the freedom of action for political parties and the restoration of President Aristide to his legitimate office, thus creating the conditions for his return to take place on October 30, 1993.

160. Other important points of the agreement included: allowing Parliament to play an active part by enacting laws to ensure the transition; appointment of a new Prime Minister by President Aristide; the promulgation of an amnesty-related law; suspension of the embargo; early retirement of the Commander-in-Chief of the Armed Forces; continued involvement of the international community to help rebuild the economy; establishment of a new police force; professionalization of the armed forces; and monitoring of implementation of the agreement by the United Nations and the Organization of American States./

vi) The New York Agreement

161. One of the initial steps for implementation of the Governors Island Agreement was a political dialogue between representatives of the Haitian political parties in order to reach a commitment which would pave the way for an institutional democratic framework. That dialogue took place on July 13, 1993 in New York. Representing President Aristide were the members of the Presidential Commission: Father Antoine Adrien, Fred Joseph, Jean Molière, Chavanne Jean Baptiste, Wesner Emmanuel, Micha Gaillard and Georgette Omero. The following political parties were represented: FNCD, PANPRA and Socialist Group, the Alliance for Parliamentary Cohesion and the Constitutional Bloc. Parliament was represented by presidents of the two Houses who were linked to the military, Deputy Antoine Joseph and Senator Thomas Dupiton, and by constitutionally elected presidents of the House of Deputies, Deputy Alexandre Médard and Senator Firmin Jean Louis.

162. On July 16, 1993, after intensive negotiations, the representatives of the Haitian political forces approved the New York Agreement,/ whereby a six-month political truce would be observed in order to guarantee a stable, peaceful transition period. The agreement also included the following: (a) the Armed Forces of Haiti would respect the Governors Island Agreement; (b) Parliament would not be obstructed and the members elected in the controversial January 18 elections would voluntarily abstain from meeting in Parliament until the constitutionally established institution to which the case had been referred had ruled on the matter; (c) the necessary measures would be taken to protect the full exercise of human rights;

(d) reform of the judicial system would be undertaken immediately; (e) President Aristide would designate a new Prime Minister, approval of whom would be ensured as soon as possible; (f) amnesty-related laws would be enacted under an emergency procedure; (g) a new police force would be established and begin operation and that paramilitary forces would be abolished.

vii) The new government of Prime Minister Malval

163. Shortly after the New York Agreement was concluded, President Aristide designated Robert Malval as Prime Minister. Malval is a prominent 50-year-old businessman with political science degrees from the United States and France, and is considered a close advisor of President Aristide. He had been very active in the election campaign, and, through his connections with the business community, had organized a "Haitian Summit" in Miami on July 22 and 23, 1993, to establish contacts between the Haitian private sector and American investors.

164. Six weeks after the Governors Island Agreement was signed and after numerous discussions had been held on the conditions established in the 1987 Constitution for candidates for Prime Minister -particularly on Malval's status as a "native Haitian" - on August 25, 1993, the National Assembly approved his designation as Prime Minister. Malval immediately submitted his general policy statement to the two Houses, and pointed out his intention of remaining in office until December 15, 1993 for essentially "personal and professional" reasons.

165. While the Prime Minister was being ratified by Parliament, the Organization of American States recommended to its member states that the sanctions imposed on those who exercised power in Haiti on October 8, 1991 in Resolution 841 be lifted. On August 27, the United Nations Security Council unanimously approved the Resolution, immediately suspending the sanctions imposed on June 16, 1993. It warned however, that the sanctions would be reinstated if all the provisions of the Governors Island Agreement, including President Aristide's return, were not fully complied with. The United States Department of State advised that it had decided to lift the ban against entry into the United States it had imposed on 112 leaders and supporters of those who exercised power in the Haitian government.

166. Malval traveled to Washington to be sworn in by President Aristide, to whom the United States Government had granted political asylum in 1993. The swearing-in ceremony was held at the Haitian Embassy in Washington on August 30, 1993. That same day, Prime Minister Malval attended a special meeting of the Permanent Council of the OAS where he pledged to help reestablish democracy in his country.

167. The cabinet of the new government was made up of the following ministers:

Claudette Werleigh: Foreign Affairs

Hervé Denis: Information and Culture

Berthony Berri: Social Affairs

Louis Déjoie, Jr.: Trade and Industry

General Jean Béliotte: Defense

Colonel René Prosper: Interior

Jean-Marie Chérestal: Planning, External Affairs and Civil Service

Agronome F. Séverin: Agriculture, Natural Resources and Rural Development

Guy-François Malary: Justice

Jean Molière: Public Health

Victor Benoit: Education, Youth and Sports

Marie-Michèle Rey: Finance and Economic Affairs

Rosemond Pradel: Public Works, Transportation and Communications

168. The Presidential Commission set up in July 1992 by President Aristide to conduct the political negotiations was dissolved on August 31, having regard to the fact that its *raison d'être* no longer existed.

169. Human rights in Haiti however, continued to be systematically violated, even more so after the signing of the Governors Island Agreement. Despite the measures taken by the international community to lift the embargo, the situation continued to deteriorate, becoming critical in September 1993. The acts of violence were designed to prevent the new government from taking office and functioning. Thus, on September 8, Mayor Evans Paul resumed his post amidst demonstrations and death threats. Leaving the Mayor's Office, Minister of Information Hervé Denis and his bodyguard were assaulted and wounded by civilian gunmen while policemen at the scene stood by passively. Disturbances that day left five dead and 15 wounded. Many ministers in the new government were forced to flee their homes after receiving death threats. Certain recently appointed officials were unable to take over their offices. Even Prime Minister Malval worked from his home for security reasons. In a statement on September 8, 1993, the Permanent Council of the OAS condemned the increase in human rights violations.

170. While these disturbances were taking place, Dante Caputo arrived in Port-au-Prince with 30 experts to begin a series of meetings with Prime Minister Malval and General Cédras. The experts were to assess the situation in Haiti before the technical mission was sent to modernize the armed forces and establish a separate new police force.

171. One of the first steps taken by the new Malval government was to suspend state radio and television broadcasts and to promise far-reaching changes in all government controlled media, which were still in the hands of officials loyal to those who had exercised power before Prime Minister Malval's appointment. This led to the occupation of the national radio and television facilities by gunmen trying to prevent the new directors from taking over.

172. During this wave of repression, Antoine Izméry was killed on September 11, 1993 by the civilian gunmen known as *attachés*. Izméry was a personal friend of President Aristide and founder of the Hand-in-Hand Committee for the Blossoming of Truth (KOMEVEB), which supported the restoration of democracy in Haiti. Dozens of other murders were also committed in the neighborhoods of Canapé Vert, Delmas, Musseau and Carrefour. The climate of terror in the wake of these attacks led to the imposition of a curfew beginning at dusk by those who exercised power. Another factor increasing fear on the part of the population was the return of Duvalierists who had fled to the Dominican Republic, including former generals Henry Namphy and Prosper Avril and former Port-au-Prince mayor Franck Romain, accused of leading the assault groups responsible for the 1988 San Juan Bosco massacre.

173. In mid-September, at President Aristide's request, Parliament held a meeting in which it was to vote on a number of items, including the laws separating the Army and the police; budgetary matters; the dismantling of armed groups and the administration of local communities. This session of Parliament was suspended because of a lack of a quorum. Parliament was in fact paralyzed due to the dilatory measures being taken by the pro-military Deputies and the lack of security for pro-Aristide legislators.

174. As a result of the hardening of the military's position, President Aristide warned that if there was no decrease in the violence and human rights abuses — which he blamed on General Cédras and Port-au-Prince Police Chief Michael François — he would call for the reinstatement of the embargo. He also urged the Haitian people to use nonviolence as a strategy to enable peace to return to Haiti, despite those opposed to democracy.

175. On September 23, by Resolution 867, the United Nations Security Council authorized a 1,300-man United Nations Mission (MINUHA) to be sent to Haiti. The Mission was to include 560 police supervisors and a 700-man military attachment including a construction engineering unit and 60 military instructors, mostly from the United States. The Governments of Canada and France were providing 100 soldiers each, and a number of other countries, such as Venezuela, Algeria, Austria, Madagascar, Russia, Senegal and Tunisia, were also to provide military personnel. The Mission was to be headed by the Special Envoy, Caputo. The Commissioner in charge of the Mission police force was to travel to Haiti on September 25 and a contingent of 50 officers was scheduled to arrive on October 7. The mission of the officers was to help the Haitian Government establish a new police force separate from the armed forces, as provided for in the Constitution and in accordance with the Governors Island Agreement.

176. In statements to the press referring to UN Security Council Resolution 867, General Cédras declared that he would not accept a foreign intervention force disguised as technical assistance and accused the international community of violating the Governors Island Agreement by imposing sanctions while failing to provide the aid promised for economic development of the country, which was essential to create the climate of peace desired.

177. In a press release issued on September 24, the Commission condemned the violence committed by unofficial armed groups that operated with the complicity of the Army and the police, claiming blatant violation of the Governors Island and New York Agreements signed in July 1993. The Commission also expressed its concern about the threats Caputo had received, which it interpreted as another attempt to destabilize the process of political negotiation in Haiti. The Commission appealed to the armed forces of Haiti to disarm and dismantle armed civilian groups./

178. The situation became critical in the first two weeks of October when groups of civilians attached to the armed forces took over the media in Port-au-Prince to threaten the United Nations Mission in Haiti, demanding expulsion of the Special Envoy, Caputo, and the resignation of Prime Minister Malval. The strike called for by the so-called Haitian Front for Advancement and Progress (FRAPH) on October 7 terrorized the Haitian people, who were forced to leave their activities and keep off the streets. Merchants in several Port-au-Prince markets were assaulted, leaving two wounded and one dead. According to observers, the strike was referred to as an "armed strike" and a "curfew." During the FRAPH demonstrations, there was an obvious lack of military patrols, and some witnesses even testified having seen soldiers with the civilian gunmen as they forced people out of the streets.

179. In this context of provocation, on October 11, violent demonstrations were organized by the FRAPH and other paramilitary groups to prevent the technical assistance mission from

disembarking to begin training the armed forces and the police. OAS/UN Mission observers and United States Embassy staff were denied access to the Port-au-Prince pier. Acts of vandalism against reporters and diplomatic vehicles were committed during these demonstrations, and shots were fired in the air to cause panic.

180. The demonstrations were aided and abetted by the police, which even reorganized traffic lanes for the obvious purpose of helping the demonstrators pass. As a result, the ship could not dock and the United States Government ordered it to withdraw from Haitian waters. Canada also ordered the withdrawal of a detachment of 50 members of the Royal Canadian Mounted Police which had arrived on October 7.

181. The assassination of the Minister of Justice, Guy-François Malary, two of his bodyguards and his driver by paramilitary groups further aggravated the situation. The murders occurred the day before the expected resignation of the chief of the armed forces, scheduled for October 15.

182. Given these developments, the Permanent Council of the OAS expressed its concern in Resolution 967/93 dated October 12. The Commission issued a press release after its 84th meeting (from October 5 to 15, 1993), pointing out that although implementation of the Governors Island Agreement and the New York Agreement was being threatened by the violence and repression committed by the armed forces, the agreements remained in force in the eyes of the international community, which could take the necessary measures against those groups that were obstructing full restoration of democracy and the individual rights of the population./

183. Two days after the "USS Harlan County" was prevented from entering Port-au-Prince, the UN Security Council by Resolution 873 of October 13, 1993, reinstated the oil and weapons trade embargo against Haiti and froze the foreign assets of the Haitian military authorities, on the grounds that the commitments to restore democracy to the country had not been honored. After Haitian military leader General Cédras refused to resign, the Security Council authorized a naval blockade. Through Resolution 875 of October 16, it urged all member states, either bilaterally or through regional organizations or mechanisms, in cooperation with the legitimate government of Haiti, to take the appropriate measures necessary to ensure strict enforcement of Resolutions 841 and 873 regarding the supply of oil, other petroleum products, weapons and any type of related materials, and in particular to detain all maritime traffic to Haiti for as long as necessary to inspect and verify its cargo and destination.

184. In Resolution 875, the Security Council also confirmed its willingness to consider adoption of any supplementary measures that might be necessary to ensure full compliance with its resolutions. At midnight on Monday, October 18, the sanctions established entered into effect. Six United States warships, along with other warships from Canada, France, Argentina, the United Kingdom and the Netherlands began patrolling the waters surrounding Haiti, preventing access of banned items, but not of humanitarian aid. The OAS/UN Mission observers were evacuated through the naval blockade to the Dominican Republic, which set up supervision along its border with Haiti.

185. In view of these events, General Cédras asked President Aristide to call a meeting of the Haitian Parliament so that it could urgently approve a new amnesty decree. On October 3,

President Aristide issued an amnesty decree for political offenses committed between September 29, 1991 and July 3, 1992, which therefore offered no protection from prosecution for offenses considered ordinary crimes, or from possible civil suits against the perpetrators of human rights violations committed in Haiti during the previous 24 months. Article 6 of the Governors Island Agreement stipulates that in addition to the presidential amnesty, such instruments as may be approved by Parliament in this respect were to be implemented. However, certain observers noted that during the Governors Island negotiations, President Aristide, despite constitutional norms, was expected to cooperate to ensure that the Haitian Parliament would grant a broader amnesty which would include common law offenses for political motives.

186. With only one week left before his scheduled return, President Aristide faced not only the resistance of the Haitian military, but also opposition from some members of the United States Congress who objected to Washington's continued support. However, both the Clinton Administration and the Congressional Black Caucus group of legislators maintained their support for the exiled president.

187. To remedy the political stalemate, a "Crisis Committee" was established, made up of members of Parliament opposed to Aristide, who proposed that both houses agree to vote simultaneously on the amnesty law and the law establishing and organizing the police force. However, the proposal did not reach the point of adoption, since most of the pro-Aristide members of Parliament had fled the country or were in hiding for fear of assassination attempts. Thus, on the three occasions Parliament was called to meet, sufficient members to establish a quorum were absent.

188. On October 27, it was announced that the date scheduled for President Aristide's return to Haiti was postponed, and the Secretary-General of the UN reported that Prime Minister Malval would remain in office even if President Aristide did not return on October 30, as stipulated in the Governors Island Agreement.

189. In view of the impossibility of return to Haiti of President Aristide on the date stipulated due to the military's total lack of cooperation, Prime Minister Robert Malval returned to Washington on December 1 to inform President Aristide of his decision to resign on December 15. It was later announced that Prime Minister Malval would remain in office until a substitute was appointed in accordance Haiti's Constitution. He called for the hosting of a conference on national reconciliation in Haiti to be attended by representatives of all the political, civilian and economic sectors in the country. That conference, however, was never held, because President Aristide preferred that all discussion should be based on the Governors Island Agreement.

190. In view of the deadlocked political situation, representatives of the four "friends" of Haiti: France, United States, Canada and Venezuela, met in Paris on December 13 to consider how to resolve the Haitian crisis. At the conclusion of that meeting, they decided to send a high-ranking military mission to Haiti to speak with the Haitian military leaders, who refused to receive them. In response to that refusal, the delegation warned that the military and petroleum embargo might be transformed into a total embargo, if by January 15, 1994, measures had not been taken to implement the provisions of the Governors Island Agreement.

191. Far from improving the situation, new acts of violence occurred in late December 1993, which left hundreds of Haitians homeless. Over 200 dwellings were burned in the Cité Soleil district, and several inhabitants were left dead or injured from gunfire. The incident was believed to be an act of vengeance by members of the FRAPH, in answer to the death of Issa Paul, a member of their party, whose burnt body was found before the incidents.

192. At the first session of the Haitian National Assembly, on January 10, 1993, Members of Parliament supporting and opposing President Aristide attacked each other physically. This happened as a result of the decision not to allow 13 senators who had been elected in the elections of January 18, 1993 to be seated. The resulting chaos caused most of the lawmakers to leave the chamber. This incident in itself, is an outright repudiation of the New York Agreement by the assembly elected in the contested elections.

193. On January 14 to 16, 1994, an IACHR delegation attended the Miami Conference organized by President Aristide. The purpose of the Conference was to discuss in principle and in detail the situation concerning Haitian refugees (boat people). This discussion was expanded later to cover the return of democracy to Haiti. The deposed President concluded the conference with an appeal for the unity of the Haitian people and further called for the implementing of procedures for the appointment of a new Prime Minister and government of common accord.

CHAPTER IV: HUMAN RIGHTS SITUATION IN HAITI

A) Introduction

194. This chapter will focus on the current status of human rights in Haiti during the period from March 1993 through January 1994. It is based on information that was provided to the Inter-American Commission on Human Rights during its on-site visit to Haiti from August 23-27, 1993 through direct testimonies and written documentation from individuals and non-governmental organizations; as well as the documentation received during the Commission's 84th period of sessions held from October 1-15, 1993; reports of the UN/OAS Civilian Mission; and numerous reports sent to the Commission from human rights NGOs which operate throughout Haiti.

195. This chapter provides an introductory overview of the human rights situation for the period covered in this report and provides a brief description of the military structure in Haiti, in order to analyze the significant institutional factors which contribute to Haiti's poor record in respecting human rights. Similarly, this chapter focuses on the fundamental human rights which are most consistently violated in Haiti, providing case examples illustrative of the type of violations most commonly observed by the Commission.

B) Overview of Human Rights in Haiti

196. The human rights record in Haiti has continued to deteriorate during the period under consideration in this report. Despite overwhelming condemnation from the international

community, harsh reports issued by the UN/OAS Civilian Mission in Haiti and the imposition of limited sanctions, the military authorities have made no progress in improving its human rights record. Further, the military authorities have failed to live up to commitments regarding respect for human rights and civil liberties made at the signing of the Governors Island Agreement on July 3rd, 1993, and the New York Pact on July 16th, 1993.

197. Much of the increase in violations during this period is attributable to increased attempts at political expression among the Haitian people and the attendant military repression. For example, both the number and gravity of human rights violations increased after the accord reached at Governors Island in July, 1993. Encouraged by General Cédras' agreement to step down and the anticipated return of President Aristide on October 30th, supporters of the Aristide government sought to express their commitment publicly. Such demonstrations were met by intensified repression on the part of military and para-military troops, and generally, repression of society-at-large increased as the prospect of President Aristide's return aroused apprehension and opposition in the military. As October 30th passed and no transition occurred, what was feared by the international community became clear: the military would operate in complete contravention of the rule of law, seemingly unaffected by the international community's harsh criticism of its dismal human rights record.

198. The present environment in Haiti continues to be one characterized by repression and fear. In Port-au-Prince, the military acts with increasing brazenness, as illustrated by the very public killing of prominent President Aristide supporter, Antoine Izméry in September, 1993, and a month later, the assassination of Minister of Justice, Mr. Guy Francois Malary, as well as acts of intimidation directed against members of the UN/OAS Civilian Mission. Victims are not only political activists, but also ordinary citizens in what is seen as an observable strategy to maintain a climate of intimidation and terror among the general civilian population. In the rural areas, instances of arbitrary detentions, beatings, illegal searches and seizures of property, disappearances, and torture have increased, causing more people to go into hiding or to leave their homes.

199. Throughout Haiti, the violations take place with the active involvement and/or the silent complicity of police and military forces. Violence is directed against unarmed civilians, who do not respond with violence against military agents, and in the meantime, the acts go unchecked and unpunished. Persons who are linked with organizations suspected of promoting the return of democracy are regularly the targets of threats and harassment from the military.

200. Aristide supporters known as lavalassiens/ are frequently under surveillance by local section chiefs, and are often detained and harassed by local military and paramilitary forces. In the provinces, the military normally interrupts and disperses meetings organised by local community leaders, thereby preventing them from meeting and associating.

201. Detention procedures and conditions continue to violate standards stipulated in domestic and international law. Although there exist 15 prisons in Haiti, many detainees are held in military barracks or front posts for the entire period of their imprisonment. Numerous persons are illegally detained and held for long periods of time, in some cases up to two years. Conditions of imprisonment in the prisons, which are administered by the Armed Forces of Haiti,

remain bad. Commission members who visited some of the prisons observed overcrowding and signs of malnutrition among some of the prisoners. They also heard of prisoners being subjected to mistreatment and beatings by prison guards.

202. While in general, judges, prosecutors, and independent lawyers continue to face threats and harassment, some judges have shown great courage by freeing detainees on the ground that their detentions were illegal. Many of these releases are due in part to the constant presence of OAS/UN Mission observers. Thanks to the pressure exerted by the Civil Mission on the courts to observe due process guarantees granted under Haitian law, a larger number of detainees have been released pending trial and in some cases, hearings have been granted within 48 hours of arrest.

203. On the other hand, the crackdown on the domestic press has continued to be severe. Paramilitary groups known as attachés have repeatedly harassed and detained vendors of Libète, the only Creole/ language newspaper, and have confiscated and destroyed copies of the paper. Radio journalists throughout the country receive similar treatment.

C) Factors Contributing to the Violation of Human Rights in Haiti

i. Lack of Separation Between Police and Army

204. Although article 263 of the Haitian Constitution requires the existence of a police force independent of the Army, the Armed Forces of Haiti have been successful in opposing implementation of a police force, independent of the military, to oversee domestic affairs. In effect, the Army is used to "police" the country, which results in devastating consequences to human rights. The Haitian domestic police force is, in effect, a division of the army in which members of the Armed Forces regularly serve tours of duty. Soldiers who are assigned to police duty do not receive any special training regarding domestic peace keeping. As a result, such officers have little awareness of the need to differentiate between the treatment of unarmed civilians as opposed to other armed forces and further, they have no understanding of proper procedures for arrest, search and seizure.

205. The power of the military in Haiti is immense. Although Haiti is the poorest country in the Western hemisphere, military appropriations have consistently used up more than one-third of the country's national budget. The military structure -- created with the help of the United States Marines during the United State's occupation of Haiti from 1915-1934 -- has remained largely the same, and contributes to the pervasive power of the Haitian Armed Forces. The General Headquarters, directed by the Commander-in-Chief, is the ultimate authority over all officers and soldiers of the Armed Forces. The Headquarters oversees 14 military corps -- one for each of Haiti's nine Departments; Port-au-Prince; the Marine Corps; the Air Force; the Presidential Guard and the Armed Infantry. Each Department is also under the direction of a colonel and divided into Districts which are under the direction of captains. Districts are subdivided into sub-districts, under the direction of a lieutenant or sub-lieutenant; and sub-districts are further subdivided into communal sections headed by Section Chiefs.

206. Although, in theory, the powers of a Section Chief are fairly limited, in practice, they wield powers far beyond their mandate, in effect creating their own systems of local governance. For example, army regulations prohibit Section Chiefs from imposing entry/exit taxes on peasants who take farm animals through their jurisdictions, yet the imposition of illegal taxes and the acceptance of bribes is a regular practice among Section Chiefs. Army regulations also require section chiefs to have arrest warrants in all but exceptional circumstances and to prepare reports of arrestees within 24 hours of their arrest, yet Section Chiefs regularly enforce illegal arrests without warrant, and incommunicado detention for periods longer than 24 hours is not uncommon in Haiti.

ii. Lack of Training of Military/Police in Respecting Human Rights

207. Haitian soldiers are not trained to respect human rights or to protect civil liberties, nor are they taught that there is a distinction between military activity and police work. Moreover, there is nothing in their training backgrounds that is likely to have sensitized them to the concept of upholding the rule of law in their daily activities. Recruits, like the majority of Haitians, tend to be poor and largely illiterate.

208. Soldiers tend to have, on average, low education levels, no formal schooling after joining the Army, and tend to be essentially ignorant of basic human and civil rights. They are provided weapons but given little training about when the use of armed force is and is not appropriate. They do not learn how to make legal arrests, to conduct proper searches for evidence, and to interrogate within constitutional limits. Record-keeping, fingerprinting, and forensic techniques are rudimentary at best. Finally, soldiers are not taught to respect the rights of civilians, detainees, and prisoners while performing police duties.

209. Instead, soldiers learn by example, following the actions and attitudes of their superiors. Unfortunately, the Armed Forces have never emphasized the need to respect the rule of law and to protect human and civil rights, but have instead resisted attempts by human rights groups to educate soldiers about such rights and no such programs appear to be on the horizon. Although the constitutional Haitian government has requested human rights training from international human rights organs, including the Inter-American Commission on Human Rights, the volatile political situation makes it highly improbable that such a program will be instituted in the near future.

iii) Existence of Paramilitary Operatives: Attachés and Zenglendos

210. Corruption not only permeates the military framework, but feeds into the creation of paramilitary operatives. Section Chiefs, who frequently buy their positions through bribes, and can be dismissed at will, try to recoup their investment as quickly as possible through the hiring of assistants, commonly called attachés./ Attachés pay Section Chiefs for the chance of working in and profiting from the corruption network. Haitian law limits each Section Chief to only two such assistants; but in practice, section chiefs regularly maintain large private militias of these assistants.

211. Attachés have no legally recognized status, yet are probably the most significant factor in "policing" the rural areas. Each Section Chief usually appoints one to five attachés to serve as deputies. The deputies supervise about 30 adjoints who in turn direct other auxiliaries, such as the souket-larouzé. At every level, these attachés are involved in extortion, levying fines, and paying and receiving bribes. They are not interested in policing, nor are they trained for such service. Rather their numbers and unrestrained power contribute to a system of "policing" characterized by corruption and oppression.

212. In addition to attachés, there has been a marked increase in the activity of bands of armed men, known as zenglendos, who have been linked with scores of human rights violations in Haiti. The zenglendos carry out nightly raids, robberies, and murders, and as pointed out, are either armed and directed by, or act with, the complicity of the army. Like attachés, zenglendos have been linked to many of the human rights violations in Haiti, including the torture and murder of civilians. The paramilitary structure of these forces makes it difficult to identify them and to pin responsibility for their acts on the military. The Para-military and zenglendos continue to be an important factor in maintaining a repressive environment throughout the country, with the active and tacit cooperation of the FADH, committing human rights violations in relative anonymity because of their unofficial status.

iv. Military Domination of the Judicial System

213. The existence of a climate in which human rights violations are committed with impunity is also attributed to military domination of the judiciary and the corruption that the military generates within the judicial processes. The report issued by the OAS/UN Civilian Mission on Haiti, states the following:

...[m]embers of the Armed Forces and those linked to them continue to intimidate judges and prosecutors, many of whom owe their positions to influential members of the military...

...members of the judiciary remain extremely reluctant to investigate cases involving the FAD'H. The Mission has seen several cases where compelling evidence of a human rights violation has been presented to a judicial official and no action taken. The officials freely admit that it would be either too dangerous or fruitless for them to undertake an investigation./

214. Military corruption of judicial processes is also a widely observable phenomenon. Because there is no independent police force in Haiti, judicial officials must depend on military personnel to investigate crimes, to identify criminal suspects, and to detain and arrest persons accused of crimes, in accordance with procedural guidelines set out in Haiti's Constitution and domestic laws. In fact, the military not only obstructs judicial processes through harassment and intimidation of judges and lawyers, but it also actively violates due process guarantees contained in both domestic and international law.

215. For example, both Haitian and international law prohibit arbitrary detention. Article 24(2) of the 1987 Haitian Constitution provides that no one may be arrested or detained other than by the written order (mandat) of a legally competent official. Similarly, article 7(3) of the American Convention on Human Rights provides that, "[n]o one shall be subject to arbitrary arrest or

imprisonment."/ Also, under Haitian law, the warrant must state in the official languages of Creole and French, the reason for the arrest or detention; it must also cite the provision of law which provides for punishment of the act charged; and it may only be executed between the hours of 6:00 a.m. and 6:00 p.m./ Although these requirements provide important protections against violations of human rights, military and paramilitary forces regularly perform arbitrary warrantless arrests, frequently at night, in flagrant violation of both domestic and international law.

D) Status of Selected Human Rights

a) Right to Life

(i) Legal Provisions

216. The right to life is guaranteed in article 4 of the American Convention on Human Rights (hereinafter "American Convention"). It states:

1. Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.

2. In countries that have not abolished the death penalty, it may be imposed only for the most serious crimes and pursuant to a final judgment rendered by a competent court and in accordance with a law establishing such punishment, enacted prior to the commission of the crime. The application of such punishment shall not be extended to crimes to which it does not presently apply.

3. The death penalty shall not be reestablished in states that have abolished it.

4. In no case shall capital punishment be inflicted for political offences or related common crimes.

5. Capital punishment shall not be imposed upon persons who, at the time the crime was committed, were under 18 years of age or over 70 years of age; nor shall it be applied to pregnant women.

6. Every person condemned to death shall have the right to apply for amnesty, pardon, or commutation of sentence, which may be granted in all cases. Capital punishment shall not be imposed while such a petition is pending decision by competent authority.

(ii) General Observations and Selected Cases

217. According to information received by the Commission, there has been a clear increase in extrajudicial killings during the period covered by this report. To illustrate the trend, one report gives the following numbers of deaths investigated as suspected violations of the right to life:

Month Deaths Investigated

May 1993 9

June 5

July 34

August 33

September 60/

218. The majority of the killings recorded have occurred in the capital city of Port-au-Prince. There is usually no criminal investigation after a death is recorded by military local authorities. Rather, the body is immediately taken away after the death is recorded, usually without a coroner's investigation as to the cause of death.

219. The increase in violations of the right to life seems to correspond with the increase in political tensions following the signing of the Governors Island Agreement and New York Pact in July as the international community increased pressure on Haiti through the imposition of embargoes. The following cases are illustrative of the types of right to life violations reported to the Commission.

Marcel Pontus and Jeannot Louis Jean, Port-au-Prince

220. These leaders of the Baptist Church were picked up by armed men in civilian clothing on March 18 1993. On March 24, their bodies were found in a Port-au-Prince morgue with knife and bullet wounds.

Gervais Vernet, Port-au-Prince

221. On July 3, military personnel from the Anti-Gang Service shot and killed Vernet (26 yrs.), a third-year engineering student, while he was driving a taxi. On the same day, Armed men also killed another student near the Church of St. Louis King of France.

Marc Dessource, Port-au-Prince

222. The Commission has received conflicting reports on the killing of Marc Dessource. According to one report, he and a local merchant named Lamerchie were killed by "zenglendos" in the Mapou district of Bois Patate. According to another report, Dessource was killed by uniformed military men who burst into his house during the night in the neighborhood of Canapé Vert, shouting "You are always talking about the return of Aristide, but will not be there to see it," before pulling him from his bed and shooting him dead. Both reports date the killing on July 14.

It is of note that the areas of Upper Turgeau, Canape Vert and Bois Patate in Port-au-Prince have been the site of sustained gunfire by groups of armed civilians, yet have never received any police surveillance.

Antoine Joseph and Adnor Larose, Port-au-Prince

223. On August 3, Antoine Joseph (46 yrs.), a street vendor, was killed by armed men who broke into his house in Carrefour Vincent. Before killing him, the aggressors forced him to scale the wall between his house and that of his neighbor, Adnor Larose (47 yrs.) whom the armed men had killed minutes earlier.

Andrel Fortune, Las Cahobas

224. On August 16 in Las Cahobas (Plateau Central), Andrel Fortune (29 yrs.), member of the Alliance of Popular Organizations of Las Cahobas (AOPLC), was shot and killed by an army corporal who, with a group of six uniformed members of the Armed Forces, visited Fortune's house that day. The corporal shot Fortune in the back as he attempted to escape his assailants. Shortly before the killing, Fortune had been involved in a dispute with a sergeant. The army claimed they had gone to his house to arrest him and that they shot him because Fortune had tried to seize the corporal's gun.

In June, Fortune had successfully evaded two police arrest attempts at rallies, organized in Las Cahobas, supporting the return of President Aristide. Prior to the killing, he had been living in hiding because his family's home was under police surveillance.

Antoine Izméry and Jean-Claude Mathurin, Port-au-Prince

225. Izméry, a wealthy businessman who had been a major contributor to Aristide's 1990 electoral campaign, was assassinated by armed men on September 11. Prior to his death, he was an active and prominent voice for restoring the Aristide government. In the month prior to his murder, he had founded the "Komite mete men pou verite blayi" (KOMEVEB), the Joint Committee for the Emergence of the Truth; and through KOMEVEB, had organized several public demonstrations in support of Aristide.

Izméry was killed in broad daylight while attending a mass to commemorate the 1988 Church of St. Jean Bosco massacre (over which President Aristide had previously presided as parish priest). The service was commemorated at the Sacred Heart Church. Armed men in civilian clothing carried Izméry out of the church, forced him to kneel in a clearing in front of the church, and shot him at close range in the head. Minutes later, the same armed men killed Jean-Claude Mathurin. Both killings took place within the purview of police who were patrolling the area around the church, but the assailants left the scene of the murders without being stopped. Eyewitnesses identified some of the killers as known "attaches", and one of them may have been an officer from a local police station. There was no police investigation of the killing, and Izméry's dead body remained untouched in front of the church for five hours after the shooting.

Izméry's murder is a clear case of retaliation against a political activist. The public manner in which it was carried out had the direct and immediate effect of intimidating other Aristide supporters, as was evidenced by the fact that in the two weeks after the assassination, no public demonstrations were attempted.

Guy François Malary, Minister of Justice, Port-au-Prince

226. Guy Malary, Minister of Justice, two of his guards and his chauffeur were killed on October 13 by a group of armed men who ambushed Malary's car on a street near his private office. Malary was killed on the same street where Antoine Izméry was murdered more than one month before. Malary, who had assumed his post on September 2, was a longtime supporter of President Aristide and former president of the Inter-American Association of Businessmen. Prior to his death, Malary had initiated changes in the judiciary and had been an outspoken proponent of separating the police and military.

b) Right to Personal Liberty and Right to Humane Treatment

(i) Legal Provisions

227. The right to personal liberty is guaranteed in article 7 of the American Convention, as follows:

1. Every person has the right to personal liberty and security.
2. No one shall be deprived of his physical liberty except for the reason and under the conditions established beforehand by the constitution of the State Party concerned or by a law established pursuant thereto.
3. No one shall be subject to arbitrary arrest or imprisonment.
4. Anyone who is detained shall be informed of the reasons for his detention and shall be promptly notified of the charge or charges against him.
5. Any person detained shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to be released without prejudice to the continuation of the proceedings. His release may be subject to guarantees to assure his appearance for trial.
6. Anyone who is deprived of his liberty shall be entitled to recourse to a competent court, in order that the court may decide without delay on the lawfulness of his arrest or detention and order his release if the arrest or detention is unlawful. In States Parties whose laws provide that anyone who believes himself to be threatened with deprivation of his liberty is entitled to recourse to a competent court in order that it may decide on the lawfulness of such threat, this remedy may not be restricted or abolished. The interested party or another person in his behalf is entitled to seek these remedies.
7. No one shall be detained for debt. This principle shall not limit the orders of a competent judicial authority issued for nonfulfillment of duties of support.

228. The right to humane treatment is guaranteed in article 5 of the American Convention, as follows:

1. Every person has the right to have his physical, mental and moral integrity respected.
2. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.
3. Punishment shall not be extended to any person other than the criminal.
4. Accused persons shall, save in exceptional circumstances, be segregated from convicted persons, and shall be subject to separate treatment appropriate to their status as unconvicted persons.
5. Minors while subject to criminal proceedings shall be separated from adults and brought before specialized tribunals, as speedily as possible, so that they may be treated in accordance with their status as minors.
6. Punishments consisting of deprivation of liberty shall have as an essential aim the reform and social readaptation of the prisoners.

(ii) General Observations

229. Reports received by the Commission indicate an observable pattern with regard to temporary disappearance. Victims who were disappeared state that they were blindfolded and taken away from homes or places of work by groups of three or four armed men. Victims were then driven in unmarked cars to secret places of detention where they were interrogated about their political activities and their knowledge of other activists by captors who were usually well-informed about the victims' activities and contacts. In several cases from June through August, 1993, the victims were questioned about their links to Antoine Izméry. All of the victims were subjected to beatings and were held for several days before being taken to public spots and released.

230. Instances of arbitrary detention/arrest, beatings and ill-treatment, illegal search and seizure, rape, and torture have increased during the time period covered by this report. These violations have occurred throughout the country, often accompanying violations of the right to life, right of assembly, freedom of association, and freedom of expression. The following is a small, representative sampling of cases reported to the Commission.

(iii) Selected Cases from Port-au-Prince

Pierrot Mathurin

231. On July 10, after attending a demonstration in support of Aristide at the Church of St. Jean in Port-au-Prince, Pierrot Mathurin (24 yrs.) was arrested and detained at the Port-au-Prince police station known as the "Cafeteria." During his detention, Mathurin was tortured; subjected to a form of torture called "kalòt marasa," and was beaten with an iron bar. He was released the next day. He sustained numerous physical injuries including rupture of the eardrums with

internal bleeding, loss of hearing, fractured bones, bruises and inflammation on the arms and face, and open wounds on the back and legs.

Dominique Jean and Jane Marie Exil

232. On July 14, Dominique Jean and Jane Marie Exil, two active members of the Popular Movement of St. Martin (MPSM), were arrested by military patrol in the St. Martin quarter of Port-au-Prince. The victims had been posting photos and writing graffiti in support of President Aristide. After their arrest, they were taken to the Anti-Gang Service where they were severely tortured and beaten. The victims were released on July 16 in a state of precarious health.

Olen Dostène

233. On July 25, Olen Dostène (29 yrs.), an agricultural worker, was picked up near the airport in Port-au-Prince by armed men in an unmarked white pick-up truck. The men beat him with their batons, accusing him of constantly distributing photos of Aristide in Port-au-Prince. Dostène, who sustained a fractured left arm because of the beating, was driven to a place near Sartre and left there.

Valéry Pfiffer

234. On August 20 in Carrefour Péan (Port-au-Prince), Valéry Pfiffer, member of the National Federation of Haitian Students, was abducted by four armed men who blindfolded him into hiding.

Ernst Charles

235. On August 21, Ernst Charles, a member of the Peasant Movement "Tet á Bef - T' Legliz" and the "Centrale Générale des Travailleurs" (CGT) (a workers union) was kidnapped by seven men in a pick-up truck and taken, blindfolded, to a private house which appeared to be one of the "zenglendo" headquarters. Charles was severely beaten on the buttocks and abdomen, and interrogated under very bright lights as he was shown photographs of himself taking part in a political demonstration and of various political organizations leaders, base community members and journalists.

After two days of such treatment, the abductors blindfolded him, drove him around in a police car for several hours, and dumped him on a downtown street. Charles' body exhibited signs of torture, including a bloody shaved head and wounds on the back, buttocks and neck.

Jocelyne Nicolas

236. On August 31 around 8 p.m., Wilner Metellus and Etienne Romelus, two policemen from the Cafeteria police station abducted 21 year old Jocelyne Nicolas in her home, accusing her of having distributed posters of Aristide. Her parents went to the "Cafeteria" the next day to seek her release, but police authorities denied knowledge of her whereabouts. That evening, Nicolas was released, having been beaten in the head and raped by her abductors. She has since gone into hiding.

Senator Wesner Emmanuel

237. On October 5, Senator Emmanuel was harassed and arrested by armed civilians, with the help of police. Emmanuel's office was surrounded by militants associated with the neo-Duvalierist Front for Advancement and Progress in Haiti (FRAPH), and when police showed up on the scene, they participated with FRAPH in the arrest.

Jean-Claude Bajoux and the Ecumenical Center for Human Rights

238. On October 5, four heavily armed men raided the office of the Ecumenical Center for Human Rights. In addition to terrorizing Bajoux, director of the Center, the men threatened and beat employees. In their retreat, the assailants fired several shots, wounding a nearby person.

(iv) Selected Cases from the Rural Countryside

Valérien Thiophène, Gonaïves

239. On June 29, the military arrested Thiophène (70 yrs.) in his house, beat him, and took him to the local military barracks. According to reports, this man had also been arrested and beaten on June 26 and was being harassed because the military was searching for his son who leads a popular organization in the Lèt Bò Kanal quarter.

Amio Métayer and Paul O'Donnell, Gonaïves

240 On the night of June 26, military in Gonaïves invaded two neighborhoods and performed a series of indiscriminate searches to uncover members of local popular organizations. At least nine persons were severely beaten in the course of these searches. The houses of Amio Métayer and Paul O'Donnell, two leaders of organizations, were pillaged that same night.

Eddy Deravines, Hinche

241 On July 13, a group of five youth were detained and tortured by military men. One of them, Eddy Deravines (24 yrs.), was arrested. They were tortured with a "djak."/ Deravines, who was beaten in the head, escaped the prison where he was being held. As of July 22, his companions were still in prison.

Residents of Lizon

242. Military stationed at Croix des Bouquets descended on Lizon (Bon Repos) on July 18 and harassed the inhabitants of the town, ordering them to lie flat with their stomachs on the ground. The military abused them by kicking them and hitting them with batons and rifle butts. They then arrested a student, Eroid Jean (20 yrs.), and several others. The soldiers took the detained persons to the local military post despite the intervention of the captain of the Bon Repos police station.

Monique Brégard, Jérémie

243. Monique Brégard (23 yrs.), who was six months pregnant, involuntarily aborted her fetus following torture inflicted upon her by military in Jérémie on July 19. She was beaten both when initially detained and later when taken to the barracks, this despite her cries that she was pregnant. Another pregnant woman was also beaten by a military man in Jérémie that same day.

Gérald Rubin Lamour, Pont-Sondé

244. On August 4, Gérald Rubin Lamour was in a protestant church in Pont-Sondé (Artibonite) participating in prayer when a military commando and armed men interrupted the service and arrested him. The victim was severely beaten, particularly on the wrists, head, and face with "kalòt marasa." He was also forced to walk the entire zone on foot before being released.

René Sylveus Benjamin, Pont-Sondé

245. On August 14, René Sylvéus Benjamin was arrested at Pont-Sondé (Artibonite) by an army corporel named Lucien. He was transferred several minutes later to the St. Marc military barracks, where he was harassed for having installed a camera in front of his home to monitor the comings and goings of the military, and accused of distributing political tracts. Benjamin was tortured with "kalòt marasa" blows and released the next day.

(v) People Arrested and/or Beaten for Expressing Support of President Aristide

Manistin Capricien, Môle St. Nicolas

246. On March 29 in Môle St. Nicolas (Northwest Department), military and their attachés arrested and physically harassed several persons accused of distributing tracts and of possessing photos of President Aristide. One of the detainees, professor Manistin Capricien, was hospitalized after the incident.

Aristide supporters, Jérémie

247. On July 15, two Aristide supporters were arrested at Jérémie (Grande-Anse) by "attachés" in the presence of military men. They were forced to remove photos which they had posted.

Faniel Glosy, Mirebalais

248. Faniel Glosy was arrested on July 18, on the pretext of having posted photos of Aristide, even though there was no indication that he had done so. He was taken to military barracks at Mirebalais (Plateau Central) where he was severely beaten.

Esnold Maillot, Jude Donvil, and Huguens Bellevue, Domond-Péligra

249. On July 22 and 23, a military adjoint named Paul Nestor arrested Esnold Maillot (35 yrs.), Jude Donvil, and Huguens Bellevue in Domond-Péligra (Plateau Central). Nestor accused Maillot of being a "lavalassien" and tortured him.

Vesner Joseph, Rodrique Jean, and Mrs. Paul Casséus, Jean-Denis

250. On July 24, after a meeting organized by members of the group K-Huit in Jean Denis (Verrettes), the local chief of police arrested Vesner Joseph, Rodrique Jean, and Mrs. Paul Casséus, whom he accused of being "lavalassiens." The victims each paid 100 gourdes to obtain their release.

Inokal Deka, Sarazen

251. On July 29, Inokal Deka, agricultural worker and member of the Movement "Peyizan Chalmay Peralt" (MOPCHAP), was arrested by the military in Sarazen (Plateau Central). He was accused of being a "lavalassien."

c) Freedom of Thought and Expression

(i) Legal Provisions

252. Article 13 of the American Convention on Human Rights provides the following:

1. Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.
2. The exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure:
 - a. respect for the rights or reputations of others; or
 - b. the protection of national security, public order, or public health or morals.
3. The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.
4. Notwithstanding the provisions of paragraph 2 above, public entertainments may be subject by law to prior censorship for the sole purpose or regulating access to them for the moral protection of childhood and adolescence.
5. Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar actions against any person or

group or persons on any grounds including those of race, color, religion, language, or national origin shall be considered as offenses punishable by law.

(ii) General Observations

253. The Commission was made aware of numerous instances in which Haitian military authorities have tried to intimidate journalists who are covering human rights violations and the general political climate in Haiti. The tactics for monitoring the press range from rebukes to arrest, creating a climate in which the press know they are being closely observed by those in power. The following cases represent a small sampling of cases reported to the Commission.

(iii) Selected Cases

Cajuste Lexius, Fabonor St. Vil, Sauveur Orelus, Port-au-Prince

254. On April 23rd in Port-au-Prince, Cajuste Lexius, Fabonor St. Vil, and Sauveur Orelus, three union leaders who belong to the "Centrale Générale des Travailleurs" (CGT), were arrested and brutally beaten by members of the 30th Police Company after having called for a strike over Radio Caraïbe. Police arrested the men on the false pretext that they had been illegally using firearms. Civilian Mission observers who learned of the arrest almost immediately attempted to intercede, but police denied them access to the men for three days. When they were finally able to see the victims, one of the observers commented on the severity of injuries to Cajuste Lexius who was hospitalized at the Mission's insistence. All three men were eventually released.

Journalist from Tropic FM, Photographer from Haïti Progrès, Claudy Vilmé

255. In July, a journalist from Tropic FM and a photographer from the daily "Haïti Progrès", which covered the appearance of the body of Vesnel François, were threatened by policemen and armed men. The police also confiscated the photographer's material. Also in July, reporter-photographer Claudy Vilmé was arrested in Port-au-Prince after he took photos of military men at a gas station. He was beaten by masked armed men who confiscated his material, and then taken to Fort Dimanche, a former prison. Vilmé's cousin, Jackie Délice, was abducted by armed men on July 10. Her body, riddled with bullets, appeared three days later on a highway in Port-au-Prince. Finally, on the morning of July 24, six vendors for the newspaper, "Libète", were arrested. Their money was stolen, and their newspapers burned. Five of them were taken to the Anti-Gang Research and Investigative Service office where they were harassed and released a few hours later.

Luc François

256. In September, Luc François, a journalist with Radio Television Express, went into hiding when he learned that he had been accused of submitting to the New York-based Haitian newspaper, "Haïti Progrès", news stories critical of local police.

Lucner Desir

257. In October, soldiers ordered Lucner Desir, a radio technician with Radio Phalanstere International in Gonaïves, and an unidentified radio technician of Radio Provinciale, to go to the local military post for questioning. Neither of them obeyed the order, however; and the next day both were arrested in compliance with orders from the regional military commander, who accused them of "broadcasting songs by politically committed singers." The arrests are significant because neither radio station has broadcasted any national news since the September 1991 coup; the arrests for the airing of songs indicate the broad extent to which political expression has been silenced in Haiti.

Television Film Crew from Florida-based Channel 7

258. On October 12, a film crew from this Miami-based television station received death threats and was forcibly thrown out of Port-au-Prince by military forces.

d) Right of Assembly and Freedom of Association

(i) Legal Provisions

259. Article 15 of the American Convention on Human Rights guarantees a right of peaceful assembly. It states:

The right of peaceful assembly, without arms, is recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and necessary in a democratic society in the interest of national security, public safety or public order, or to protect public health or morals or the rights or freedoms of others.

(ii) General Observations

260. The Armed Forces' response to public displays of support for Aristide and to other public demonstrations has typically been one of repression, allowing only for a slight reprieve which was observed during the period immediately following the signing of the Governors Island Agreement.

261. The negotiations between those who exercise power in Haiti and the constitutional Haitian government which took place in early July, 1993, prompted a series of public demonstrations throughout Haiti. For the most part, the military forcibly dispersed these attempted demonstrations, arresting and beating many of the participants. Following the signing of the Governors Island Agreement on July 3, 1993, the military exhibited greater restraint to small demonstrations in Port-au-Prince and Gonaïves, which it dispersed without the usual arrests and beatings. In mid-July, however, the military returned to its repressive posture.

(iii) Selected Cases from Port-au-Prince

262. On Sunday, June 27 at the end of a religious service at the Church Notre Dame du Perpétuel Secours in Bel-Air, several persons threw political tracts into the air and shouted slogans in support of President Aristide. In response, military and armed men who were present inside the

church, immediately arrested and beat Nickson Desrosier (30 yrs.) and Enef Pierre (42 yrs.), coordinator and treasurer of the St. Clair Platform. Five others were also arrested and beaten. Some of the violence was televised. The seven detainees were transferred to the Anti-Gang Research and Investigative Service where they were severely mistreated during interrogation. Three were released later that day, while four remained in detention.

263. After a June 28 Cité Soleil demonstration in support of Aristide was broken up by policemen, Vesnel François (24 yrs.), member of the Platform of Popular Organizations of Cité Soleil was arrested. At the moment of his arrest, François tried to defend himself, with the result that a policeman hit him several times with the end of his gun. He was then transferred to the military front post where he was severely beaten by policemen. Members of the Civilian Mission who tried in vain to intercede, heard his cries that he was being beaten. The next day when Mission observers succeeded in gaining access to his place of detention, they learned that he had been transferred to a military hospital for medical treatment. François was finally formally charged on July 1 for having impeded a policeman in the exercise of his duties and released on his own recognizance. He suffered fractures in his upper arms and wrists.

264. In July, the military dispersed public demonstrations in support of Aristide at the Church of St. Jean Bosco (July 10) and at Cité Soleil (July 14).

265. On August 18 in Pétienville, a rally organized by the "Komite Mete Men pou Verite Blayi" (KOMEVEB) was dispersed by policemen. At least three persons, among them Father Yvon Massac of the Fermath parish, were arrested. At a court hearing that same day, the arrestees were charged with "disturbing the peace" and were taken to the national penitentiary. Having heard of the detention, members of the Inter-American Commission on Human Rights who were in Port-au-Prince consulted authorities to ask for their release. Massac and the two others were released two days later.

(iv) Selected Cases from the Rural Countryside

266. In Gonaïves (Artibonite), two peaceful demonstrations which took place in March and April against those who exercise power in Haiti and in favor of Aristide were followed by violence when the military forcibly intervened.

267. On April 29 in Hinche (Plateau Central) on the 20th anniversary of the Papaye Peasant Movement (MPP), military men went to the homes of MPP members to arrest those who had been posting pictures of Aristide in public places. The arrestees were accused of having disturbed the peace. One of them, Hilton Etienne, suffered a fractured left wrist and multiple contusions as a result of physical abuse inflicted by the military during his detention.

268. On June 22 and 23 in Gonaïves (Artibonite), the military dispersed demonstrations in support of Aristide. On June 25, they also prevented an assembly in the Lèt Bò Kanal quarter and severely beat up one person whom they found in the location where the demonstration was to have occurred.

269. On June 29 in Zabricot (Plateau Central), 13 persons, most of whom were members of the Papaye Peasant Movement (MPP), were arrested after a demonstration calling for the return of the section chief who was in charge of the community during the brief government of President Aristide. The victims were held in barracks in Hinche where they were beaten with rifle butts and clubs, and subjected to cruel physical tortures such as the "kalòt marasa." They appeared before a Judge on July 2, where they were charged with participating in a non-authorized demonstration and disturbing the peace, and sent back to prison for three more days while the court awaited more information on their cases.

270. On July 1, the military violently repressed a demonstration organized by the group "Tet Kole Nan Sid" in the La Savane quarter of Cayes. Several demonstrators were beaten, and three were arrested and placed in detention at the local barracks. One of the detainees was later observed with open wounds on the cheek and back. Several hours after the demonstration had been dispersed, military "attachés" were seen indiscriminately beating up residents of La Savane. Other demonstrations in the area had been similarly dispersed by the military on June 25 and 28 with clubs, the threat of arms, and in one case, the use of tear gas.

271. Also in July, threats by armed men forced the termination of a mass in St. Hélène (Grande-Anse) on the occasion of President Aristide's birthday (July 15). Days later, on July 18, some military "attachés" arrested demonstrators at a pro-Aristide demonstration in St. Hélène (Jérémie), while at the end of the month, local town authorities blocked peaceful pro-Aristide demonstrations in Gonaïves.

E) Reports approved by the IACHR at its 85th session

272. The Inter-American Commission on Human Rights, at its 85th session held January 31 to February 11, 1994, approved three reports on human rights violations committed by agents of those who exercise power in Haiti. In Resolutions 9/94 and 10/94, the Commission decided to group together several cases involving the same type of violation committed in the time period considered by the Commission.

273. Collective Report No. 9/94 against those exercising power in Haiti, refers to violations of the right to personal liberty and physical integrity, which occurred in 1992. This report concerns the cases of Messrs. Hubert Pascal, Vonel St. Germain, Yolette Etienne, Inelda Cesar, Kedner Bazelais, Destinas Vilsaint, Frénel Regis, Carlos Bassette, Mathurin Vincent, Travil Lamour, Eliphete Abeltus, Thomas André, Antoine Augustin, Maurice Damuey and Jean Emile Estimable.

274. Collective Report No. 10/94 against those exercising power in Haiti concerns violations of the right to life that occurred in 1992. This report refers to the cases of Messrs. Brunel Jacquelin, Moises Jean Charles, Marcel Fleurzil, Frantz Delva, Jacques Derenoncourt, Wesner Luc, Justin Bresil and Jean-Sony Philogène.

275. Report No. 11/94 concerns the murder of Mr. Georges Izméry in August 1992 (case 11.128).

CONCLUSIONS AND RECOMMENDATIONS

309. From the presentation made on the political and human rights situation in Haiti the Inter-American Commission on Human Rights has drawn conclusions and made recommendations. Firstly, the Commission wishes to note that the human rights situation in Haiti has continued to deteriorate severely despite the many efforts made by the international community to find a solution to the Haitian crisis.

310. The Commission has observed that most of the complaints of human rights violations received, have sprung from attempts at political expression among supporters of a return to democracy. Emboldened by the signing of the Governors Island Agreement made by President Jean-Bertrand Aristide and the Chief of the Armed Forces, General Raoul Cedras, and additionally, by the acceptance of the Pact of New York, the supporters have publicly expressed their support for the constitutional President. This reaction has provoked a wave of repression on the part of the Armed Forces to prevent fulfillment of these Agreements reached in July 1993.

311. Violations of human rights, including executions without benefit of trial, disappearances, arbitrary arrests normally accompanied by mistreatment, torture, and extortion, of which members of the Armed Forces are regularly accused, are proof of the corruption that exists in that military institution and of its domination over the system of justice in Haiti. Most of these violations have been committed by the Army for the purpose of repressing and frightening the Haitian population and thereby maintaining themselves in power.

312. In particular, the charge of "lavalassien" has been used by the military to justify arbitrary seizures and violent surprise searches. Demonstrations and meetings have been broken up and their participants severely punished. Restrictions on the right to free speech and threats to members of the press and owners of radio stations have continued, as have physical attacks on persons distributing newspapers.

313. The Commission has observed that violations of human rights have increased particularly in rural areas, where the peasant population is bereft of any legal recourse for the assertion of its rights. Most of these violations are committed by Section Heads and their assistants, who are appointed by the Armed Forces and are members thereof. This has given rise to the institutionalized practice of violence.

314. Following Mr. Robert Malval's confirmation as Prime Minister and the lifting of the embargo imposed by the United Nations and the Organization of American States, acts of violence increased and were directed at hindering the installation and operation of the new government and at preventing the functioning of the OAS-UN Civilian Mission, which for its own safety had to leave the country. Also, the violence unleashed by extreme-right groups, supported by paramilitary groups, resulted in the withdrawal of the United Nations Mission (MINUHA) before its arrival.

315. The present climate in Haiti is still characterized by the repression practiced by the military and collaborating armed groups. They, as demonstrated by the murders of Antoine Izméry and Guy-François Malary by "attaches" in September and October 1993, are becoming more brazen and are committing crimes in the full light of day against political activists who have openly supported the regime of deposed President Jean-Bertrand Aristide. During the period in question, the Commission recorded many deaths whose political connections were fully demonstrated by the fact that the military could instigate or stop them. Further more, as in the present situation, not only did it provoke and sponsor them, but the military also failed to investigate and punish the perpetrators of these murders, who operated in death-squad like fashion. This prompts the conclusion that they operate because they are granted impunity by the military.

316. Despite the undertaking in the Governors Island Agreement to generate a climate of pacification throughout the country so that President Aristide could return and its reaffirmation by the Chief of the Armed Forces and his General Staff in their talks with the Commission in August 1993, the resurgence of violence and the Army's indifference to combatting it demonstrate the lack of any intention or disposition to lead Haiti to democracy. Indeed, the military appears to see no inconsistency between their military regime and democracy, and disregards the fact that the assumption of power through a coup d'état is inherently anti-democratic, especially in light of Article 3(d) of the Charter of the Organization of American States and Article 23 of the American Convention on Human Rights.

317. By the coup d'état, the military regime has attempted to nullify the Haitian Constitution of 1987, which the population had sweepingly approved. The use of violence by the military to foil the popular will has repeatedly been condemned by the Commission and democratic nations. The Constitution of 1987 is the standard by which the legitimacy of the Haitian government must be measured. Today, all guarantees contained in that Constitution are direly threatened by the Armed Force's monopoly on force. They operate as a police force that does not protect security in the country but instead, represses those who try to change the wretched conditions in which the Haitian people live.

318. The Commission has previously stated that, regardless of the current political situation in Haiti, the American Convention on Human Rights continues in effect, and those who hold power are under the obligation to respect the rights contained in that international instrument.

319. Moreover, the Commission acknowledges that the Governors Island Agreement and Pact of New York are threatened by the repression and violence carried out by the Armed Forces. In effect, while the critical steps called for to secure the transition to constitutional democracy in Haiti are consolidated in those instruments, the obligation of all parties to commit to action to ensure the fulfillment of those steps remains. The Commission is convinced that the member states of the United Nations and the Organisation of American States must go on acting with increased boldness, using every possible means to prevent the further loss of countless lives in flight from repression. As part of these efforts, the UN and OAS should authorize the return of the OAS-UN Civilian Mission to Haiti, whose presence has proved to have a dampening effect on many tense situations. Similarly, the introduction of a UN force of technical training

personnel for the police, and an international training program for the military should be carried out.

320. The Commission calls upon member states to comply with their obligations under international conventions and instruments, including the American Declaration of the Rights and Duties of Man, to ensure that persons who flee their countries from political persecution are afforded the right to determine their claims for asylum or refugee status.

321. The Commission is convinced that the essential requirement to remedy the grave human rights situation in Haiti is quick re-establishment of the constitutional democratic regime elected at the polls in December 16, 1990, and deposed in the coup d'état of September 29, 1991. This restoration should be accompanied by fundamental changes such as separation of the Army and the police as provided in the Constitution of 1987. At the same time, the necessary steps should be taken to professionalize an independent police force.

322. The Commission is convinced that in order to safeguard the personal rights and liberties of Haitians and to protect the population from abuses by the military, there must be:

a. a substantial reform of the legal system to ensure that the perpetrators of criminal acts are brought to justice and that persons who are arrested are brought to trial in as short a time as possible, and

b. an immediate disarming and disbanding of the paramilitary forces and sections chiefs who commit indiscriminate acts of violence with impunity.

323. Conscious of the gravity of the present situation in Haiti, the Commission is considering the possibility of making another in loco visit as soon as possible, in order to observe the human rights situation in that country and to maintain a continuing presence in Haiti.

ANNEXES

N° 20/93 ANNEXES

PRESS COMMUNIQUE

The Inter-American Commission on Human Rights is gravely concerned at the deterioration of the human rights situation in Haiti. Paramilitary groups known as "attachés" have killed dozens of persons in the Canape Vert, Delmas, Musseau, and Carrefour districts, where many supporters of President Jean-Bertrand Aristide live.

Added to such alarming acts as the recent assassination of Mr. Antoine Izméry are the present violence and terrorism of those armed paramilitary groups, acting with complete impunity under armed forces protection. The latest tragic victim of this terrorism has been Minister of Justice Guy Malary, who was assassinated along with two of his bodyguards yesterday.

Since September, after Prime Minister Robert Malval was confirmed and after the embargo imposed by the United Nations and the Organization of American States was lifted, acts of violence have increased presumably aiming at preventing the new government from being installed and going into operation and blocking implementation of the agreements. A number of ministers of the new government have had to abandon their homes after receiving death threats. Some newly appointed officials are in hiding and have been unable to take charge of their offices.

Recently, groups of armed forces civilian auxiliaries took over the mass media, broadcasting threats against the United Nations Mission to Haiti (MINUHA) and demanding expulsion of Special Envoy Dante Caputo and resignation of Prime Minister Malval.

The Commission has been informed of the violent demonstrations organized by the Haitian Front for Advancement and Progress (the FRAPH) and other paramilitary groups, designed to prevent the landing of the technical assistance mission for training the armed forces and the police, and to block access to the Port-au-Prince docks by OAS-UN observers and U.S. Embassy staff. During these demonstrations, acts of violence have been committed against journalists and diplomatic vehicles, and demonstrators have fired weapons into the air to frighten the people. These demonstrations have been protected and aided by the police, which even redirected traffic flows with the obvious intent of facilitating the demonstrators' passage.

The Commission strongly condemns the situation of violence prevailing in Haiti, which it perceives as provocation designed to prevent compliance with the Governors Island agreements concluded in July 1993 and the New York Accord that lifted the international embargo on August 27, 1993. The Haitian armed forces' failure to comply with those agreements has led the United Nations Security Council to reimpose the embargo.

The Commission considers that, although implementation of these agreements is being threatened by the violence and repression of the armed forces, it affirms that the agreements continue to be in effect for the international community, which can take whatever measures may be needed against the groups that are hampering full reestablishment of democracy and the individual guarantees protected by the American Convention on Human Rights.

Washington, D.C., October 15, 1993

N° 19/93

PRESS RELEASE

The Inter-American Commission on Human Rights resolutely condemns the acts of violence committed by irregular armed groups operating with impunity in Haiti. These groups are selectively assassinating people who support the return of President Jean-Bertrand Aristide and are using vandalism in an attempt to prevent Prime Minister Robert Malval's cabinet from taking office and operating.

The Commission deplores the repression carried out by agents of the Armed Forces in Haiti, known as "attachés", which has resurged since early September, and condemns the recent assassination of citizens of Haiti. According to information obtained by the IACHR, 12 people were killed in Canape Vert, Dalmás, Musseau, Carrefour and Carrefour Feuille, on the outskirts of Port-au-Prince.

In addition, the Committee was informed of the assassination of Mr. Antoine Izmary, a personal friend of President Aristide and founder of KOMEVEB, or Comité Manos Juntas para el Estallido de la Verdad (the Communal Committee for Revelation of the Truth), which supports a return to democracy. The assassination of Mr. Izmary was perpetrated on September 11, 1993 by armed civilians who forced him to leave the Sacred Heart Church in Turgeau, where a mass was being said to commemorate the victims of the massacre in the church of San Juan Bosco on September 11, 1988.

The Commission expresses its concern at the threats made against Mr. Dante Caputo, the special envoy of the OAS/UN and interprets them as yet another attempt to destabilize the process of political negotiations in Haiti.

During its on site visit to Haiti, from August 23 to August 27, 1993, the Delegation of the IACHR was told by General Raoul Cédras, Commander in Chief of the Armed Forces, that he would guarantee a climate of peace for the return of President Aristide. However, the resurgence of human rights violations in Haiti, and the passive role adopted by the Army and the Police in response to them, constitute a clear violation of the agreements reached in July, 1993, on Governors Island and in the New York Pact.

The Commission calls upon the Armed Forces of Haiti to disarm and dismantle the armed civilian groups whose actions tend to frustrate the full restoration of democracy and of individual guarantees enshrined in the American Convention of Human Rights.

During its next session (October 5-15-1993), the Commission will once again review the human rights situation in Haiti, and the possibility of sending a Delegation before the end of October.

September 24, 1993

Nº 16/93

PRESS COMUNIQUE

Today a delegation of the Inter-American Commission on Human Rights of the Organization of American States concludes its visit to Haiti. The purpose of the visit was to continue observing the human rights situation in this country and to evaluate the fulfillment of those rights contained in the American Convention on Human Rights and to make recommendations the Commission considers necessary.

The IACHR delegation's visit was from 23rd to the 27th of August. The Delegation was composed of the following persons: Professor Michael Reisman, Vice-President of the

Commission and head of the delegation, Ambassador Oliver Jackman, Dr. Marco Tulio Bruni Celli, Dr. Leo Valladares Lanza, Dr. Patrick Robinson, members of the Commission, Dr. David Padilla, Assistant Executive Secretary of the IACHR, Dr. Bertha Santoscoy Noro, principal human rights specialist, Dr. Relinda Eddie, and Dr. Meredith Caplan, human rights specialists and Mrs. Maria Julia Meyer, administrative officer, Mr. Serge Bellegarde of the OAS language services, and Mrs. Oliviere Bellande, both of whom served as French and Creole translators and interpreters.

The Commission is the principal organ of the OAS charged with reporting on compliance with human rights standards in the hemisphere. The seven members of the Commission, each serving a four year term, are elected by the General Assembly of the OAS in their individual capacity and not as representatives of governments. The authority of the Commission derives primarily from the American Convention on Human Rights to which Haiti has been a party since 1977. The Commission's jurisdiction extends to two categories of human rights problems. Petitions may be brought by or on behalf of individuals or groups of individuals whose rights are alleged to have been violated. But when large numbers of grave violations are occurring in a country, single petitions are unlikely to help. For such situations, the Commission may undertake on its own initiative, a country-study of human rights violations.

For both forms of jurisdiction, the Commission concludes by issuing a report to the General Assembly of the OAS and to the international community.

The Commission has a disturbingly large number of individual petitions from Haiti currently before it. Because of the general gravity of the human rights situation in Haiti, precipitated and in part aggravated by the military coup of 1991, the Commission issued a special report in 1992 and again in 1993. During this time, the Commission was repeatedly asked by the Permanent Council and the Extraordinary Meeting of Consultation of Foreign Ministers of the OAS to conduct an on-site visit in Haiti. On other occasions, the Commission has been asked by President Aristide, who has testified before it, to conduct an on-site visit. Unfortunately, each initiative by the Commission to arrange a visit to Haiti was either rebuffed or ignored by those exercising authority. Most recently, by letter of July 6, 1993, President Aristide requested the Commission to conduct an on-site investigation. By letter of July 19, 1993, Mr. Francois Benoit, who had been appointed Foreign Minister by those exercising authority, indicated their willingness to allow the Commission to conduct an on-site visit. The Commission promptly organized the current on-site investigation.

The authorities, on accepting the visit by the Commission, gave assurances that the Commission could interview freely and in private persons, groups, and organizations which the IACHR deemed pertinent, and that no reprisals would be taken against them.

During its stay, the IACHR delegation benefitted from the cooperation of representatives of organizations from various sectors of Haitian society in its efforts to gain a better understanding of the human rights situation in this country. The Commission met with the appointed Minister of Foreign Affairs, Mr. Francois Benoit, Prime Minister Robert Malval, members of Parliament, Mr. Fermin Jean-Louis, President of the Senate, Mr. Turneb Delpé, Mr. Rony Modestin, and Mr. Ebrane Cadet, with the head of the Armed Forces, General Raoul Cedras, and his high command.

The delegation also met with members of the Presidential Commission, Father Antoine Adrien, and Mr. Chavannes Jean Baptiste. The delegation had talks with the Director of the OAS - UN Civil Mission, Ambassador Collin Granderson, who was accompanied by Mr. Ian Martin, the Director for Human Rights, Mr. William O'Neill, Deputy Director for Human Rights, Mr. Tiebile Dromé, Director of the Human Rights Investigation Section, and Ms. Maria Clara Martin, human rights investigator for the Mission.

The delegation also met with a number of human rights organizations and various representatives of political parties. It likewise met with journalists from the different media to learn about issues related to the freedom of expression. The delegation conducted interviews with union leaders, industrialists, members of the religious community, as well as other sectors of national life. The delegation also received individual complaints, information, and communications regarding human rights from persons from all social classes.

The delegation visited three prisons where it met with the respective penal authorities. These establishments were; the National Penitentiary, the Prison of St. Marc, and the Prison of Hinche.

The delegation obtained a great deal of information regarding arbitrary detentions, over-crowded prison conditions, mistreatment, and torture of prisoners at the time of arrest as well as unreasonable delays in bringing accused persons to court.

The delegation travelled to the interior of the country visiting the cities of St. Marc, Gonaives, and Hinche, where it received a great deal of information regarding abuses committed by agents of the army, by section chiefs and their henchmen. The delegation was informed that "militias" are creating a climate of fear among the rural inhabitants. According to those sources, paramilitary forces assault, rape women, and destroy homes with complete impunity.

The Commission received considerable information and assistance from the Civil Mission. Though it has a different mandate from that of the Inter-American Commission which operates under the American Convention, the Civil Mission's reports on human rights violations have been an extremely important source of information for the Commission. Moreover, reports from persons interviewed make clear, as indicated below, that the presence of the personnel of the Civil Mission in situations and places of high tension has on numerous occasions had a deterrent effect.

During its on-site visit, the Chamber of Deputies approved the President's nomination of M. Robert Malval as Prime Minister. The Commission views this as an important step in the reconstruction of a constitutional and popularly elected government. Nevertheless the overall picture of the human rights situation that emerged from testimony was discouraging. The Commission received information of manifold violations of human rights in Haiti. Much of it confirmed findings published by the Civil Commission and non-governmental organizations.

The Commission received numerous complaints which have the following common characteristics: First, the delegation heard repeated testimony that the rights of life, personal liberty, physical integrity and freedoms of expression, and assembly are being constantly

violated. Second, the climate of fear and insecurity in the country, that has resulted, has prompted large scale internal movements of persons from the provinces to the Capital and vice versa, seeking to flee repression by the military. Many of these persons have abandoned their homes and families and frequently change living quarters at night to protect themselves.

In its visit to the countryside, witnesses were so fearful of reprisals by military and paramilitary forces that many insisted that their meetings with the Commission be held clandestinely. The pattern which emerged from testimony there was of intense physical abuse, sometimes of entire families suspected of being supporters of President Aristide. Many of these attacks led to severe injuries.

It was also pointed out that this phenomenon of violence was occurring in the cities carried out by large bands of armed men called "Zenglendos" who operate in a systematic manner committing crimes at night particularly in poor neighborhoods of the Capital, with the apparent acquiescence of the armed forces.

The situation of insecurity which is pervasive in the country has generated an additional human rights problem, namely, internal displacement. Citizens who have suffered physical abuse at the hands of the police or paramilitary forces fear to return to their homes. "Mawons" (in Creole, those in hiding), are said to number as many as 300,000 people.

Another grave problem which antedates the current crisis is the inordinate delay in processing people who have been arrested and detained within the criminal justice system. It is apparently not unusual for individuals to be kept in jail for as long as two years before they are even charged. This problem, which was brought to the attention of the Commission by many witnesses requires urgent attention, for long delays in the provision of due process violate the American Convention.

The Commission is convinced that the key and indispensable prerequisite - indeed, a *conditio sine qua non*- to repair the grave human rights situation in Haiti is the early reestablishment of the constitutional democratic government that was elected by the people of Haiti in the internationally supervised and certified elections of 1990, but which was ousted by the military coup of September 29, 1991. The coup d'etat was in itself a violation of the Convention. The proper remedy for such a violation is that its results be reversed. It is clear that, until legitimate, constitutional government is restored, fundamental change in Haiti cannot take place. Such change would necessarily involve:

- a) a substantial improvement of the judicial system;
- b) the separation of the military and the police, as envisaged in the national Constitution; and,
- c) the professionalisation of the police force.

This would lay the groundwork for the reconstruction of the national economy and for the reentry of Haiti into the international economy, indispensable steps in the process whereby the

citizens of the country may attain a life style consonant with the economic and social standards prescribed in the American Convention and the Covenants of the United Nations.

The implementation of Articles 2 and 3 of the Governors Island Agreement of July 3, 1993 is a welcome step. The suspension of the embargo, in accord with Article 4 of the same, will bring many economic benefits to Haiti. But "Governors Island" requires much more to be done. Moreover, it must be read in conjunction with the New York Agreement of July 16, 1993, which the Secretary General of the United Nations described as complementary to it. In the New York Agreement, the political parties and political forces in Haiti call for an end to arbitrary practices, illegal detentions, physical torture, disappearances, political assassinations, acts of personal vengeance, and the immediate release of all persons detained because of their political opinions. The Commission calls for the fulfillment of all of these commitments at the earliest time.

The New York Agreement calls, in section 4(i), for the enactment of a law for the establishment, organization and operation of a police force. The Commission is convinced that this is an important and urgent measure for the installation of an acceptable human rights regime. In order to facilitate it, the Commission would urge President Aristide and Prime Minister Malval to create immediately a Ministry responsible for the police headed by a civilian minister. The Ministry can begin to oversee the operations of the police, as currently structured, and can serve as a liaison with the United Nations technical training force called for in the Governors Island Agreement. It can also initiate the preparation of the primary and secondary legislation necessary to establish a separate police force. Early enactment and implementation of such legislation is required for the functioning of a police force which meets international standards.

Numerous complaints under the Convention about the system of maintenance of public order in the rural areas have been received by the Commission on this visit as well as in the past. So many complaints have been received that it is plain that over and above the need for individual remedies, this is a structural problem. Whatever the historic justifications for the system of chefs de section, it is apparent that a new system of public order in the countryside is urgently required.

The establishment of a separate, professional police force along with the restructuring of the public order system in the countryside must be accompanied by the disarming and demobilization of the various irregular groups that have formed. The Commission has received reports of the recrudescence of activities of various irregular armed groups in the tradition of the Ton Ton Macoute. Many of the reported violations are associated with these formations. Many witnesses insisted, and some submitted eye witness testimony, that the military was behind and responsible for these irregular forces. In any event, it is clear that the armed forces are obliged to stop the unauthorized use of violence in the state.

The Governors Island Agreement contemplates considerable international assistance for Haiti. The Commission believes such assistance is urgently required. In particular, the Commission believes that the life of the Civil Mission should be extended because it can supply much needed basic data on the political and human rights situation in Haiti, and by its mere presence, it can act as a retardant on unauthorized violence.

Similarly, the Commission feels that the introduction of internationally authorized police trainers and a military training program should be accomplished at the earliest possible moment.

The Commission listened with satisfaction to the assurances given by the Commander in Chief of the Armed Forces concerning his commitment to creating a peaceful climate throughout the country to allow for the return of Father Aristide.

The Commission is grateful for the cooperation it has received from the authorities and different sectors of the Haitian population which contributed to the success of the mission. The Commission intends to continue monitoring the human rights situation in Haiti.

Port-au-Prince August 27, 1993

N° 15/93

PRESS RELEASE

The Inter-American Commission on Human Rights of the Organization of American States decided at its 83rd period of sessions to continue to give priority to the human rights situation in Haiti. With the consent of the Government of Haiti, and pursuant to the Agreement reached on Governors Island on July 3rd, 1993, the Commission will make a visit to Haiti to observe and assess the human rights situation.

The object of the visit is to continue to observe human rights in Haiti, and to evaluate the exercise of these rights in accordance with the American Convention on Human Rights, to which Haiti is a party, and to make recommendations that the Commission considers to be necessary. This visit is also made pursuant to the prior resolutions issued by the ad-hoc Meeting of the Ministers of External Affairs, and the recent resolutions adopted by the Organization of American States at its 23rd General Assembly, held in Managua, in June of this year.

The Commission will be in Haiti from August 23rd to the August 27th, 1993, to assess the human rights situation in that country. The composition of the Commission's delegation follows: Professor Michael Reisman, Vice-President of the Commission, Ambassador Oliver Jackman, Dr. Marco Tulio Bruni Celli, Dr. Leo Valladares Lanza, Dr. Patrick Robinson, Secretariat staff - Executive Secretary Dr. Edith Márquez Rodríguez, human rights specialists - Dr. Bertha Santoscoy-Noro, Dr. Relinda Eddie, Dr. Meredith Caplan, Maria Julia Meyer, administrative secretary, and M. Serge Bellegarde, interpreter of french and creole.

The acceptance of the Commission's visit by the Government of Haiti, guarantees that the Commission will be able to interview

people, groups, entities or institutions that it considers appropriate, and that no reprisals will be taken against persons who communicates with the Commission.

During the course of this mission, the Commission anticipates to interview and obtain information from officials, groups, and in particular representatives of the different sectors of the haitian society.

The Commission will follow the aforementioned structured calendar of activities. Throughout the visit, the Commission is counting on the cooperation of the representatives of the various entities who comprise the haitian society for a better understanding, of the reality of haitians in the domain of the rights of man.

The Commission's delegation will be staying at the Creole Villa Hotel, and the Commission's representatives will be at the disposal of all those persons who want to provide their information and individual complaints to them on Wednesday, August 25th, 1993, between the hours of 2:00 to 6:00 p.m.

Potr-au-Prince August 16th, 1993

AGREEMENT OF GOVERNORS' ISLAND

The President of the Republic of Haiti, Jean-Bertrand Aristide, and the Commander-in-Chief of the Armed Forces of Haiti, Lieutenant-General Raoul Cédras, have agreed that the following arrangements should be made in order to resolve the Haitian crisis. Each of them has agreed to take, within the scope of his powers, all the necessary measures for the implementation of these arrangements. Furthermore, they both, in any case, express their support for the implementation of these arrangements and pledge to cooperate in implementing them.

1. Organization, under the auspices of the United Nations and the Organization of American States (OAS), of a political dialogue between representatives of the political parties represented in the Parliament, with the participation of representatives of the Presidential Commission, in order to:

- a) agree to a political truce and promote a social pact to create the conditions necessary to ensure a peaceful transition;
- b) reach an agreement on the procedure for enabling the Haitian Parliament to resume its normal functioning;
- c) reach an agreement enabling the Parliament to confirm the Prime Minister as speedily as possible; and
- d) reach an agreement permitting the adoption of the laws necessary for ensuring the transition.

2. Nomination of a Prime Minister by the President of the Republic.

3. Confirmation of the Prime Minister by the legally reconstituted Parliament and his assumption of office in Haiti.

4. Suspension, on the initiative of the United Nations Secretary-General, of the sanctions adopted under Security Council resolution 841 (1993) and suspension, on the initiative of the Secretary-General of OAS, of the other measures adopted at the OAS Ad Hoc Meeting of Ministers of Foreign Affairs, immediately after the Prime Minister is confirmed and assumes office in Haiti.

5. Implementation, following the agreements with the constitutional Government, of international cooperation:

a) technical and financial assistance for development;

b) assistance for the administrative and judicial reform;

c) assistance for modernizing the Armed Forces of Haiti and establishing a new Police Force with the presence of United Nations personnel in these fields.

6. An amnesty granted by the President of the Republic within the framework of article 147 of the National Constitution and implementation of the other instruments which may be adopted by the Parliament on this question.

7. Adoption of a law establishing the new Police Force.

Appointment, within this framework, of the Commander-in-Chief of the Police Force by the President of the Republic.

8. The Commander-in-Chief of the Armed Forces of Haiti has decided to avail himself of his right to early retirement and the President of the Republic shall appoint a new Commander-in-Chief of the Armed Forces of Haiti, who shall appoint the members of the General Staff, in accordance with the Constitution.

9. Return to Haiti of the President of the Republic, Jean-Bertrand Aristide, on 30 October 1993.

10. Verification by the United Nations and the Organization of the American States of fulfilment of all the foregoing commitments.

The President of the Republic and the Commander-in-Chief agree that these arrangements constitute a satisfactory solution to the

Haitian crisis and the beginning of a process of national reconciliation. They pledge to cooperate fully in the peaceful transition to a stable and lasting democratic society in which all Haitians will be able to live in a climate of freedom, justice, security and respect for human rights.

Jean-Bertrand Aristide Lieutenant-General Raoul Cédras

President of the Commander-in-Chief of the Republic of Haiti Armed Forces of Haiti

Governors Island, July 3, 1993

ANNEX

(Original: French)

New York Pact

1. In the spirit of the Governors Island Agreement of 3 July 1993, the political forces and parliamentary blocs signatories to the present Agreement undertake to observe a political truce to guarantee a smooth and peaceful transition. The duration of this truce shall be six months, beginning upon signature of the present document. The objective of the truce is to create throughout the country a climate of pacification to facilitate the work of the Government of national concord. The signatories therefore appeal to all social sectors to put an end to all forms of violence.

2. The political forces and parliamentary blocs:

(a) Undertake to refrain during this period from tabling any motion of no-confidence against the new Government of national concord, in so far as the Executive scrupulously respects the Constitution and the laws of the Republic; and undertake to guarantee that there is a quorum as a result of their presence and not to obstruct the work of Parliament;

(b) Call upon the Haitian Armed Forces to respect the Agreement signed on 3 July at Governors Island;

(c) Call for an end to arbitrary practices from whatever quarter, particularly unlawful arrests, physical torture, disappearances, political assassinations and personal revenge;

(d) Undertake to secure the immediate release of all persons detained for offenses relating to the views they hold and to have the status of prisoners throughout the territory of Haiti reviewed, on the basis of an accelerated procedure;

(e) Undertake to take all the necessary steps to promote and guarantee full respect for human rights and fundamental freedoms;

(f) Undertake, pending the establishment of the Citizens' Protection Bureau, to promote the establishment of a Compensation Commission for the victims of the coup d'état,

(g) Undertake to refrain from any kind of action that could lead to violence or disrupt the transition to democracy;

(h) Undertake to promote the immediate reform of the judicial system.

3. The political forces and parliamentary blocs, with a view to ensuring the prompt restoration of constitutional order:

(a) Invite the President of the Republic to nominate as soon as possible the new Prime Minister of national concord, in accordance with the Constitution;

(b) Undertake to ensure the confirmation of the new Prime Minister selected, in accordance with the Constitution, without delay.

4. The political forces and parliamentary blocs undertake to ensure that the following laws are passed, on the basis of an emergency procedure:

(i) Act on the establishment, organization and operation of the Police Force, in accordance with article 263 of the Constitution;

(ii) Act concerning the amnesty;

(iii) Act establishing a compensation fund for the victims of the coup d'état,

(iv) Act concerning the abolition of all paramilitary forces, in accordance with article 263-1 of the Constitution;

(v) Act concerning the establishment, organization and operation of the Citizens' Protection Bureau;

(vi) Act on territorial authorities;

(vii) Act on the prison administration;

(viii) Act concerning the establishment, organization and operation of the Conciliation Commission;

(ix) Act on university reform and autonomy.

5. The Executive, within the framework of its powers, may begin the procedure of reviewing the various decrees and decisions adopted in the period from 30 September 1991 to 3 July 1993 that are not in accordance with the current Constitution, first and foremost Order N° 101, of 7 December 1992, setting up the Permanent Emergency Electoral Council.

6. The solution of the political crisis and the social pacification of the country call for a solution to the problem of the presence in Parliament of citizens elected as a result of the contested elections of 18 January 1993. To that end, it has been agreed that the members of Parliament elected as a result of those elections shall undertake not to obstruct the operation of the parliamentary institution and that they shall voluntarily refrain from occupying their parliamentary seats until such time as the constitutional institution empowered to consider this dispute has rendered its verdict.

In view of the fact that, under paragraph 4 of this Agreement, the Act establishing the Conciliation Commission is to be adopted as soon as possible after the installation of the

Government of national concord, it has been agreed that once that Commission has been set up the matter in dispute shall be referred to the Commission.

The United Nations and OAS undertake, by making two experts available, to make a technical and juridical contribution to the preparation of the Act establishing the Conciliation Commission and to its implementation.

It has also been agreed that the Conciliation Commission shall be the only body in the country called upon to pronounce definitively on this issue.

DONE at United Nations Headquarters, New York,

on 16 July 1993