

PERMANENT COUNCIL



OEA/Ser.G
CP/doc. 3992/05 corr. 2
29 March 2005
Original: English

THIRD QUARTERLY REPORT OF THE SECRETARY GENERAL ON THE SITUATION IN
HAITI AND ON THE WORK OF THE OAS SPECIAL MISSION FOR STRENGTHENING
DEMOCRACY PURSUANT TO AG/RES. 2058 (XXXIV-O/04)

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INTRODUCTION

1. This third report of the Secretary General to the Permanent Council, pursuant to Paragraph 15 of Resolution AG/RES 2058 of 8 June 2004, describes the current situation in Haiti, discusses the work of the OAS Special Mission for Strengthening Democracy in Haiti (Special Mission) as well as cooperation between the Special Mission and the United Nations Stabilization Mission in Haiti (MINUSTAH) between December 2004 and early March 2005.

2. During the period under review, the Special Mission provided critical support to the OAS Electoral Technical Assistance Program in Haiti, whose main component - voter registration – will commence in early April. The Mission has also continued to support the institutional strengthening project with the interim government and programs in the areas of justice, human rights and the professionalization of the Haitian National Police. It has undertaken these activities in close cooperation and coordination with the MINUSTAH and other members of the international community.

3. MINUSTAH CIVPOL officers are working with the OAS/SM police team in the HNP Vetting Project; CIVPOL officers participate in the interview process at the Police Academy as well as in background checks in the provinces on regional HNP applicants. There is also constant liaison and information sharing between the Mission's Security Officer and MINUSTAH security personnel. MINUSTAH is also providing helicopter transport for field visits for OAS/SM personnel. Similarly, the OAS/SM regularly meets with MINUSTAH's newly established human rights division, exchanging information as appropriate. There is also cooperation between press and media personnel on both sides.

4. A significant event relating to cooperation between the OAS and the UN in respect of Haiti was the participation of the Head of MINUSTAH and Special Representative of the UNSG, Ambassador Juan Gabriel Valdes, at the meeting of the Permanent Council on January 11, 2005. This was reciprocated the following day with that of the Acting Secretary General at the UN Security Council meeting on Haiti, under the Presidency of the Foreign Minister of Argentina and attended by several foreign ministers of Council members and other OAS member states.

POLITICAL SITUATION AND ELECTORAL PROCESS

Political Transition

5. About 50 political parties and civil society organizations called for the government's resignation after a massive prison breakout on February 19, in which 481 prisoners – about a third of the detainees – were released from the National Penitentiary in Port-au-Prince by a commando unit in an incident in which police and prison officials were allegedly complicit.

6. A cabinet reshuffle was announced on January 31, following which Minister of the Interior Herard Abraham was moved to the Ministry of Foreign Affairs, Fritz Kenel was appointed as

Minister of Commerce, Industry and Tourism and George Moise was appointed Minister of the Interior. The appointments were not without controversy.

7. On February 14, the Government launched a National Dialogue, a US\$ 1.7 million project that is scheduled to be implemented before July by the government, the UNDP and MINUSTAH. By mid March, there was little clarity about the precise activities and timetable of the National Dialogue.

8. The government announced in late February the formation of a National Commission on Disarmament, made up of representatives from the Prime Minister's Office, the Presidency, the Judicial System, the Council of Eminent Persons, the HNP and two persons representing political parties and civil society.

9. Former President Jean Bertrand Aristide's *Fanmi Lavalas* party showed divisions and ambiguity regarding the identity of the party's legitimate representatives in Haiti. Hardliners have disassociated themselves from moderates who have condemned violence, and the latter did not figure in the 19 member commission created by *Fanmi Lavalas* on 16 December 2004 and headed by Aristide himself. The commission continues to demand the physical return of Aristide to Haiti as a condition for its participation in the elections, as well as the release of political prisoners. Hardliners demonstrated on February 7, the fourteenth anniversary of the start of Aristide's first presidency, and on February 28, the first anniversary of his departure on February 29, 2004, the latter turning violent in downtown Port-au-Prince with one person shot dead.

Electoral Process

10. In the wake of the resignation of the former president of the *Conseil Electoral Provisoire* Provisional Electoral Council (CEP), Catholic Church representative Pierre Richard Duchemin was sworn in as the ninth member on January 6. Internal conflicts continue within the electoral body, however the CEP did publish the electoral decree on February 11, setting out a timetable for elections for president, for 90 deputies, and 30 senators to represent the 10 departments (November 13 and December 18), as well as 420 mayors and councillors, and 1704 rural administration units (CASECs) (October 9). The CEP is encouraging the creation of coalitions among the 92 political parties registered. The decree also established that the electoral registration card will serve as a basis for constituting a national civil registry. Registration is set to begin in early April, with the technical support of the OAS Special Mission and MINUSTAH.

11. On 10 January, an agreement for a total of US\$44.3 million was signed between the Transitional Government, the CEP, MINUSTAH and UNDP to implement the electoral process. The international community, mainly Canada, the United States and the European Union will provide 94% of the funds. The OAS Special Mission has begun provision of technical assistance to the CEP for electoral registration operations that are already in course.

12. The Ministry of Justice has affirmed that with HNP officers, UN troops and civilian police, there will be a security force of 13,000 on the ground for the electoral period. Security provisions for registration offices throughout the registration campaign have also been identified as a priority. The widespread presence of armed ex-FADH and the prospect of non-participation and possible protests by *Fanmi Lavalas* have both been identified as potential security concerns.

13. Many of the country's poor have lost hope in elections, as they have seen no improvement to their material conditions in recent years. Apathy and indifference on the part of the population threaten the success of the electoral process as much as an inadequate security situation.

SECURITY SITUATION, HAITIAN NATIONAL POLICE (HNP) AND DEMOBILIZED EX-SOLDIERS

14. MINUSTAH's increased presence, now close to 90% of its projected 6700 troops and 1622 police, has encouraged a greater sense of security in the capital's slums throughout the last quarter. HNP and MINUSTAH carried out operations in Cite Soleil on December 14 and again on January 7, in which 96 suspects were arrested. However, many of those arrested have since been released as the judicial system has failed to provide evidence against them, undoubtedly contributing to the reconstitution of gangs in the area. Gunshots are regularly fired in downtown Port-au-Prince, often causing panic. The presence of armed criminal groups is not restricted to Port-au-Prince; such groups with different political affiliations have been observed in Petit Goave, Trou du Nord and in Gonaives.

15. The OAS Special Mission documented some arson attacks in January by a criminal gang in Trou du Nord, North East, against the homes of some Fanmi Lavalas supporters. The gang acted with the alleged connivance of demobilized soldiers in the town. These incidents seemed to be isolated ones, rather than part of a campaign of systematic repression of Lavalas activists.

16. Recruitment in the HNP continued, reaching a total of 5,500 active officers in late February, almost the same level as in 1995. Encouraged by the MINUSTAH and the government, HNP started to take steps to distance themselves from ex-FADH. The government called on ex-FADH to leave the police stations they had been occupying; in many cases this has happened. In some parts of the country, there was still cooperation with ex-FADH in rural areas where there are no police, e.g. in the North East, but in some places, e.g. Hinche, HNP officers refused to continue to accept prisoners arrested by ex-FADH. The interaction between the HNP and the ex-FADH continues to be fractious, with the latter implicated in the kidnapping and murder of several HNP officers as well as the theft of weapons belonging to the police.

17. The Prisons Administration was seriously discredited by the February 19 incident mentioned above when a commando unit released 481 prisoners in a reported attempt to free some powerful criminals. During the attack, one off duty prisons officer was killed. Among those released were former Prime Minister Yvon Neptune and former Interior Minister Jocelerme Privert who described the incident as an attempt on their lives. Fearing for their safety, they sought the assistance of MINUSTAH through the ambassador of Chile, and asked to be returned to their cell. Some 50 other prisoners, particularly those allegedly implicated in human rights abuses carried out during the previous regime, and who fear popular justice, have either returned voluntarily to the prison, or have been recaptured. A number of other violent prisoners remain at large, and on 10 March, a prisons officer was shot dead by unidentified gunmen, who according to some reports, may have been linked to those who escaped on February 19. After February 19, Prime Minister Latortue dismissed National Prison Service Director Claude Eugene Theodate, and National Penitentiary Director Sony Marcellus was arrested. The government has also created a commission to investigate this incident. The escape of 26 prisoners was also reported in Port-de-Paix on January 12. These incidents highlight the need not only to rebuild and rehabilitate prisons destroyed or damaged at the departure of the former president; but also to reinforce the capacities of Prisons administration personnel.

18. On 15 December, ex-FADH occupied the residence of former President Aristide to pressure the government for compensation. MINUSTAH mediated a peaceful end to the stand-off. The government agreed to provide a compensation package totaling US\$28 million, which although presented as an incentive to lay down arms, lacked any binding conditions for disarmament. Most ex-FADH remain armed and have on several occasions affirmed that they will keep their weapons. By March 14, however, the government had negotiated the demobilization of some 400 ex-FADH, in return for recruitment in the HNP or in other government posts. The government announced a reward for information leading to the arrest of the self-proclaimed ex-FADH leader, Ravix Remissainthe, a suspect in murders of HNP officers.

19. In many parts of the country, including the North, North East and the Central Plateau, the ex-FADH have encouraged the return of former *chefs de section*, or appointed new ones. The *chefs de section* have been accused of human rights abuses, theft and extortion, and acting as police, and in some instances, judges. There have been open conflicts with elected CASECs, the rural administrative unit created to replace the *chefs de section*, and whose mandate expired in 2004. Evidence suggests that the return of the *chefs de section* is part of the ex-FADH's political project to elect candidates who will advance the reinstatement of the army.

HUMAN RIGHTS AND THE ADMINISTRATION OF JUSTICE

20. The practice of arrests without due process continued. The authorities also continued to hold former Prime Minister Yvon Neptune and former Interior Minister Jocelerme Privert without due process; both commenced a hunger strike on February 20. As at the time of the preparation of this report, Mr. Neptune had been moved from the National Penitentiary to a UN medical facility. A number of international organizations and visiting high-level officials continue to call for the release of Neptune and Privert on humanitarian grounds. Several Lavalas activists also remained in preventive detention without due process. Haitian human rights organizations also charged that more than 95% of detainees are in preventive detention without due process.

21. Haitian human rights organizations accused the police of serious human rights violations, including extrajudicial executions and illegal arrests of alleged gang members in Port-au-Prince slum areas. Such reports are almost impossible to verify because of the constant armed activity in these areas. Violations of Geneva Conventions also occurred when HNP arrested injured alleged gang members who had sought treatment in an NGO run private clinic. Failure to bring detainees before a judge within the 48 hour limit was widespread, and detainees continued to be held in police cells in poor, cramped and unhygienic conditions, often with no access to medical care.

22. Many of the human rights abuses observed throughout the country are related to weaknesses and deficiencies in the judicial system. On many occasions, the judiciary ordered the arrest of individuals accused of politically motivated crimes during the former government, then left them in jail, failing to carry out proper investigations.

23. In many instances, the Executive applied pressure on the Judiciary when it failed to use constitutionally established procedures for investigating misconduct by judges. In January, the Minister of Justice ordered the Dean of the *Tribunal Civil* to remove cases from the cabinets of three Port-au-Prince investigating judges accused of accepting bribes to release pro-Lavalas gang members accused of violent crimes. This move amounted in at least two cases to a dismissal with neither investigation nor sanction, bypassing constitutionally established procedures. In Hinche, after

repeated and widespread allegations of serious corruption that the Judicial power failed to respond to, the Executive unconstitutionally dismissed the Dean of the *Tribunal Civil* as well as two substitute Government Prosecutors (*Commissaires de Gouvernement*) and cancelled the investigating mandate of a judge. Such situations are evidence of the serious ongoing need for real judicial reforms.

HUMANITARIAN SITUATION

24. There has been little improvement in the quality of life for Haiti's poor; funds pledged for development are slow to arrive, about 50% of Haitians live on less than one dollar a day and lack access to clean water. Over 70% are unemployed. In Gonaives, the victims of Tropical Storm Jeanne welcomed the launch of a US\$34 million reconstruction program. The New Horizons 2005 project is funded by the US government and will be implemented by the US Seabees, the Naval Mobile Construction Battalion One in partnership with USAID, CARE and the Pan American Development Foundation. The one- year program was launched on February 1, and will implement various reconstruction projects including rebuilding schools, and digging wells.

OAS SPECIAL MISSION

Elections

25. The coordinator of the OAS Electoral Technical Assistance Program, Elizabeth Spehar, took up residence in Haiti in February, and one local and six international technical experts were added to the team. Following the disbursement of US\$8.7 million last August, contributed by the US government through UNDP, the Special Mission recruited an initial team to commence its work in providing technical assistance to the CEP in the registration of voters, the creation of an electoral registry, the generation of a voters list, and the provision of a national identity card. During this period, the technical assistance team continued work on the design of registration, focusing mainly on the distribution of data capture and registration centers. Designs of the telecommunications plan as well as the new electoral registry software applications were also completed. A procurement plan, principally through a series of international bids was also drawn up and launched. Two of the seven international bids, for the acquisition of registration material, equipment, and services were concluded. In addition, the technical assistance program has recruited and trained twenty Haitian departmental coordinators, responsible for supervising voter registration activities. The departmental supervisors are to assist in the training of approximately 80 communal supervisors, who will oversee voter registration activities in the communes and rural sections. The technical assistance team has also developed profiles for voter registration personnel, including PC clerks, manual registrations and deliverers of ID cards.

26. A press conference was held in Port-au-Prince on February 9 to present the general mandate of the OAS Special Mission, as well as its role in the upcoming elections; it received significant Haitian media coverage. The Program also participated in fifteen CEP/OAS/MINUSTAH assessment missions deployed to each of the departments to carry out logistics evaluation and identify the locations to house the departmental and communal centers as well as the registration offices.

Technical Assistance to the Interim Government

27. Twenty Haitian experts, contracted by the Special Mission, continue to provide technical assistance in different offices and ministries of the interim government in an effort to strengthen the latter's ability to formulate and implement policies.

Police/Security

28. The OAS Special Mission vetting project was renewed in December 2004 for a further six months. On January 21, the 15th promotion of 393 HNP, including 200 demobilized ex-soldiers, graduated from the Police Academy, representing the first graduation of HNP officers who have been subjected to new vetting procedures developed with the technical assistance of the OAS Special Mission. OAS advisors worked with the HNP interviewing candidates for the 17th promotion, using a new standardized interview for all applicants, which goes in depth into candidates' background and character. As part of its work to provide reinforced security, on February 27, the OAS Special Mission made a contribution of US\$50,000 to match a similar contribution from UNDP for repairs to the National Penitentiary and to improve prison conditions. The OAS Special Mission also continued to provide a technical advisor to the Director General of the HNP.

Justice

29. The OAS Special Mission continued to work with the Haitian judiciary to identify areas where specialized training is needed. The Special Mission is currently liaising with the Mexican Public Ministry to organize a training session in Mexico in March for government prosecutors in the prosecution of armed gangs; a training session for provincial judges on penal reforms viewed from a regional perspective is also planned in La Serena, Chile, organized with the Latin American Network of Jurists. The OAS Special Mission is also working with the Ministry of Justice to plan a seven month project for a documentation centre on judicial reform experiences in the Americas. There will be particular collaboration with the Foundation for Institution Building (FINJUS) in the Dominican Republic, and the Institute of Comparative Studies on Criminal and Social Sciences (INECIP) in Argentina, as well as with the Centre of Juridical Studies of the Americas (CEJA).

Human Rights

30. The OAS Special Mission continued its work to strengthen the capacity of local human rights organizations and government institutions. The Mission is supporting the Office of the Ombudsman in its citizen outreach program by financing the presence of one Haitian advisor for six months. The OAS Special Mission has also facilitated training of monitors and outreach activities of CARLI (Lawyers' Committee on Individual Liberties), the Justice and Peace Episcopal Commission and the National Coalition on Haitian Rights (NCHR). It also provided technical assistance to organizations wishing to file complaints with the Inter-American Court on Human Rights, and provided information directly to the latter.

CONCLUSIONS

31. The OAS Special Mission has noted some encouraging signs that the government is determined to go forward with the electoral process, and is committed to ensuring ongoing recruitment of HNP officers in order to provide security, in conjunction with MINUSTAH, for the

electoral process. However, despite these positive signs, the security situation has been further destabilized by the continuing presence of demobilized soldiers and their armed sympathizers throughout the country, many of whom have received government payments but have not disarmed. The situation has been further complicated by an increasingly dangerous conflict between the demobilized soldiers and HNP. The government must take a clear decision on the legal status of the demobilized soldiers, and link the compensation policy to a disarmament program, which should be directed at all armed groups, and not exclusively demobilized ex-soldiers.

32. The government must also work to start the process of judicial reforms which it promised. The judiciary's failure to show equity and respect due process when dealing with those accused of violent crimes under the former government is increasing tensions among *Fanmi Lavalas* supporters. On the other hand, failure to properly prosecute violent pro-Aristide gang members, resulting in their release without investigation, fuels tensions among other sectors which threaten to destabilize the electoral process.

33. The extreme poverty in which at least 50% of Haitians continue to live is a further factor that threatens the transitional period. Development projects that make a difference in the lives of the poor majority can provide hope and encouragement to the population at large to participate in the electoral process.