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HAITI: NO LEADERSHIP—NO ELECTIONS

A REPORT
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LETTER OF TRANSMITTAL

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, June 10, 2010.

DEAR COLLEAGUES: On May 26, 2010, I directed two of my Senate Foreign Relations Committee (SFRC) staff members, Carl Meacham and Garrett Johnson, to assess the viability of contesting credible Presidential and parliamentary elections slated for this fall in Haiti. They consulted with Haitian officials, senior United Nations officials, international electoral technicians, and senior members of our Embassy in Port-au-Prince. Staff found that even under perfect conditions, contesting elections in 2010 will be challenging for Haiti. At a time when leadership is needed, whether Haiti will have an elected government to succeed President Préval and continue the rebuilding effort is currently uncertain.

The lessons learned in Iraq and Afghanistan demonstrate that the greatest constraint to rebuilding devastated countries, war-torn or otherwise, is the absence of strong and transparent leadership. A free and timely election strengthens legitimacy and public support enjoyed by any government, and this is especially important in Haiti as it contends with a natural disaster and a long legacy of troubled governance.

Though President Préval has informally announced his commitment to holding elections on November 28 of this year, he has yet to issue an official decree authorizing the Provisional Electoral Council to begin preparations. This is an important step, as budgetary arrangements and formulation of the electoral calendar cannot move forward without the decree.

I encourage President Préval to issue the appropriate decree establishing an official date for Presidential and parliamentary elections, without delay. Preparations for elections should begin with dispatch because the term of Haiti's President and the majority of its Parliament will have expired by early 2011. The absence of democratically elected successors could potentially plunge the country into chaos, adding a political crisis to the death and destruction caused by the January 12 earthquake.

Our Government is sympathetic to the plight of Haitians, as demonstrated by the assistance our military, diplomats, and development experts provided in the wake of the disaster. More importantly, the American people, including many Hoosiers like the parishioners of St. Luke's United Methodist Church in Indianapolis and the faculty of Notre Dame University, remain committed to helping the people of Haiti. But the positive effect of assistance programs will be limited if Haiti lacks a responsible, popularly elected government.

This report and its recommendations are particularly timely given that arrangements for the November elections are stalled. I look forward to continuing to work with you on these issues, and I welcome any comments you have.

Sincerely,

RICHARD G. LUGAR,
Ranking Member.

HAITI: NO LEADERSHIP—NO ELECTIONS

INTRODUCTION

The devastation caused by the earthquake and ongoing aftershocks in Haiti since January 12, 2010, represent one of the worst natural disasters to confront the Western Hemisphere. Pre-earthquake, the country was considered the poorest in the region, with over 70 percent of the population living on less than \$2 per day and roughly 50 percent of children having no access to basic education.¹ Nearly 3 million people were directly affected by the disaster and casualties exceeded 300,000 according to the Government of Haiti. An estimated 1.5 million people are currently living under tarps, tents, or transitional houses, which increases the likelihood of additional casualties and human suffering during hurricane season.²

The earthquake's damage amounted to 117 percent of Haiti's annual economic output, according to the Inter-American Development Bank and the country's GDP was reduced by an estimated 50 percent. Monthly apparel sector exports, which the recently passed HELP Act seeks to strengthen because of the sector's importance to the country's economy, declined 43 percent from \$58.2 million in February 2009 to \$33.1 million in February 2010.³ The loss of a significant number of jobs resulting from the disaster, across many sectors including apparel, has increased the severity of a chronically high unemployment rate.

Up to 40 percent of the civil service perished and 28 out of 29 government ministries collapsed, which has significantly reduced Haiti's already limited capacity to offer basic services.⁴ Six months later, the lack of visible improvements in conditions on the ground or official communication regarding reconstruction plans is reported to have exacerbated a lingering crisis of confidence in the government among many Haitians. President Préval's extension of his term beyond the constitutionally mandated departure of February 7, 2011, while failing to issue a decree calling for and funding elections, is said to have raised political tensions in the country and deepened concerns among the international community.⁵

¹J.F. Hornbeck, "The Haitian Economy and the Hope Act," Congressional Research Service, May 20, 2010.

²Ezequil A. Lopez, "U.N. Rep: Haiti Democracy Depends on Reconstruction," Associated Press, June 2, 2010. Available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/06/02/AR2010060204271.html>.

³J.F. Hornbeck, "The Haitian Economy and the Hope Act," Congressional Research Service, May 20, 2010.

⁴U.S. Department of State, Hill Briefing Notes, published in March 2010.

⁵Damien Cave, "Rubble of a Broken City Strains Haitians' Patience," New York Times, May 29, 2010. Available at <http://www.nytimes.com/2010/05/30/world/americas/30haiti.html?scp=1&sq=Préval&st=cse>.

BACKGROUND⁶

On December 16, 1990, the provisional government of President Ertha Pascal-Trouillot held what is believed to be the first free and fair elections in Haiti's history, which saw Jean-Bertrand Aristide elected President with 67 percent of the vote.⁷ In September 1991 he was overthrown by a military coup and did not return to power until October 1994, under the protection of some 20,000 U.S. troops.

Presidential elections of December 1995 saw Aristide succeeded by Préval, in the first transfer of power between two democratically elected Presidents in Haiti's history, and a return of Aristide during Presidential elections of December 2000. All of the elections held under Aristide and Rene Préval, however, were marred by alleged irregularities, low voter turnout, and opposition boycotts.

On February 29, 2004, Aristide was forced to resign before finishing his Presidential term. After his departure, a "council of the wise" was appointed to serve as the interim assembly and they chose Mr. Gerard Latortue as Prime Minister. In the absence of an elected head of state, the President of Haiti's Supreme Court was named President of Haiti, as delineated in article 149 of the Constitution of Haiti.⁸

Despite efforts by the U.N. Stabilization Mission in Haiti (MINUSTAH), established in April 2004 by the U.N Security Council, conditions remained unstable and natural disasters caused by hurricanes inflamed the instability. After several postponements, Presidential elections were contested on February 7, 2006, and run-off legislative elections were held in April. Following days of protests in the streets and a controversial calculation process, Préval was declared the winner, although he did not initially receive 51 percent of the vote as required by Haitian electoral law. Because the elections were delayed from November 2005 to February 2006, Préval was not sworn in on February 7, 2006, as stipulated by the Haitian Constitution, but on May 14, 2006.

President Préval's term ends, as mandated by the constitution, on February 7, 2011. But because of concerns regarding the ability of the Haitian Government to organize Presidential and parliamentary elections in the face of the devastation caused by the January 12 earthquake, Haiti's National Assembly, before the majority of their terms expired on May 8, 2010, granted President Préval an extension of his Presidential mandate until May 14, 2011—unless a successor is elected and prepared to assume office by February 7, 2011.

As was explained to staff by the U.S. Ambassador to Haiti, if elections are not held before President Préval's extended mandate expires, Haiti may be confronted by a vacuum of power at every level of its government. If this occurs, a government of transition

⁶This section is adapted from a January 25, 2008, report prepared by Maureen Taft-Morales and Clare Ribando Seelke of the Congressional Research Service entitled "Haiti: Developments and U.S. Policy Since 1991 and Current Congressional Concerns."

⁷National Democratic Institute for International Affairs. "The 1990 General Elections in Haiti." December 16, 1990. Available at <http://www.cartercenter.org/documents/electionreports/democracy/FinalReportHaiti1990.pdf>.

⁸The current structure of Haiti's political system was established under the Constitution of Haiti on March 29, 1987.

would need to be established, which would be difficult to form and likely lack popular support.

OBSERVATIONS

During meetings with senior officials from the International Foundation for Electoral Systems (IFES) and the Government of Canada, staff was informed that convening credible elections is feasible in November if key procedural and political decisions are made without delay. However, a senior member of Haiti's Provisional Electoral Council (CEP)—the entity constitutionally empowered to oversee all elections—clearly stated, “The required schedule in order to prepare for elections is not compressible. We have already counted that staff must work weekends and holidays to meet our deadline.” Yet, to date, staff learned that because of procedural and political squabbles, President Préval has neglected to take official action and all election-related efforts remain at a standstill.

Procedural Actions

The baseline procedural action that must be initiated if elections are to be held in 2010 is the issue of a Presidential decree by Préval, establishing a date and granting the CEP a mandate to prepare for Presidential and parliamentary elections. Staff learned from senior United Nations officials that Préval's reluctance to call officially for elections is largely motivated by a “chicken and egg” scenario. Essentially, the CEP cannot initiate its work without the Presidential decree and an estimated \$38 million in funding, but Préval has stated that donor countries must make firm financial commitments before he will set a date. International donors, however, are conditioning their commitments on receiving a detailed budget and electoral calendar from the CEP, which they are incapable of producing absent a Presidential decree.

Following the issuance of a Presidential decree, other daunting procedural hurdles would then be confronted in the buildup to elections:

- The electoral list must be updated, to reflect population changes since the last time it was revised in 2005, which includes accounting for the nearly 300,000 who perished and many more displaced to the hinterlands due to the earthquake. This process must begin no later than July, a broad swath of electoral experts told staff, if elections are to be held in 2010.
- National identification cards must be produced for new registrants, as well as for those whose cards were lost or destroyed as a result of the earthquake. Haiti's National Identification Office (ONI), whose capacity has proven to be limited during past elections according to senior IFES officials, estimates that it can generate approximately 100,000 cards per month. However, the IFES assessment points out that ONI only has one machine in all of Haiti and a breakdown or even

delay in production could prove catastrophic for the entire operation.⁹

Political Actions

Staff was told in most meetings that the main challenges to having elections in Haiti were political. The IFES assessment noted that the operational arm of the CEP was technically capable of organizing elections but argued that “giving the mandate of organizing the upcoming elections to the current CEP would mean that the electoral process will be considered flawed and questionable from the beginning.”¹⁰

Staff was informed by U.S. Embassy staff that the week before our arrival a CEP member was forced to resign after being accused by one of his consultants of having taken his salary. Other CEP members allegedly wanted to keep the internal conflict concealed and asked the member to resign quietly but he refused. The president and director general of the CEP were also recently accused publicly by a Haitian senator of awarding a significant contract to the relative of a CEP official. Each of these incidents has garnered media attention and further undermines the CEP’s credibility.

Senior members of the CEP consulted while in Haiti agreed that their current membership was problematic, but warned that sweeping changes could compromise the ability to contest elections in 2010. Nonetheless, one member noted, “Regardless of if the President changes all of the members and the director general or just a few of the members, he has to do something.”

Calls for President Préval to exercise his executive powers and reform the CEP have been ongoing since controversial decisions made by the CEP to ban candidates representing Fanmi Lavalas (FL) from participating in the senatorial elections of 2009. FL is the political party of Aristide who continues to exert control even while exiled in South Africa. The CEP barred FL from standing for election, according to senior officials from the United Nations, on the grounds that FL’s list of candidates lacked Aristide’s signature.

Appeals by the United Nations, the Organization of American States, and other international partners for the CEP to reverse its decision—in order to buttress the legitimacy of the elections—went unheeded. Consequentially, many allegedly pro-Préval candidates prevailed in an election that saw less than 20 percent of eligible voters participate, according to senior U.S. Embassy staff.

RECOMMENDATIONS

Strong leadership is required by the Government of Haiti if elections are to be contested in 2010. The current stalemate may prove to be a significant obstacle to the reconstruction effort and Haiti’s struggle to institutionalize essential democratic traditions. The path toward elections in Haiti contains many formidable procedural and political obstacles. The following recommendations constitute critical steps that, if taken without delay, will increase the country’s chances of realizing economic and political development.

⁹ International Foundation for Electoral Systems. “Post-Disaster Assessment on the Feasibility of Organizing Free and Fair Elections in Haiti” May 13, 2010.

¹⁰ *Id.*

Staff strongly encourages appropriate officials at the Department of State to ask,

In Haiti

- President Préval to issue a decree in earnest establishing a date for Presidential and parliamentary elections. This will empower the technical arm of the CEP with the mandate and funding to initiate preparation of electoral lists and identification cards, as well as voter education campaigns in anticipation of elections.
- President Préval to undertake the appropriate restructuring of CEP's membership, in consultation with international partners, in a way that causes minimal interruption to procedural preparations, but demonstrates a clear political commitment to contesting credible elections.

Within the International Donor Community

- The international donor community to seek an agreement with the CEP and all political parties, including the factions of Fammi Lavalas, to ensure that the parties meet the CEP's legal requirements and are not excluded from the elections because of perceived technicalities.
- The international donor community, immediately upon issue of the decree by President Préval, to make a portion of election funds available so that the daunting task of updating electoral lists, generating identification cards, and reallocating displaced persons to the appropriate polling center can begin before July 2010.

CONCLUSION

The people of Haiti are confronted with a unique opportunity to fundamentally alter the trajectory of their economic, social, and political future. Rebuilding the country is already proving to be a slow and daunting challenge, which will demand extraordinary leadership and unity of purpose if it is to be successful. The United States and the international community have demonstrated their desire to support the people of Haiti as they attempt to realize this objective. But this commitment should not be taken for granted.

President Préval and his administration should view the elections of 2010 as a moment to signal clearly their commitment to a democratic framework and good governance, which then must be visible in day-to-day actions. The outpouring of goodwill and resources by the United States and the international community should be leveraged by Haiti's leaders to catalyze compromises on contentious issues so that all sides can go forward and rebuild Haiti together.

MEETINGS WITH INDIVIDUALS IN PREPARATION FOR OR DURING
VISIT TO HAITI

U.S. Diplomats

Kenneth Merten, Ambassador to Haiti
David Lindwall, Deputy Chief of Mission
Kara McDonald, Political Counselor
Greg Groth, Economic Counselor

Haitian Government Officials

Gaillot Dorsinvil, Provisional Electoral Council, President
Jacques Belzin, Provisional Electoral Council, Treasurer
Pierre-Louis Opont, Provisional Electoral Council, Director General

United Nations Officials

Kevin Kennedy, United Nations, Special Representative of the Secretary General
David Le Notre, United Nations, OIC Electoral Assistance Section

Organization of American States Official

Albert Ramdin, Organization of American States, Assistant Secretary General

International Elections Experts

Sophie Lagueny, International Foundation for Electoral System, Chief of Party
Rachna Mishra, Embassy of Canada, Political Counselor