



# Haiti Under President Martelly: Current Conditions and Congressional Concerns

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## Summary

Haiti shares the island of Hispaniola with the Dominican Republic. Since the fall of the Duvalier dictatorship in 1986, Haiti has struggled to overcome its centuries-long legacy of authoritarianism, extreme poverty, and underdevelopment. During that time, economic and social stability improved considerably, and many analysts believed Haiti was turning a corner toward sustainable development. Unfortunately, Haiti's development was set back by a massive earthquake in January 2010 that devastated much of the capital of Port-au-Prince and other parts of the country. Poverty remains massive and deep, and economic disparity is wide: Haiti remains the poorest country in the western hemisphere.

Haiti is the Obama Administration's top foreign assistance priority for Latin American and Caribbean countries. Haiti's developmental needs and priorities are many. The Haitian government and the international donor community are implementing a 10-year recovery plan focusing on territorial, economic, social, and institutional rebuilding. An outbreak of cholera that began in late 2010 has swept across most of the country and further complicated assistance efforts. While some progress has been made in developing democratic institutions, they remain weak. In May 2011, following yet another controversial election, President René Préal was succeeded by Michel Martelly, a popular musician without any previous political experience. President Martelly's difficulty in forming a government and political gridlock, especially the inability to begin a long overdue elections process, are hampering reconstruction efforts and frustrating international donors.

The United Nations Stabilization Mission in Haiti (MINUSTAH) has been in Haiti to help restore order since the collapse of former President Jean-Bertrand Aristide's government in 2004. It currently has 9,464 troops. The mission has helped facilitate elections, conducted campaigns to combat gangs and drug trafficking with the Haitian National Police, and played a key role in emergency responses to natural disasters, especially after the earthquake. Nonetheless, popular protests have called for MINUSTAH's withdrawal because of sexual abuse by some of its forces and scientific findings that its troops apparently introduced cholera to the country. In February 2013 the U.N. said it would not compensate cholera victims, citing diplomatic immunity.

The main priorities for U.S. policy regarding Haiti are to strengthen fragile democratic processes, continue to improve security, and promote economic development. Other concerns include the cost and effectiveness of U.S. aid; protecting human rights; combating narcotics, arms, and human trafficking; and alleviating poverty. The Obama Administration granted Temporary Protected Status to Haitians living in the United States at the time of the earthquake.

Congressional concerns include the pace and effectiveness of reconstruction, respect for human rights, security issues, counternarcotics efforts and trade issues. Congress is also concerned that overdue Senate and local elections be scheduled quickly and be free, fair, and peaceful.

Current legislation related to Haiti includes P.L. 112-74, P.L. 111-171, P.L. 110-246, P.L. 109-432, H.R. 651, H.Res. 31, H.Res. 61, and S.Res. 12.

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Figure I. Map of Haiti



Source: Map Resources. Adapted by CRS.

## Political Background

Haiti shares the island of Hispaniola with the Dominican Republic; Haiti occupies the western third of the island. Since the fall of the Duvalier dictatorship in 1986, Haiti has struggled to overcome its centuries-long legacy of authoritarianism, extreme poverty, and underdevelopment. While significant progress has been made in improving governance, democratic institutions remain weak. Poverty remains massive and deep, and economic disparity is wide. In proximity to the United States, and with such a chronically unstable political environment and fragile economy, Haiti has been a constant policy issue for the United States. The U.S. Congress views the stability of the nation with great concern and evidenced a commitment to improving conditions there.

## Haitian Democratic History in Brief

Haiti has been struggling to build and strengthen democratic institutions for 25 years, ever since massive popular protests and international pressure forced dictator Jean-Claude Duvalier to abandon his rule and flee the country in 1986. Known as “Baby Doc,” Duvalier came to power in 1971, succeeding his father, Francois “Papa Doc” Duvalier, who had ruled since 1957. Their 29-year dictatorship was marked by repression and corruption. Hoping to reverse almost 200 years of

mostly violent and authoritarian rule, Haitians overwhelmingly approved a new constitution creating a democratic government in 1987.

De facto military rule, coups, and thwarted attempts at democratic elections continued until a provisional civilian government conducted what were widely heralded as Haiti's first free and fair elections in 1990, in which Jean-Bertrand Aristide, a former Catholic priest, was elected president. In 1991, the Haitian military overthrew Aristide in a coup, just eight months after he was inaugurated. Aristide went into exile in the United States. Three years later, under the threat of a U.S. military intervention, the military finally bowed to international pressure and allowed Aristide to finish his term. Aristide returned to Haiti in 1994 under the protection of some 20,000 U.S. troops, who transferred responsibility to a United Nations mission in 1995. With U.S. assistance, President Aristide disbanded the army and began to train a professional civilian police force.

In 1996 Haitians saw their first transfer of power between two democratically elected presidents in Haitian history when Aristide was succeeded by René Préval.<sup>1</sup> Five years later, in 2001, Aristide was reelected, and there was another peaceful transfer of power. Political conflict embroiled Aristide and the opposition, however, and led to the collapse of his government in 2004, and Aristide again went into exile, eventually ending up in South Africa. An interim government followed, from 2004 to 2006. Charges of corruption against Aristide, dissolution of the parliament by Préval in his first term, questions regarding the interim government's legitimacy, and flawed elections under all of them contributed to their inability to establish a fully accepted or functioning government. Nonetheless, with the support of the United Nations Stabilization Mission for Haiti (MINUSTAH)—which arrived in Haiti in 2004—and other donors, security conditions improved, reform of the country's police force began, and elections were held in 2006.

As a result of those elections the Parliament, which had not been fully functional since the collapse of the Aristide government in 2004, was reestablished, and René Préval began his second five-year term as president of Haiti. During his first three years in office, Préval established relative internal political stability and oversaw a period of economic growth. In 2007, the Préval Administration published its Poverty Reduction Strategy, a key step in meeting International Monetary Fund (IMF) requirements for debt relief. International donors pledged more than \$1.5 billion in economic assistance to Haiti.

In the long term, democratization in Haiti has contributed to the slow strengthening of government capacity and transparency. From 2004 to 2009, Haiti made what the IMF and others called "remarkable progress" toward political stability and economic stabilization.<sup>2</sup> With much international support, the government conducted democratic presidential and parliamentary elections and enacted wide-ranging reforms, especially in economic governance. Elected

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<sup>1</sup> Jean Bertrand Aristide served as President in Haiti from February through September 1991; 1994-1996; and 2001-2004. René Préval served as President from 1996-2001; and 2006-2011. The Haitian constitution limits presidents to two non-consecutive terms.

<sup>2</sup> Ugo Fasano, "Haiti's Economic, Political Turnaround," IMF Survey Magazine: Countries & Regions, September 17, 2007; and World Bank, "Haiti Country Brief," September 2008, at <http://go.worldbank.org/55NM6XIVQ0>. See also, "Remarks by United Nations Secretary-General Ban Ki-Moon at a High-Level Donor Conference on Haiti (as released by the UN)," and "Statement by Ambassador Susan E. Rice, United States Permanent Representative to the United Nations, in the U.N. Security Council (as released by the US Mission to the U.N. in New York)," Federal News Service, April 21, 2009.

governments have developed long-term development plans resulting in international technical and financial assistance. They have developed national budgets and made them public. The number of employees in bloated state enterprises has been reduced. The government carried out the fiscal management and transparency reforms necessary to qualify for debt relief from multilateral and some bilateral creditors under the Enhanced Heavily Indebted Poor Countries Initiative in 2009. Human rights violations have been drastically reduced. Although crime and violence continued to undermine Haitian development, security improved significantly enough during this period that the United Nations Stabilization Mission in Haiti (MINUSTAH) was shifting the focus of its biggest contingent from security to development.<sup>3</sup>

Haiti's fragile stability has been repeatedly shaken, however, if not by political problems, then by climatic ones. During this same period of relative stability, a worsening food crisis led to violent protests and the removal of Haiti's prime minister in 2008. U.N. officials said political opponents and armed gangs infiltrated the protests and fired at U.N. peacekeepers in an effort to weaken the government. Without a prime minister, Haiti could not sign certain agreements with foreign donors or implement programs to address the crisis for over four months. There were some 19 political parties in the legislature competing for influence and positioning themselves for legislative and presidential elections, further complicating governability.

And then a devastating earthquake struck the nation in January 2010, ravaging the Haitian capital of Port-au-Prince and surrounding areas.<sup>4</sup> Political stability was especially uncertain after the disaster, due to the loss of many political figures and government officials and massive damage to government infrastructure. Some 17% of the country's civil service were killed, and the presidential palace, the parliament building, and 28 of 29 ministry buildings were destroyed.<sup>5</sup> Along with the buildings, government records were destroyed; reestablishing and expanding transparency in government spending has been particularly challenging.

After yet another controversial election cycle, Peasant Response party candidate Michel Martelly, one of Haiti's most popular entertainers, was sworn into office as Haiti's new president on May 14, 2011. When outgoing President René Préval, of the Unity party, gave him the presidential sash it was the first time in Haitian history that a peaceful, democratic transfer of power occurred between presidents of opposing parties. Much of his term to date has been characterized by gridlock between the executive and legislative branches.

There is still much to be accomplished in the democratization of Haiti. Some parts of the government are not fully independent, the judicial system is weak, and corruption and political violence still threaten the nation's stability. Haitian governance capacities, already limited, were considerably diminished by the earthquake. Much of the Haitian public perceives progress in reconstruction and distribution of over \$9 billion in pledged international assistance as much too slow, adding to mounting public frustration with international donors and the government.

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<sup>3</sup> Jonathan M. Katz, "Largest UNforce in Haiti to focus on development," Associated Press, April 25, 2009.

<sup>4</sup> For more information on the earthquake, see CRS Report R41023, *Haiti Earthquake: Crisis and Response*, by Rhoda Margesson and Maureen Taft-Morales.

<sup>5</sup> U.S. Dept. of State & U.S. AID, FY2010 Haiti Supplemental Budget Justification, p.4.

## **The 2010-2011 Election of President Martelly and a new Parliament<sup>6</sup>**

The president, senators, and deputies are elected to serve five-year terms. The constitution limits presidents to two non-consecutive terms. There are no term limits for the legislature, although turnover for its members has been high. The first round of both the presidential and legislative elections took place on November 28, 2010. According to the Haitian constitution, if no candidate receives an absolute majority of the vote, a runoff vote between the top two candidates is held for presidential and Chamber of Deputies seats. For Senate seats, candidates who lack an absolute majority but have at least 20% more votes than the next candidate are declared the winner.

President Préval was completing his second non-consecutive term, the maximum allowed by the Haitian constitution. Nineteen candidates vied to succeed him in the first round. Like most previous elections in Haiti, this one centered on personalities more than parties or issues. A group of Haitian journalists, the Public Policy Intervention Group, with the support of the National Democratic Institute and the Commission on Presidential Debates, tried to encourage more substantive discussions among the presidential candidates by holding a series of debates that were broadcast nationwide. All 19 presidential candidates participated.

The first round produced contested results involving the governing party's candidate, and politically motivated violence. After the Haitian government accepted the recommendations of international observers, the dispute was resolved and the vote went to a second round between Mirlande Manigat, a professor of constitutional law and former first lady, and Michel Martelly. Martelly, a famous Haitian kompa dance musician known for his bawdy performances, and called "Sweet Micky," was popular with young voters. Martelly, also a businessman, had personal financial issues. He defaulted on over \$1 million in loans and had three properties in Florida go into foreclosure, raising questions about his financial management skills.<sup>7</sup> Although Martelly won 68% of the votes cast in the March 20, 2011, elections, turnout was low, so those votes constituted the support of only 15% of all registered voters. Martelly, age 50, was inaugurated on May 14, 2011.

The legislative offices up for election included the entire 99-member Chamber of Deputies, and 11 of 30 Senate seats. The results of the second round of voting for legislative seats were contentious. Charges of fraud led to violent demonstrations across the country resulting in the deaths of at least two people, including the director of a hospital that was set on fire.

The legislature sworn in on April 25, 2011, was incomplete: at that time the results in 19 districts had been challenged. International observers reported that the final results released by the provisional electoral council (CEP) for those districts had been changed to favor candidates associated with then-President Préval's Inité (Unity) coalition, and demanded that all 19 results be annulled. The CEP reviewed the cases and endorsed 15 of the 19 original results; the government published the official results; and those 15 legislators were able to take their seats. It appears that the four remaining disputed seats in the chamber of deputies will be voted on in the next elections. The Inité coalition captured a majority in both houses of the legislature, so President Martelly had to negotiate with them to get his proposals passed.

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<sup>6</sup> For more in-depth discussion of the 2011 presidential and legislative elections, see CRS Report R41689, *Haiti's National Elections: Issues, Concerns, and Outcome*, by Maureen Taft-Morales

<sup>7</sup> Frances Robles, "Haiti candidate Martelly lost three S. Florida properties to foreclosure," *Miami Herald*, March 7, 2011.

## **Adoption of Constitutional Reforms**

The new legislature began to work before Martelly was sworn in, including adopting constitutional reforms that had been passed under the previous legislature, in hopes of getting them to take effect quickly. Constitutional amendments passed by two consecutive legislatures go into effect when the next president takes office. Controversy arose around the status of these amendments as well.

The amendments were in a state of constitutional limbo for about a year. To become law, bills passed by the legislature must be published by the executive branch. The wording of the amendments sent to be published by the outgoing Préval Administration differed from that actually passed by the legislature, according to the State Department, so the amendments did not become law. In June 2011, Martelly stopped the altered version from being printed, and there was debate over whether the original version should be printed, or the process started anew.

President Martelly finally published the constitutional amendments that had been passed by two legislatures. These amendments include a streamlined process for creating a permanent electoral council. They also allow Haitians with dual citizenship to vote and hold many government positions, including Cabinet positions. This had been a sore point for Haitians in the diaspora who wanted to be able to vote, or return and serve in the government. Those with dual citizenship will still be prohibited from becoming president, prime minister, or members of either chamber of the legislature. Martelly said that leaders of the executive, legislative, and judicial branches had agreed to publish the corrected amendments, cooperation he described as a great step forward in Haiti's democratic process.<sup>8</sup>

## **Overdue Elections Process Grows Contentious**

One-third of the Senate seats expired on May 8, 2012. Elections to replace those legislators were to have taken place by January 2012 at the latest. These and local elections for municipal councils, town delegates, and other posts, which are also long overdue, have yet to be scheduled. Martelly fired the members of the previous CEP in December 2011. He did not begin to form a new electoral council until June 2012. An electoral council is needed to set dates for and organize new elections. Prime Minister Lamothe estimated the elections would cost about \$16 million. The government failed to meet his pledge that the elections would be held by the end of 2012; instead the process has become contentious, and progressed in fits and starts. The executive, legislative, and judicial branches are each responsible for naming several members of the electoral council. Their inability to do so is contributing to political tensions.

Since May 2012 the Senate has had only 20 members, which makes it more difficult to meet the 16-member quorum needed to conduct business. The Inité party lost four Senators and some of its clout in that chamber. President Martelly's Peasant Response party had no members in the Senate, and he lost about four allies there.

Additional concern has been raised over the government's decision to replace most of the 120 mayors elected in 2006, whose terms have expired, with government appointees. According to the U.N. Independent Expert on the Situation of Human Rights in Haiti, Michel Forst, this decision

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<sup>8</sup> Joseph Guyler Delva, "Haiti Constitutional Amendments Finally Take Effect," *Reuters*, June 19, 2012.

“was met with bafflement and incomprehension on the part of the national and international communities.”<sup>9</sup>

That the election process has become contentious is not surprising. As Haiti has been making its transition from a legacy of authoritarian rule to a democratic government, elections have usually been a source of increased political tensions and instability in the short term. It is important to note, however, that in the long term elected governments in Haiti have contributed to the gradual strengthening of government capacity and transparency. Still, in the present circumstances, the international community is becoming more and more concerned that the delayed elections are exacerbating political polarization and threatening stability.

## **President Martelly’s Administration**

During most of Martelly’s first year in office, Haiti was without a prime minister, which severely limited the government’s ability to act and the international community’s ability to move forward with reconstruction efforts. Martelly was not able to form a government for almost five months because of disputes with a parliament dominated by the opposition Inité coalition over his first two nominees for prime minister. Dr. Garry Conille, a senior U.N. development specialist and former aide to then-U.N. Special Envoy to Haiti Bill Clinton, was confirmed as prime minister on October 4, 2011. Conille lasted only four months in the position, after which he was reportedly pressured by President Martelly to resign in part because of disagreements over an investigation of \$300 million-\$500 million in post-earthquake contracts linked to Martelly and former Prime Minister Jean-Max Bellerive. Bellerive, now an adviser to Martelly, and also his cousin, said he was the victim of a smear campaign.<sup>10</sup>

Authorities in the Dominican Republic are also investigating corruption allegations linked to President Martelly. According to Dominican journalist Nuria Piera, a company owned by Dominican Senator Felix Bautista was awarded a \$350 million contract for reconstruction work in Haiti, despite not meeting Haitian procurement requirements. Bautista allegedly gave over \$2.5 million to President Martelly before and after he won the election. Martelly has denied the charges.<sup>11</sup>

After the first prime minister resigned, another three months went by before a new prime minister was confirmed. Laurent Lamothe, Martelly’s foreign affairs minister and a former telecommunications executive, was named prime minister on May 4; his cabinet and government plan were approved by parliament on May 14, 2012. The cabinet includes two new posts: one minister to address poverty and another to support farmers.<sup>12</sup>

Because Martelly and much of his team—reportedly mostly childhood friends—lack political or management experience, many observers are concerned about the president’s ability to carry out his promises of free and compulsory education, job creation, agricultural development, and

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<sup>9</sup> *Report of the independent expert on the situation of human rights in Haiti, Michel Forst*, U.N. General Assembly Human Rights Council, report A/HRC/22/65, February 7, 2013, p. 5.

<sup>10</sup> Associated Press, “Martelly denies Kickback in Construction Firm Scandal,” *Jamaica Gleaner*, April 4, 2012.

<sup>11</sup> Associated Press, “Martelly denies Kickback in Construction Firm Scandal,” op. cit., and “DR-Haiti Contracts Scandal,” *Caribbean Update*, May 1, 2012.

<sup>12</sup> Associated Press, “Haiti’s New Prime Minister Says New Mining Legislation being Drafted to Benefit Country,” *Washington Post*, May 15, 2012.

strengthened rule of law. That political inexperience may have contributed to the gridlock and animosity between Martelly's administration and the parliament that have characterized Haitian politics since he took office. His justice minister resigned after police violated the immunity legislators have and arrested a legislator who had allegedly escaped from jail. Legislators responded by blocking many of Martelly's legislative proposals, and opening an investigation into whether he held U.S. citizenship, which would make him ineligible for office.

In April Martelly was absent from Haiti for two weeks while being treated in Miami for a blood clot in his lung. Upon his return, he reached out in a speech to the parliament, urging them to work together to avoid "falling further ahead into trouble."<sup>13</sup> Martelly also said that "all problems we are facing today result from the weakness of our institutions," and called on the international community to keep helping Haiti strengthen its institutions.

International donors, including the United States, have been working with the Haitian government at all levels to rebuild government infrastructure, support the development of transparency and accountability within government institutions, and broaden and strengthen the provision of public services. International assistance continues to professionalize and strengthen the Haitian National Police force and reform other elements of Haiti's weak judicial system. Donors also are training Haiti's public sector workforce so that it will eventually be able to coordinate and carry out development programs. In late 2011, the Haitian government adopted a "Roadmap for the Rule of Law," created with support from MINUSTAH, outlining short-, middle-, and long-term actions to develop and guarantee the rule of law in Haiti.

Martelly began several other initiatives during his first year. He inaugurated a housing loan program and appointed advisers to an earthquake recovery panel. He launched a free education initiative to be funded through taxes on phone calls and wired remittances from abroad. Critics express concern that the fund lacks transparency and a clear policy.<sup>14</sup> The government collected \$22 million for the fund, which is on hold with the Central Bank until the legislature authorizes it to be released. In the meantime, the government took money from other parts of the national budget to pay for the tuition of 1 million children.<sup>15</sup> In May 2012 the government launched a program in which it transfers cash credits of up to \$20 a month to mothers who keep their children in school. The program will initially benefit 100,000 families in four of Port-au-Prince's poorest neighborhoods. Prime Minister Lamothe said the program would extend nation-wide by year's end.<sup>16</sup>

In May 2012 the president also launched two health initiatives in the government's Office of Workers' Compensation Insurance, Illness, and Maternity. He opened a new physiotherapy department, supported by the French Red Cross. He also announced a pilot program that will give about 500 workers, including 100 in the informal sector, free health insurance cards facilitating access to health care. Martelly stated that "we are fighting for all of Haiti to fully enjoy its right to health by the end of my term."<sup>17</sup>

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<sup>13</sup> Text of report by Haitian Radio Vision 2000 on 30 April, "Haitian President Returns, Calls for Unity, Seeks Strengthening of Institutions," *BBC Monitoring Americas*, May 1, 2012.

<sup>14</sup> Jacqueline Charles, "Martelly marks 100 days in Haiti with little progress," *Miami Herald*, August 22, 2011.

<sup>15</sup> Trenton Daniel, "Modest Gains Mark Haitian Leader's First Year," *Associated Press*, May 12, 2012.

<sup>16</sup> "Haiti to Pay Mothers School Incentives via Mobile," *BBC News*, May 28, 2012.

<sup>17</sup> Caribbean Journal staff, "Haiti's Martelly Opens Therapy Centre, Launches Insurance Card Initiative," *Caribbean Journal*, May 29, 2012.

President Martelly named three members to the Supreme Court, including its president. The latter post had been vacant for six years. According to the State Department, this is the first time in over 25 years that Haiti has those three branches of government in place.<sup>18</sup> As mentioned above, as of early April 2013 Martelly, the legislature, and the court had still not been able to agree on the nine new electoral council members needed to organize overdue elections. The publication of the constitutional amendments was supposed to make that process easier to accomplish. The amendments also created a high council to conduct administrative management of the judicial branch, and a constitutional court to resolve disputes between the executive branch and the parliament. The amendments also require that at least 30% of government posts be held by women.<sup>19</sup>

In July 2012 Prime Minister Lamothe visited Washington, DC, meeting with then- Secretary of State Hillary Clinton. Clinton noted that she had made Haiti “a foreign policy priority” when she came into office, and has been committed to “building the capacity of the Haitian government and the Haitian society so they can have the means and the experience and the expertise to solve their own problems.”<sup>20</sup> Lamothe said progress had been made toward that end, as Haiti was building its capacity to collect its own revenues through taxes and custom duties, among other programs. Lamothe said the Haitian government had made improving the fight against corruption its “number one priority,” along with education and reducing extreme poverty.

In his last report before resigning in March 2013, the U.N. human rights expert acknowledged progress made against corruption, but also expressed serious concerns. Forst praised the government’s commitment to building police and judicial capacity for investigating transnational crimes, corruption, and political crimes, and the allocation of both human and financial resources to two anti-corruption units. He also said, however, that he was “struck by the corrosive effect that corruption has had on [Haiti’s] judicial institutions ...” and that “corruption remains rife at all levels.”<sup>21</sup>

The U.N. human rights expert also voiced concern over the politicization of the judiciary and the national police under the Martelly Administration, stating that “the practice of appointing or removing judges to advance partisan or political ends ... continues unabated.” U.N. Secretary General Ban Ki-Moon echoed that concern, adding that institutional politicization and frequent Cabinet changes hindered the efforts of MINUSTAH and other international donors to build capacity within those institutions.<sup>22</sup> Human rights expert Forst also criticized the Martelly Administration for making arbitrary and illegal arrests and for threatening journalists.

The international community is increasing pressure on the Martelly administration to end the political impasse that donors and other analysts believe is inhibiting development and threatening stability. The outgoing head of MINUSTAH said in February 2013 that, in addition to the government’s failure to organize elections, its failure to address vast unemployment also needed

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<sup>18</sup> Cheryl Mills, *Haiti—Two Years Post Earthquake: What You May Not Know*, U.S. Department of State, Dipnote: U.S. Dept. of State Official Blog, January 9, 2012, [http://blogs.state.gov/index.php/site/entry/haiti\\_two\\_years\\_post\\_earthquake](http://blogs.state.gov/index.php/site/entry/haiti_two_years_post_earthquake).

<sup>19</sup> Joseph Guyler Delva, “Haiti Constitutional Amendments Finally Take Effect,” *Reuters*, June 19, 2012.

<sup>20</sup> “U.S. Department of the [sic] State” [transcript of joint press conference], *FDCH Regulatory Intelligence Database*, July 24, 2012.

<sup>21</sup> *Report of the independent expert on the situation of human rights in Haiti*, Michel Forst, op. cit., p. 7.

<sup>22</sup> *Ibid.*, pp. 6-7, and Report of the Secretary-General on the United Nations Stabilization Mission in Haiti, U.N. Security Council report S/2013/139, March 8, 2013, p. 16.

to be addressed as soon as possible. “They have a work force of 4.2 million people and in formal jobs they have only 200,000,” said Mariano Fernandez, adding that “... this is a permanent source of instability.”<sup>23</sup>

## **Stability and the Investigation of Former Heads of State**

A potentially destabilizing factor has been the reappearance on the scene of two of Haiti’s most divisive leaders shortly before Martelly’s election and the possibility of trials for both of them. Former dictator Jean-Claude “Baby Doc” Duvalier returned unexpectedly from 25 years in exile on January 16, 2011. Two days later, the Haitian government under President Préval formally charged him with corruption and embezzlement. Private citizens filed charges of human rights violations against Duvalier for abuses they allege they suffered under his 15-year regime.

Former President Jean-Bertrand Aristide, in exile since his government collapsed in the face of political conflict in 2001, then said that he would also like to return, and did so, with a Haitian government-issued passport, on March 18, 2011, two days before the second round elections. Reportedly greeted by thousands of supporters, Aristide did not directly support any candidate, and has kept a low profile since his arrival. President Préval, once an Aristide protégé, had long said Aristide was free to return, but that he should be prepared to face corruption and other charges as well. For details on the status of charges against both Aristide and Duvalier, see “Investigations of Duvalier and Aristide for Human Rights Violations” below.

It is a significant accomplishment that Haiti, long characterized by impunity for its leaders, has brought charges against its former dictator, and is questioning another former head of state. The judicial system is not considered independent, though, and various U.N. officials have criticized the Martelly administration for interfering in the judicial system for political purposes. Trying Duvalier and/or Aristide could be a severe strain on Haiti’s weak judicial system. Both Duvalier and Aristide are seen as highly polarizing figures able to stir up unrest.

## **The United Nations Stabilization Mission in Haiti (MINUSTAH)**

The United Nations Stabilization Mission in Haiti (MINUSTAH) has been in Haiti to help restore order since the collapse of former President Jean-Bertrand Aristide’s government. Armed rebellion and diminished international support for Aristide led him to flee into exile in February 2004. An international force authorized by the U.N. arrived shortly after his departure, and was replaced by MINUSTAH in June 2004. MINUSTAH worked closely with the interim government from 2004 to 2006, when, after several delays, elections were held. The mission continued to work closely with the Préval Administration. Although some Haitians call for the removal of foreign troops, former President Préval supported the mission’s presence, saying that he would “not adopt a falsely nationalist position,” and that MINUSTAH should stay until Haiti is ready to assume responsibility for security.<sup>24</sup> More recently, popular protests have called for

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<sup>23</sup> “Elections, jobs critical for Haiti’s current and future stability, says outgoing UN envoy,” M2 Presswire, February 1, 2013.

<sup>24</sup> “Haiti: MINUSTAH to Stay on for 2 to 3 Years,” *Latinnews Daily*, March 13, 2006.

MINUSTAH's removal because of allegations of its role in introducing cholera to the country, and sexual abuse by some of its forces. Although critical of some aspects of MINUSTAH, President Martelly nonetheless advocates extending MINUSTAH's term to help maintain stability and to assist in the reconstruction effort. He has called for its eventual replacement with a revived Haitian army. The U.N. Security Council and international donors call instead for a continued strengthening of the Haitian National Police.

MINUSTAH's mandate includes three basic components: (1) to help create a secure and stable environment; (2) to support the political process by fostering effective democratic governance and institutional development, supporting government efforts to promote national dialogue and reconciliation and to organize elections; and (3) to support government and nongovernmental efforts to promote and protect human rights, as well as to monitor and report on the human rights situation. MINUSTAH has played a key role in emergency responses to natural disasters, including facilitating the delivery of emergency humanitarian assistance. As part of its work, the mission has also conducted campaigns to combat gangs and drug-trafficking with the Haitian police.

MINUSTAH's current troop strength is 9,298 total uniformed personnel, consisting of 6,684 troops and 2,614 police. Nineteen countries contribute military personnel, and 44 countries supply police personnel. They are supported by 451 international civilian personnel; 1,317 local civilian staff; and 206 United Nations volunteers. The mission's budget for this year (July 1, 2012-June 30, 2013) is about \$677 million. MINUSTAH's current authorization runs through October 15, 2013. The U.N. has been gradually reducing MINUSTAH's number of troops to pre-earthquake levels.<sup>25</sup>

MINUSTAH and the U.N. have been widely criticized for not responding strongly enough to an outbreak of cholera in October 2010, the first such outbreak in at least a century in Haiti. A team of researchers from France and Haiti conducted an investigation at the request of the Haitian government. They reported that their findings "strongly suggest that contamination of the Artibonite [River in Haiti] and 1[sic] of its tributaries downstream from a [MINUSTAH] military camp triggered the epidemic," noting that there was "an exact correlation in time and places between the arrival of a Nepalese battalion from an area experiencing a cholera outbreak and the appearance of the first cases in [the nearby town of] Meille a few days after."<sup>26</sup> Other studies have come to the same conclusion. While the authors of the study caution that the findings are not definitive, they and others have suggested that "to avoid actual contamination or suspicion happening again, it will be important to rigorously ensure that the sewage of military camps is handled properly."

The U.N. has been under increasing pressure to take full responsibility for introduction of the disease, but announced on February 21, 2013, that it would not compensate cholera victims, claiming diplomatic immunity. Over 5,000 cholera victims or relatives of victims have filed legal claims against the U.N., demanding reparations, a public apology, and a nationwide response including "medical treatment for current and future victims, and clean water and sanitation infrastructure."<sup>27</sup> The Boston-based Institute for Justice and Democracy in Haiti, which filed the

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<sup>25</sup> MINUSTAH United Nations Stabilization Mission in Haiti, *MINUSTAH Facts and Figures*, [figures given are as of January 31, 2013] March 5, 2013, <http://www.un.org/en/peacekeeping/missions/minustah/facts.shtml>.

<sup>26</sup> Renaud Piarroux et al., "Understanding the Cholera Epidemic, Haiti," *Emerging Infectious Diseases Journal*, July 2011, <http://dx.doi.org/10.3201/eid1707.110059>.

<sup>27</sup> Institute for Justice & Democracy in Haiti, *Over 5,000 Haitian Cholera Victims Sue UN, Seeking Justice*, Press (continued...)

victims' claims with the U.N., says it will pursue the case in Haitian, U.S., or European courts. Many Haitians' mistrust of the U.N. has manifested itself in protests and strained relations between MINUSTAH and the population for which it is there to help provide protection and stability.

Charges of sexual abuse by MINUSTAH personnel have also fueled anti-MINUSTAH sentiment. The U.N. has a zero tolerance policy toward sexual abuse and exploitation.<sup>28</sup> In the case of peacekeepers, the U.N. is responsible for investigating charges against police personnel, but the sending country is responsible for investigating charges against its military personnel. The U.N. returns alleged perpetrators to their home country for punishment. Five MINUSTAH peacekeepers from Uruguay were sent home in September 2011, to be tried on charges of sexually abusing an 18-year-old man at a U.N. base while filming it on a cellphone.

According to the U.N., it completed investigations in Haiti for five substantiated cases of sexual exploitation and abuse and was investigating 13 other cases in 2012,<sup>29</sup> including at least two cases of sexual exploitation of children by U.N. police.<sup>30</sup> The investigations led to three members of a Pakistani police unit being convicted of raping a 14-year-old boy in one of the cases. The trial took place in March 2012 in Haiti, but was conducted by a Pakistani military tribunal, which dismissed the men from the military and sentenced them to one year in prison. As of March 1, 2013, only one case was pending, according to the U.N. Conduct and Discipline Unit.

## **Haiti's Development Challenges and Socioeconomic Conditions**

Long before the earthquake struck, Haiti was a country socially and ecologically at risk, possessing some of the lowest socioeconomic indicators in the world,<sup>31</sup> and in an acute environmental crisis. Following several hurricanes that hit Haiti in 2008, the president of the Inter-American Development Bank (IDB), Luis Moreno, called Haiti the most fragile of IDB's member countries, saying that no other nation in Latin America and the Caribbean is as vulnerable to economic shocks and natural disasters as is Haiti.

Plagued by chronic political instability and frequent natural disasters, Haiti is the poorest country in the Western Hemisphere. Haiti's poverty is massive and deep. There is extreme economic disparity between a small privileged class and the majority of the population. Over half the population (54%) of 9 million people lives in extreme poverty, living on less than \$1 a day; 78% live on \$2 or less a day, according to the World Bank. Poverty among the rural population is even

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(...continued)

release, November 8, 2011, <http://ijdh.org/archives/22789>.

<sup>28</sup> For additional information, see CRS Report RL33700, *United Nations Peacekeeping: Issues for Congress*, by Marjorie Ann Browne, section entitled, "Prince Zeid Report (2005)."

<sup>29</sup> U.N. Conduct and Discipline Unit, "Statistics: Status of Investigations (Sexual Exploitation and Abuse), MINUSTAH," March 5, 2013, <http://cdu.unlb.org/Statistics/StatusofInvestigationsSexualExploitationandAbuse.aspx>

<sup>30</sup> U.N. News Centre, *Haiti: U.N. opens probe into cases of alleged child sexual exploitation*, January 23, 2012, <http://www.un.org/apps/news/story.asp?NewsID=41008&Cr=haiti&Cr1=>

<sup>31</sup> World Bank, *Country Report: Haiti*, 2010, <http://go.worldbank.org/GBX15JKM50>.

more widespread: 69% of rural dwellers live on less than \$1 a day, and 86% live on less than \$2 a day.

Hunger is also widespread: 81% of the national population and 87% of the rural population do not get the minimum daily ration of food defined by the World Health Organization. In remote parts of Haiti, children have been dying of malnutrition.<sup>32</sup> Food security has worsened throughout Haiti following Hurricanes Isaac and Sandy in 2012, which destroyed about 70% of Haiti's crops. Some 1.5 million people live in severe food insecurity in rural areas affected by the storms. As many as 450,000 people are at risk of severe acute malnutrition, including at least 4,000 children less than five years of age.<sup>33</sup>

Over 40 years, from the late 1960s until the early 2000s, Haiti's per capita real GDP declined by 30%. By around 2007, Haiti began making some macroeconomic progress: the Haitian economy was growing for three years prior to the earthquake, and the government had improved management of its resources. In order to reach its Millennium Development Goal of eradicating extreme poverty and hunger by 2015, Haiti's Gross Domestic Product (GDP) would have to grow 3.5% per year, a goal the IMF says Haiti is not considered likely to achieve. Therefore, economic growth, even if it is greater than population growth, is not expected to be enough to reduce poverty; programs specifically targeted at poverty reduction are needed as well.

In 2009, Haiti passed a minimum wage law. The law mandated increases in wages in two phases. In 2010, the minimum wage rose from about \$1.75 per day to \$3.75 per day. In October 2012, it is scheduled to increase to \$5.00 per day. The average daily wage for textile assembly workers is \$5.25, above the new minimum wage, so some manufacturers said that they would have to raise wages proportionally. Despite the wage increase, the fundamental inequality of Haitian society remains basically unchanged.

The global economic crisis led to a drop of about 10% in remittances from Haitians abroad, which amounted to about \$1.65 billion in 2008, more than a fourth of Haiti's annual income.<sup>34</sup> Damage and losses caused by the 2010 earthquake were estimated to be \$7.8 billion, an amount greater than Haiti's gross domestic product (GDP) in 2009.<sup>35</sup> Haiti's GDP contracted by slightly more than 5% in 2010, but grew by 5.6% in 2011. The International Monetary Fund predicted that Haiti would have the highest growth in the Latin America and Caribbean region (7.8%) in 2012.<sup>36</sup> But growth reached only 2.8%, slowed by hurricanes, drought, and "delays in implementing key public investment projects."<sup>37</sup>

The likelihood that economic growth will contribute to the reduction of poverty in Haiti is further reduced by its enormous income distribution gap. Haiti has the second-largest income disparity in

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<sup>32</sup> "Rural Haitian Children Starving," Associated Press, November 21, 2008.

<sup>33</sup> UN Office for the Coordination of Humanitarian Affairs, Haiti: Emergency Revision of the 2012 Consolidated Appeal—Needs arising from the impact of Hurricane Sandy," November 10, 2012, pp. 1, 8.

<sup>34</sup> Mike Blanchfield, "In recession, Haitians abroad send less money home," Canwest News Service, March 17, 2009.

<sup>35</sup> Government of Haiti, "Haiti Earthquake PDNA: Assessment of damage, losses, general and sectoral needs," March 2010, p.6.

<sup>36</sup> International Monetary Fund, *World Economic Outlook: Growth Resuming, Dangers Remain*, April 2012, p. 196.

<sup>37</sup> International Monetary Fund, *IMF Executive Board Concludes 2012 Article IV Consultation with Haiti*, Public Information Notice (PIN) No. 13/41, April 2, 2013, p.1.

the world. Over 68% of the total national income accrues to the wealthiest 20% of the population, while less than 1.5% of Haiti's national income is accumulated by the poorest 20% of the population. When the level of inequality is as high as Haiti's, according to the World Bank, the capacity of economic growth to reduce poverty "approaches zero."<sup>38</sup>

The Haitian government and international donors have focused efforts on manufacturing and agricultural production; both were initially making a steady recovery. But agriculture faces significant limitations in Haiti, with all but 2% of the forest cover deforested,<sup>39</sup> 85% of the watersheds degraded, little or no rural infrastructure, and limited access to credit. Hurricane Sandy caused further loss of agricultural land; the U.N. estimated that an additional \$40 million would be needed to address the new needs arising from that storm. High rates of unemployment, income inequality, and poverty continue to be serious roadblocks to overall economic development.

## **Cholera Epidemic**

Cholera broke out in October 2010, in what may be the first such outbreak ever in Haiti. There is evidence linking the outbreak to inadequate sanitation facilities at a MINUSTAH camp (see "The United Nations Stabilization Mission in Haiti (MINUSTAH)" above). Because Haitians had not been exposed to it previously and lacked immunity, and Haiti lacks adequate sewage and sanitation facilities, the waterborne disease spread quickly. Less than two years later, according to the U.S. Centers for Disease Control and Prevention, Haiti had the highest number of cholera cases in the world.<sup>40</sup> Well over half a million cases (almost 636,000) have been reported, with many cases believed to go unreported. Almost 8,000 people have died because of cholera.<sup>41</sup> The number of new cases has decreased over time, but spikes during the rainy season, when flooding spreads the disease.

President Martelly authorized a cholera vaccination program that began, after several months' delay, in April 2012. (The previous government declined a pilot vaccination program, arguing that vaccinating only a portion of the population would incite tensions among those not vaccinated.) The pilot program inoculated only about 1% of the population: 90,000 people in some of the poorest areas of Port-au-Prince and in the rural Artibonite River Valley. Partners in Health (PIH), a Boston-based nongovernmental organization, which has worked in Haiti for decades, and its Haitian partner in the pilot program, GHESKIO, say the program's success led the Haitian Ministry of Health to examine how to conduct widespread immunization. According to PIH, the vaccination is 70% effective, and costs \$3.70 per patient for the two-dose treatment.<sup>42</sup>

Other, immediate, small-scale preventive measures include building latrines and distributing soap, bleach, and water-purification tablets. Treatment includes oral rehydration salts, antibiotics, and IV fluids. The United States has spent over \$95 million for such preventive measures, and

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<sup>38</sup> World Bank, "Income Distribution, Inequality, and Those Left Behind," in *Global Economic Prospects 2007: Managing the Next Wave of Globalization*, p. 83. December 1, 2006.

<sup>39</sup> World Bank, *Country Report: Haiti*, 2010, <http://go.worldbank.org/GBXI5JKM50>.

<sup>40</sup> Associated Press, "CDC Study Shows Haiti Cholera has Changed, Experts Say It Suggests Disease Becoming Endemic," *The Washington Post*, May 3, 2012.

<sup>41</sup> USAID, *Haiti—Earthquake and Cholera*, Fact Sheet #3, Fiscal Year (FY) 2012, December 12, 2011.

<sup>42</sup> Partners in Health, *Cholera, Next Steps*, May 30, 2012, Cholera, PIH's Response, February 12, 2013, <http://www.pih.org/pages/cholera>.

supporting staff and supplies for 45 cholera treatment centers and 117 oral rehydration posts, and working with the Haitian Ministry of Health to set up a national system for tracking the disease.

But most observers say cholera will persist in Haiti until nationwide water and sanitation systems are developed. This would cost approximately \$800 million to \$1.1 billion, according to the *New York Times*.<sup>43</sup> Haiti's first wastewater treatment site was opened in the fall of 2011. A study released by the U.S. Centers for Disease Control and Prevention indicated that the strain of cholera in Haiti is changing as survivors develop some immunity to the original strain. This could be an indication that the disease is becoming endemic in Haiti.<sup>44</sup>

The number of total cases and deaths declined in 2012. Nonetheless, some critics assert that the international response to the epidemic has been inadequate, and warn that the closing of cholera treatment centers is reducing the country's ability to respond to the disease and already contributed to an increase in the mortality rate in late 2012.<sup>45</sup> In 2012 the U.N. announced an effort to raise over \$2 billion for a 10-year cholera eradication plan, to which it will contribute \$23 million, or about one percent of what it says is needed.

## Strategies for Haiti's Reconstruction and International Assistance<sup>46</sup>

### Reconstruction Efforts

Prior to the earthquake in 2010, the United Nations had already designated Haiti as one of the 50 least developed countries in the world, facing greater risk than other countries of failing to emerge from poverty, and therefore needing the highest degree of attention from the international community.<sup>47</sup>

After the earthquake, the Haitian government established a framework for reconstruction in the 10-year recovery plan, *Action Plan for the Reconstruction and National Development of Haiti*, with four areas of concentration:<sup>48</sup>

- **Territorial building**, including creating centers of economic growth to support settlement of displaced populations around the country and to make Port-au-

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<sup>43</sup> Deborah Sontag, "In Haiti, Global Failures on a Cholera Epidemic," *New York Times*, March 31, 2012.

<sup>44</sup> Associated Press, "CDC Study Shows Haiti Cholera has Changed, Experts say it Suggests Disease Becoming Endemic," *Washington Post*, May 3, 2012.

<sup>45</sup> Center for Economic and Policy Research, "Pressure Builds on UN to Take Responsibility as Cholera Still Far From 'Under Control'," January 11, 2013.

<sup>46</sup> For further information, see CRS Report RL34029, *Haiti's Development Needs and a Statistical Overview of Conditions of Poverty*, by Maureen Taft-Morales and Demond Alexander Drummer; for background on the 2004-2007 strategy, see CRS Report RL33156, *Haiti: International Assistance Strategy for the Interim Government and Congressional Concerns*, by Maureen Taft-Morales.

<sup>47</sup> United Nations Office for Least Developed Countries. Facts about Least Developed Countries (LDCs) available at <http://www.unohrls.org/UserFiles/File/Publications/Factsheet.pdf>, January 15, 2010.

<sup>48</sup> Republic of Haiti, "Action Plan for the Reconstruction and National Development of Haiti," March 2010, available at <http://www.haitisantodomingo2010.org/hsd2010/content/documents>.

- Prince less congested, developing infrastructure to promote growth, and managing land tenure;
- **Economic rebuilding**, including modernizing the agricultural sector for both export and food security, promoting manufacturing and tourism, and providing access to electricity;
  - **Social rebuilding**, prioritizing building education and health systems; and
  - **Institutional rebuilding**, focusing on making government institutions operational again and able to manage reconstruction, and strengthening governmental authority while also decentralizing basic services, and creating a social safety net for the poorest population.

Some of the overarching goals of the plan are including environmental factors and risk and disaster management in all recovery and reconstruction activities; actively providing employment and vocational training; and providing assistance to the population affected by the earthquake while hastening recovery efforts with an eye to reducing dependence on foreign aid.

Some analysts emphasize that the Haitian government and civil society must be partners in designing any development strategy if they are to succeed and be sustainable. They also warn that job creation and other development efforts must occur not only in the cities, but also in rural areas, to reduce urban migration, dependence on imported food, and environmental degradation. As mentioned above, economic growth alone is unlikely to reduce poverty in Haiti. Therefore, the Haitian government and many in the international donor community maintain that donors must continue to make a long-term commitment to Haitian development. Furthermore, in order to reduce poverty across the board, some observers say that development strategies must specifically target improving the living conditions of the poor and address the inequities and prejudices that have contributed to Haiti's enormous income disparity.<sup>49</sup>

The Haitian government, the Obama Administration, other international donors, and other observers have all stated the need for improved accountability of all donor assistance to Haiti, to improve aid effectiveness and reduce the potential for corruption. Recent Haitian governments have made major progress in reducing corruption, increasing transparency, and improving fiscal management. These improvements qualified Haiti for Heavily Indebted Poor Country (HIPC) debt relief in 2009. To ensure transparency further, the U.S. Agency for International Development has helped Haiti establish an online system to monitor both donor pledges and spending and implementation of assistance.

## **Relations with Donors**

Since Haiti's developmental needs and priorities are many, and deeply intertwined, the Haitian government and the international donor community are implementing an assistance strategy that attempts to address these many needs simultaneously. The challenge is to accomplish short-term projects that will boost public and investor confidence, while also pursuing long-term development plans to improve living conditions for Haiti's vast poor population. The challenge has been made more daunting by developments such as rising food and gasoline prices world-

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<sup>49</sup> See for example, Robert Maguire, "Paul Collier's Report on Economic Security in Haiti," March 2009. Focal Point, Vol. 8, Issue 2.

wide, internal political crises, and, of course, the lingering damage done by the earthquake and other natural disasters.

The Haitian government has criticized the donor community for not dispersing funds quickly enough. Some international donors complain that the instability generated first by the elections process, then by the prolonged lack of a prime minister, the ongoing gridlock between the Haitian executive and legislative branches and the current inability to organize elections hinder reconstruction efforts as well.

There are other frustrations on the part of both donors and the Haitian government regarding foreign assistance. The Haitian government is frustrated that U.S. and other foreign aid is provided primarily through nongovernmental organizations (NGOs) rather than directly to the government. Donors are worried about the lack of Haitian capacity to design and implement programs, as well as corruption. The donor community has grown extremely frustrated at the lack of coordination and the inability or unwillingness of various government actors to seek consensus on development priorities and plans, such as elections that are now more than a year overdue. The State Department's Special Coordinator for Haiti, Thomas Adams, recently warned that, "Haiti will lose international support if it is seen as undemocratic," by failing to address corruption, human rights violations, or government accountability through elections.<sup>50</sup>

### **Coordination of Foreign Assistance**

The Interim Haiti Reconstruction Commission (IHRC) was created after the earthquake to coordinate foreign aid and reconstruction activities. It was co-chaired by the Government of Haiti and the UN Special Envoy to Haiti, former President Bill Clinton. Its 18-month mandate expired in October 2011 without the establishment of the Haitian-run Haitian Development Authority, which was to take its place. (Clinton's mandate as Special Envoy expired January 31, 2013, and was not extended.) While there has been criticism that the IHRC was not approving and distributing aid effectively, there has also been widespread concern that the Haitian government is not ready to assume full control of the process either. The government's nascent institutions, which had limited capacity before the earthquake, were set back severely by the earthquake's destruction. The president asked the legislature to pass an extension of the IHRC while an alternative mechanism was developed; it failed to do so. In the meantime, the 12 largest international donors continued to coordinate among themselves and with the Haitian government.

In November 2012 the Haitian government presented to the donor community a plan for the coordination of foreign aid, the Framework for Coordination of Foreign Aid for Haitian Development (*Cadre de Coordination de l'aide Externe au Developpement d'Haiti, CAED*). Headed by the Prime Minister and the Minister of Planning and External Cooperation, it will have an international committee that is supposed to meet at least twice a year, a national committee that is supposed to meet four to six times a year, and working groups to address various development priorities such as education, employment, energy, extreme poverty, and rule of law. Although some parts of the framework have begun to function, the government is seeking donor funds to support the CAED. In February 2013 donors told the government they would not attend a CAED international committee meeting because it still had no plans or date for elections. The meeting was rescheduled for May.

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<sup>50</sup> U.S. Institute of Peace, "Haiti's Election Conundrum: Fraught but Necessary?," March 27, 2013.

## Outlook Regarding Haitian Development

Despite the economic and social problems currently existing in Haiti and the comprehensive and complex challenges facing the country, Haiti could become a middle-income country, according to the State Department's Special Coordinator for Haiti, Thomas Adams. Such a transition could take about 30 years, even with good economic growth, Adams said, and would require continued development of "credible democratic institutions" and private investment, in addition to support from the international donor community.<sup>51</sup>

Statements by U.N. officials and other donors indicate growing frustration with the current political stalemate in Haiti, however. Political polarization is inhibiting the capacity building needed to strengthen democratic institutions, keeping away private investment, they say, and contributing to donor fatigue. As discussed earlier, donors and other analysts say that unless some sort of national consensus is reached on a legislative agenda and development priorities, Haiti's reconstruction will continue to be stalled, and stability and security threatened.<sup>52</sup>

Prior to the earthquake, prominent analysts noted with optimism the progress Haiti had made and its potential for sustainable development. In the wake of the damage wrought by the earthquake, Haiti must recover from the enormous losses suffered and build on the advances and advantages pointed out by these analysts.

The U.N. Security Council noted in 2009 that the country had made significant improvements in security and judicial reform, although it still needed to contend with widespread poverty and susceptibility to natural disasters. The two governments preceding the Martelly government (the Préval and the preceding interim government) also made progress toward goals outlined in Haiti's international assistance strategy, including improved macroeconomic management, procurement processes, and fiscal transparency; increased voter registration; and jobs creation. The government had also made progress in providing broader access to clean water and other services.<sup>53</sup>

The U.N. Secretary-General also had commissioned a report, published in 2009, that recommended a strategy to move Haiti beyond recovery to economic security.<sup>54</sup> Many of its findings still apply to a post-earthquake Haiti. According to the U.N. report, "the opportunities for [economic development in] Haiti are far more favorable than those of the 'fragile states' with which it is habitually grouped." The report's author, economist Paul Collier, is known for his book, *The Bottom Billion*, which explores why there is poverty and how it can be reduced. Among his reasons for optimism regarding Haiti: Haiti is part of a peaceful and prosperous region, not a conflictive one; and while political divisions and limited capacity make governing difficult, Collier believed that Haiti's leadership at the time was "good by the standards of most post-conflict situations ... [exhibiting] integrity, experience and ability, and a deep concern with

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<sup>51</sup> Associated Press, "Haiti Faces 30-Year Climb to Middle Income Status," *Jamaica Observer*, May 28, 2012.

<sup>52</sup> See "Overdue Elections Process Grows Contentious," "President Martelly's Administration," above, and International Crisis Group, *Governing Haiti: Time for National Consensus*, Latin America and Caribbean Report no.46, February 4, 2013, and "Gridlock in Haiti; Our Opinion: Political infighting threatens to paralyze the recovery without elections," Miami Herald editorial, April 3, 2013.

<sup>53</sup> "Haiti: U.N. Council Mission reports strides in security, worrisome poverty," States News Service, March 19, 2009.

<sup>54</sup> Paul Collier, "Haiti: From Natural Catastrophe to Economic Security, A Report for the Secretary-General of the United Nations," January 2009, available at <http://www.securitycouncilreport.org>.

the maintenance of social peace.” The U.N. report recommended that modest and focused actions be taken to build economic security on the foundation of social stability that has been built in Haiti in recent years. Because that stability was—and remains—fragile, the report advised that such actions should be taken immediately and should focus on strengthening security by creating jobs, especially in the garment and agricultural sectors; providing basic services; enhancing food security; and fostering environmental sustainability. These strategies remain part of the post-earthquake approach to development.

Collier and other analysts note that Haiti has an important resource in the 1.5 million Haitians living abroad, for their remittances sent back home, technical skills, and political lobbying. The efforts of Haitian Americans and others lobbying on Haiti’s behalf led to another advantage Haiti has: the most advantageous access to the U.S. market for apparel of any country, through the HOPE II Act (the Haitian Hemispheric Opportunity through Partnership Encouragement Act, P.L. 110-246; see “Trade Preferences for Haiti” section below). Supporters say the HOPE Act provides jobs and stimulates the Haitian economy. Critics worry that it exploits Haitians as a source of cheap labor for foreign manufacturers, and hurts the agricultural economy by drawing more people away from farming.

### **Potential for Mining**

In the past year, U.S. and Canadian companies have conducted exploratory drilling in Haiti, reporting a potential \$20 billion worth of gold, copper, and silver below Haiti’s northeastern mountains.<sup>55</sup> While discoveries of such mineral wealth have led to economic booms in many countries, they also bring risks such as environmental contamination, health problems, and displacement of communities. And like many poor countries that could use the revenue from mineral extraction, Haiti does not have the government infrastructure to enforce laws that would regulate mining—reportedly, the last time gold was mined there was in the 1500s. The Prével government negotiated the agreement with the only company that has full concessions; the terms of that agreement would return to Haiti \$1 out of every \$2 of profits, a high return. Prime Minister Lamothe said the government is already drafting mining legislation to establish royalties paid to the government and safeguards for citizens and the environment in mining areas.

## **U.S. Policy Objectives and Assistance**

Obama Administration officials have said that Haiti is a priority in its foreign policy, and the Administration’s top priority in the Latin America and Caribbean region in terms of bilateral foreign assistance.<sup>56</sup> Haiti is being allotted more funds than any other country in the hemisphere. At a hearing in April 2012, Assistant Secretary of State for Western Hemisphere Affairs Roberta Jacobson stated that the Obama Administration’s FY2013 request for the hemisphere

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<sup>55</sup> Figures and dates in this paragraph from: Associated Press, “Haiti’s New Prime Minister Says New Mining Legislation being Drafted to Benefit Country,” *Washington Post*, May 15, 2012; and Martha Mendoza, “Gold! Haiti Hopes Ore Find Will Spur Mining Boom,” *Associated Press*, May 12, 2012.

<sup>56</sup> “U.S. Department of the [sic] State” [transcript of joint press conference], *FDCH Regulatory Intelligence Database*, July 24, 2012; and briefings, conversations with State Dept. and USAID officials, February 22, 2011, June 22, 2012; refers to combined State Dept. and USAID funding.

prioritizes assistance for Haiti to support the country’s ongoing development efforts, focusing on: sanitation and health services to help prevent and treat cholera and other water-borne diseases, expansion of energy infrastructure, and economic growth to increase agricultural incomes and get Haitians back to work, and improving the government’s ability to deliver needed services and restore faith with its people.<sup>57</sup>

Other concerns for U.S. policy regarding Haiti include the cost and effectiveness of U.S. aid; protecting human rights; combating narcotics, arms, and human trafficking; addressing Haitian migration; and alleviating poverty. The United States and other members of the international community continue to support efforts to hold free and fair elections in Haiti in the belief that in the long run they will contribute to improved governance and, eventually, improved services to Haitian citizens and greater stability, which will allow for increased development. Congress has given bipartisan support to this policy approach.

## U.S. Assistance to Haiti

The Obama Administration’s request for FY2013 assistance for Haiti was just under \$340 million. This represented a \$17.2 million decrease from FY2012 funding.

**Table I. U.S. Assistance to Haiti Fiscal Years 2011 to 2013**

(\$ in thousands)	FY2011 Actual	FY2012 Estimate	FY2013 Request	Increase / Decrease
<b>TOTAL</b>	<b>380,261</b>	<b>357,161</b>	<b>339,963</b>	<b>-17,198</b>
Economic Support Fund	131,000	148,281	141,000	-7281
Food for Peace Title II	44,838	23,000	23,000	-
Foreign Military Financing	1,597	-	1,600	1,600
Global Health Programs - State	156,240	141,240	131,543	-9,697
Global Health Programs - USAID	26,946	25,000	25,100	100
International Military Education and Training	220	220	220	-
International Narcotics Control and Law Enforcement	19,420	19,420	17,500	-1,920

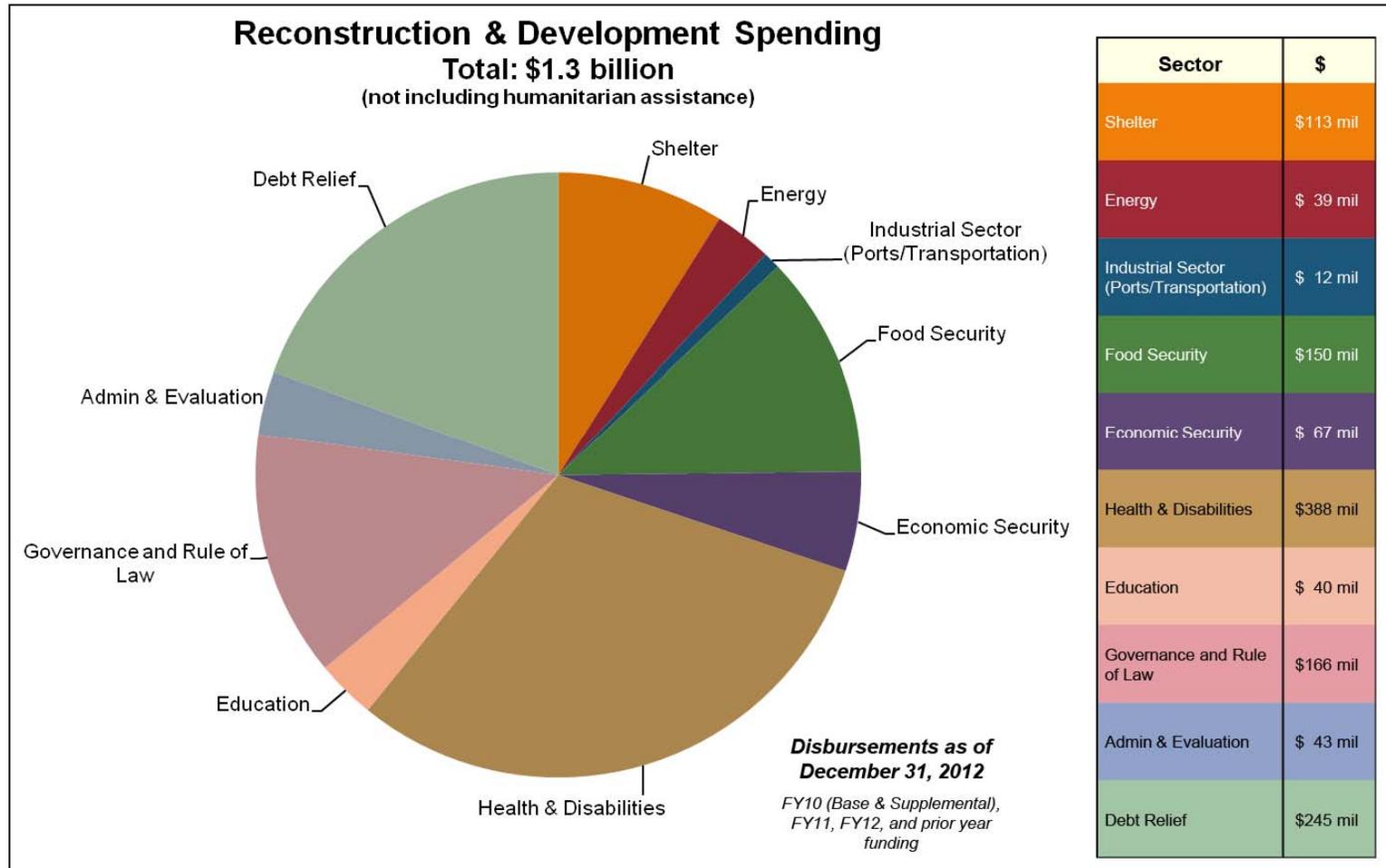
**Source:** U.S. Dept. of State, Congressional Budget Justification: Foreign Operations, Annex: Regional Perspectives, Fiscal Year 2013, p. 797.

FY2013 foreign assistance is being funded through a continuing resolution (P.L. 113-6), however, which funds most accounts at the FY2012 enacted level. Furthermore, sequestration required by the Budget Control Act of 2011 (P.L. 112-25), as amended by the American Taxpayer Relief Act of 2012 (P.L. 112-240/H.R. 8, signed into law January 2, 2013), is currently in effect and requires an across-the-board reduction from the FY2013 enacted funding level. Given uncertainty over the country allocations that would be used as the base line to calculate the sequestration, CRS is unable to calculate post-sequestration funding levels for Haiti. A possible rough estimate could be reached by reducing FY2012 estimates by 5%; that would assume that all cuts would be even

<sup>57</sup> U.S. Congress, House Committee on Foreign Affairs, Subcommittee on the Western Hemisphere, *Testimony, Honorable Roberta S. Jacobson, Asst. Secretary of State, Bureau of Western Hemisphere Affairs, U.S. Dept. of State, Hearing: “Western Hemisphere Budget Review 2013: What are U.S. Priorities?”* 112<sup>th</sup> Cong., April 25, 2012.

across the board, which they will not necessarily be U.S. assistance to Haiti focuses on the four key sectors outlined in the Action Plan for Reconstruction and National Development of Haiti, with funding directed towards infrastructure and energy projects, governance and rule-of-law programs, programs for health and other basic services, and food and economic security programs. The Administration's approach is detailed in its "Post-Earthquake USG Haiti Strategy toward Renewal and Economic Opportunity." **Figure 2** shows the distribution of reconstruction and development spending by type of program.

**Figure 2. U.S. Government Post-Earthquake Assistance in Haiti**



Source: U.S. Agency for International Development, U.S. Department of State, February 11, 2013.

The Administration said in 2012 that across the four areas of aid, “funds are moving, existing programs are making progress, and new programs are coming to fruition.”<sup>58</sup> The Administration also stated, however, that the protracted absence of an empowered prime minister and the lapse of the Interim Haiti Recovery Commission impeded progress of the plan’s implementation.<sup>59</sup> These issues—political gridlock and weak coordination—continue to be impediments to carrying out U.S. aid programs.

## **Temporary Protected Status<sup>60</sup>**

Over the years, after various domestic crises, Haitians repeatedly sought Temporary Protected Status (TPS), which would allow them to remain in the United States without threat of deportation for a specific amount of time. The Haitian government and others argued that the return of deportees would contribute to instability and be a further drain on already inadequate services, and that Haiti depends on the remittances those in the United States send back to Haiti. Opponents of TPS argued that granting it could encourage a wave of new immigrants. After 2010’s devastating earthquake, the United States granted TPS to Haitians living in the United States at the time of the disaster. Department of Homeland Security (DHS) Secretary Janet Napolitano has extended TPS through July 22, 2014, and allowed eligible Haitians who came to the United States up to one year after the earthquake to be granted TPS. The policy of interdicting Haitian migrants on the high seas and returning them to Haiti continues.

## **Congressional Response and Concerns**

There has been bipartisan support in Congress to assist Haiti both before and since the earthquake. In the years preceding the earthquake, Congress passed several bills, in addition to appropriations bills, to support Haiti. This included a series of trade preferences for Haiti, which are described in more detail below. Another issue of concern to Congress has been efforts to ensure that free, fair, and safe elections are held in Haiti. As mentioned above (see “Overdue Elections”), one-third of the Haitian Senate seats expired on May 8, 2012. These and local elections for municipal councils, town delegates, and other posts, which are more than a year overdue, have yet to be scheduled. Other congressional concerns include post-earthquake reconstruction; transparency and accountability of the Haitian government; respect for human rights, particularly for women; security issues, including Martelly’s proposal to reconstitute the Haitian army; and counternarcotics efforts.

## **Post-Earthquake Reconstruction**

In the aftermath of the earthquake, Congress appropriated \$2.9 billion for aid to Haiti in the 2010 supplemental appropriations bill (P.L. 111-212).<sup>61</sup> This included \$1.6 billion for relief efforts, \$1.1

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<sup>58</sup> Dept. of State, “Report to Congress: Assessment of the U.S. Government Haiti Rebuilding and Development Strategy,” February 29, 2012, <http://www.state.gov/documents/organization/185118.pdf>

<sup>59</sup> Dept. of State, “Report to Congress: Assessment of the U.S. Government Haiti Rebuilding and Development Strategy,” June 6, 2012, <http://www.state.gov/s/hsc/rpt/191881.htm>.

<sup>60</sup> For further information, see CRS Report RS21349, *U.S. Immigration Policy on Haitian Migrants*, by Ruth Ellen Wasem.

billion for reconstruction, and \$147 million for diplomatic operations. Since then, Congress has expressed concern about the pace and effectiveness of U.S. aid to Haiti. According to the U.N. Special Envoy for Haiti's office, of the approximately \$1.2 billion the United States pledged at the 2010 donors conference for aid to Haiti, 19% had been disbursed as of March 2012, and about 33% as of December 2012. All donors had pledged about \$6.4 billion, and disbursed just over 45% of that as of March 2012, and disbursed 56% of it by the end of 2012.<sup>62</sup>

When looking at the broader range of funding available for Haiti, the Obama Administration says the rate of disbursement is higher. According to USAID and the State Department, 100% of the \$1.3 billion allotted for humanitarian relief assistance, and 51% of the \$2.3 billion allotted for recovery, reconstruction and development assistance had been distributed as of December 31, 2012.<sup>63</sup> The recovery, reconstruction and development assistance includes the amount pledged at the U.N. recovery conference (and appropriated through the FY2010 supplemental appropriations bill), plus other appropriated fiscal year funds (base FY2010, FY2011, and FY2012), and USAID prior year funds reallocated to meet urgent Haitian recovery and reconstruction needs. Using these figures, the Administration calculates that it has disbursed 72% of funding available for Haiti.

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(...continued)

<sup>61</sup> For further details, see CRS Report R41232, *FY2010 Supplemental for Wars, Disaster Assistance, Haiti Relief, and Other Programs*, coordinated by Amy Belasco, and CRS Report R41023, *Haiti Earthquake: Crisis and Response*, by Rhoda Margesson and Maureen Taft-Morales.

<sup>62</sup> Office of the Special Envoy for Haiti, "New York conference recovery pledge status and modalities as of [March 2012; December 2012] in USD millions," [http://www.haitispecialenvoy.org/download/International\\_Assistance/6-ny-pledge-status.pdf](http://www.haitispecialenvoy.org/download/International_Assistance/6-ny-pledge-status.pdf). According to discussions with the State Dept., figures for the U.S. in the Special Envoy's December 2012 table were as of September 30, 2012, and USG calculations for that date showed a disbursement rate of 46%.

<sup>63</sup> USAID, Dept. of State, "Total Post-Earthquake USG Funding to Haiti Summary, All Accounts—As of December 31, 2012" (table).

**Figure 3. Total Post-Earthquake USG Funding to Haiti Summary**

All Accounts—As of December 31, 2012

	Available funding through 12/31/2012	Obligations	Disbursements	% of Available Funding Disbursed
Humanitarian Relief Assistance <sup>1</sup>	\$1.3 billion	\$1.3 billion	\$1.3 billion	100%
Recovery, Reconstruction & Development Assistance <sup>2</sup>	\$2.3 billion	\$1.5 billion	\$1.3 billion	51%
<b>Total</b>	<b>\$3.6 billion</b>	<b>\$2.8 billion</b>	<b>\$2.6 billion</b>	<b>72%</b>
<b>Future spending</b>				
The current budget year Congressional Budget Justification [CBJ] request for FY2013 is approximately \$340 million.				
<b>Terms</b>				
<b>Obligations:</b> For the purposes of this chart, legally-binding agreements that place funds into grants and contracts with implementing partners.				
<b>Disbursements:</b> Payments that liquidate obligations; i.e., usually payments made to USG implementing partners as work is done.				
<sup>1</sup> : Remaining undisbursed humanitarian assistance amounts that may appear on USG reports reflect the slowness of payments and transfers for work already done and are thus counted as disbursed.				
<sup>2</sup> : Captures data from the Office of U.S. Foreign Assistance Haiti budget for fiscal years 2010 (Base & Supplemental), 2011, 2012, debt relief, and disbursements of prior-year USAID funds appropriated before the earthquake. Prior-year funds are not included in the "available funding" or "obligations" columns.				

Source: U.S. Agency for International Development, U.S. Department of State, February 11, 2013.

While Haiti is making some progress in its overall recovery effort, enormous challenges remain. International donors responded to the earthquake with a massive humanitarian effort. Most of the rubble created by the earthquake has been removed and three-fourths of those living in tent shelters have left the camps.<sup>64</sup> Nevertheless, many criticize the pace and methods of the recovery process regarding displaced persons. About 61,000 of those who left the camps were forcibly evicted, and about 78,000 live on private land under threat of eviction, with the U.N. expressing concern about the human rights violations involved in such expulsions. About 358,000 people remain in tent shelters in almost 500 sites.<sup>65</sup>

**The Caracol Industrial Park.** A major element of U.S. aid to Haiti has been the development of the Caracol Industrial Park in Haiti's northern region. Although the region was not hit by the earthquake, the project is part of an effort—begun before the earthquake—to “decentralize” development, stimulating the economy and creating jobs outside of overcrowded Port-au-Prince. The Obama Administration says the Caracol park is supposed to create 20,000 permanent jobs initially, with the potential for up to 65,000 jobs; as of October 2012 then-Secretary of State Hillary Rodham Clinton said about 1,000 Haitians were employed there.<sup>66</sup>

The Caracol Industrial Park has generated much controversy. According to the New York Times, State Department officials acknowledged that they did not conduct a full inquiry into allegations of labor and criminal law violations by Sae-A in Guatemala before choosing the company to anchor the park.<sup>67</sup> Environmentalists, who had marked Caracol Bay to become Haiti's first marine protected area, were reportedly “shocked” to learn an industrial park would be built next to it. U.S. consultants who helped pick the site said they had not conducted an environmental analysis before recommending the site, the Times reported, and in a follow-up study said the site posed a high environmental risk and that, even if wastewater were treated the bay would be endangered, and the U.S.-financed power plant would have “a ‘strongly negative’ impact on air quality.” Civil society groups argue that the park, built on some of Haiti's rare arable land, displaced farmers and promotes manufacturing at the expense of agriculture.<sup>68</sup>

A Haitian government website defended the park, saying Sae-A's Guatemalan branch took corrective action, and that the U.S. Department of Labor has led several delegations to review the manufacturer's compliance with labor law.<sup>69</sup> The Ministry of Economy and Finances said that “environmental protection activity” was already underway, including development of a modern wastewater treatment plant, and that “complementary alternative energy sources” were also being pursued. As for the agricultural issues, the government said the farmers were given compensation

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<sup>64</sup> Dept. of State, Office of the Haiti Special Coordinator, “Fast Facts on the U.S. Government's Work in Haiti: Rubble,” and “Fast Facts on the U.S. Government's Work in Haiti: Shelter and Housing,” January 16, 2013.

<sup>65</sup> Oxfam, *Salt in the Wound: The Urgent Need to Prevent Forced Evictions from Camps in Haiti*, December 10, 2012, p. 3; and The Caribbean Journal, “Haiti: UN ‘Concerned’ over Forced Evictions of Displaced Persons,” March 12, 2013.

<sup>66</sup> Dept. of State, Office of the Haiti Special Coordinator, “Fast Facts on the U.S. Government's Work in Haiti: Caracol Industrial Park,” January 16, 2013; and Hillary Rodham Clinton, “Remarks at the Caracol Industrial Park Opening Ceremony,” October 22, 2012.

<sup>67</sup> Deborah Sontag, “Earthquake Relief Where Haiti Wasn't Broken,” New York Times, July 5, 2012.

<sup>68</sup> Briefing with Camille Chalmers, Executive Director of the Haitian Advocacy Platform for an Alternative Development, May 22, 2012.

<sup>69</sup> Administrator, “Fact Check- The New York Times: Earthquake Relief Where Haiti Wasn't Broken,” Parc Industriel de Caracol, July 6, 2012, <http://www.ute.gouv.ht/caracol/en/news/3-newsflash/174-fact-check-the-new-york-times-earthquake-relief-where-haiti-wasnt-broken>.

packages, including title to farmland elsewhere, and a U.S.-sponsored training program would help local residents gain skills for new job opportunities.

## **Transparency and Accountability of the Haitian Government**

As part of its concern about the effectiveness of U.S. aid to Haiti, Congress has supported efforts over the years to improve the transparency and accountability of the Haitian government's spending. Congress prohibited certain aid to the central government of any country that does not meet minimum standards of fiscal transparency through the foreign assistance appropriations act for 2012 (P.L. 112-74). While acknowledging Haiti's progress toward fiscal transparency, the State Department reported that Haiti did not meet those minimum standards, but waived the restriction on the basis of national interest. In its memorandum of justification, the Department argued that, "Without assistance and support, Haiti could become a haven for criminal activities.... Without sufficient job creation, Haiti could become a greater source of refugee flows...."<sup>70</sup>

The Justification noted progress made, such as the government's routine posting of budgetary, public finance and investment documents and legislation online, public discussions of the draft national budget for the first time, the increasing role of the parliament in budget oversight, and the adoption of an integrated financial management system to track expenditures in one central database. Some of Haiti's transparency shortcomings include the failure to identify natural resource revenues in the budget; inadequate access to contracting procedures for investors trying to engage in public procurement; extra-budgetary spending; and the lack of skill within the Supreme Audit Authority to carry out its oversight of public enterprises.

## **Respect for Human Rights**

Congress has long advocated for the respect for human rights in Haiti, which has improved dramatically under civilian democratic government. The government is no longer an agent of officially sanctioned and executed violations of human rights. Nonetheless, many problems remain. According to the U.S. Department of State's Human Rights report from 2012:

The most serious human rights problems included abuses by government security forces and representatives of the judiciary, including extrajudicial killings by police and government officials; allegations of sexual exploitation by members of MINUSTAH; and chronic, severe corruption in all branches of government.

Other human rights problems included torture and excessive use of force against suspects and prisoners; overcrowding and poor sanitation in prisons; prolonged pretrial detention; an inefficient, unreliable, and inconsistent judiciary subject to significant outside and personal influence; rape, other violence, and societal discrimination against women; child abuse; and human trafficking. In addition there were multiple incidents of mob violence and vigilante retribution against both government security forces and ordinary citizens, including setting houses on fire, burning police stations, throwing rocks, beheadings, and lynchings.<sup>71</sup>

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<sup>70</sup> U.S. Dept. of State, Action Memo for Deputy Secretary Nides, Haiti—Fiscal Transparency National Interest Waiver Request and Determination of Progress, undated (2012, probably August-October).

<sup>71</sup> U.S. Dept. of State, *Country Reports on Human Rights Practices for 2011: Haiti*, May 24, 2012, [http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic\\_load\\_id=186522](http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186522).

The U.N. Independent Expert on the Situation of Human Rights in Haiti, Michel Forst, made a blunt assessment of the current state of human rights in Haiti in his final address before the U.N.'s Human Rights Council. Before stepping down from the position he said, "I cannot, and I do not want to hide from you my anxiety and disappointment regarding developments in the fields of the rule of law and human rights...."<sup>72</sup> Saying that "impunity reigns," the human rights expert said, "It is inconceivable that, under the rule of law, those responsible for enforcing the law feel authorized not to respect the law and that such behavior goes unanswered by the judicial system."

Forst strongly criticized the nomination of magistrates for political ends, citing the case in which he said the current Minister of Justice appointed a judge especially for the purpose of ordering the release of Calixte Valentin, a presidential adviser being held in preventive detention on a murder charge. His statement bemoaned threats against journalists, arbitrary and illegal arrests, and the failure to implement identified solutions that would improve conditions in the Haitian prison—which he said "remains a cruel, inhuman and degrading place." He expressed his wish that the Martelly administration take up the work of the Ministry of Justice under President Préval in the revision of the penal code. Forst applauded the strong efforts of the Préval and Martelly administrations in strengthening the police, with international support, and the renewed public confidence in the police. He noted persisting problems however, commenting that the case of a person tortured to death in a police station in a Port-au-Prince suburb was not an isolated incident.

The human rights specialist also noted positive developments in human rights, including the role played by the Office of Citizen Protection, Haiti's human rights ombudsman, in promoting respect for human rights, and a strong civil society with professional human rights organizations advocating for issues such as women's rights and food security. Forst also praised the appointment of a Minister for Human Rights and the Fight against Extreme Poverty.

An aide to the Prime Minister, George Henry Honorat, was killed March 23, 2013, in a drive-by shooting. Motives are not known, but Honorat was also the editor in chief for a weekly newspaper, *Haiti Progres*, and was secretary general of the Popular National Party that opposed the Duvalier regimes.

### **Investigations of Duvalier and Aristide for Human Rights Violations**

Legal proceedings against both former dictator Jean-Claude "Baby Doc" Duvalier and former President Jean-Bertrand Aristide pose extremely challenging tests of Haiti's judicial system, and its ability to prosecute human rights abuses and other crimes. As mentioned above, about a third of U.S. assistance to Haiti supports governance and rule-of-law programs, which include judicial reform and strengthening.

After Duvalier's unexpected return from exile in 2011, private citizens filed charges of human rights violations against him for abuses they allege they suffered under his 15-year regime. In 2012 a judge ruled that Duvalier could be tried for corruption, but that a statute of limitations would prevent him from being tried for any murder claims. A judge was due to hear an appeal against that decision in February 2013. International organizations argue that under international

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<sup>72</sup> "Departing UN official blasts Haiti's human rights record in open letter," AP, March 28, 2013; "Michel Forst vide son sac," *Le Nouvelliste*, March 27, 2013, at <http://lenouvelliste.com/article4.php?newsid=115004>, author's translation; U.N. Office at Geneva, "Council Holds Interactive Dialogue with Independent Experts on the Situation of Human Rights in Cote d'Ivoire and in Haiti," March 19, 2013.

law, to which Haiti is bound, there is no statute of limitations for crimes against humanity such as political torture, disappearances and murder. Duvalier repeatedly failed to appear in court, then, under threat of arrest from the judge, appeared in court on February 28, much to the astonishment of many observers. When asked about murders, political imprisonment, summary execution and forced exile under his government, the former dictator replied that “Murders exist in all countries; I did not intervene in the activities of the police.”<sup>73</sup> For almost two years after his return, Duvalier was not allowed to leave the country, but in December 2012 the Martelly government re-issued his diplomatic passport.<sup>74</sup>

Former President Jean-Bertrand Aristide is also facing charges since his return in March 2011. A small group of people has filed a complaint against Aristide, alleging they were physically abused and used to raise money when they were children in the care of Aristide’s Fanmi se Lavi organization, created in the late 1980s to house and educate homeless children. A prosecutor questioned Aristide on January 9. Now a court must decide whether to dismiss the case or refer it to a judge to decide whether to file formal charges.

The U.N. High Commissioner for Human Rights has offered to help Haitian authorities prosecute crimes committed during Duvalier’s rule.<sup>75</sup> U.N. Secretary General Ban Ki-Moon called on the international community to continue to work with the Haitian government to bring about systemic rule-of-law reform, saying that

the return of Jean-Claude Duvalier has brought the country’s turbulent history of State-sponsored violence to the fore. It is of vital importance that the Haitian authorities pursue all legal and judicial avenues in this matter. The prosecution of those responsible for crimes against their own people will deliver a clear message to the people of Haiti that there can be no impunity. It will also be incumbent upon the incoming Administration to build on the achievements of the Préval presidency, which put an end to State-sponsored political violence and allowed Haitians to enjoy freedom of association and expression.<sup>76</sup>

Because the judicial system is not fully independent, the attitudes of the president could have a large impact on any judicial process. As a candidate, Martelly called for clemency for the former leaders, saying that, “If I come to power, I would like all the former presidents to become my advisors in order to profit from their experience.”<sup>77</sup> He also said he was “ready” to work with officials who had served under the Duvalier regimes,<sup>78</sup> and adult children of Duvalierists hold high positions in his government.<sup>79</sup> Since becoming president, Martelly has repeated the possibility that he would pardon Duvalier, citing a need for national reconciliation.<sup>80</sup> The U.N.’s Deputy High Commissioner for Human Rights, Kyung-wha Kang, in a visit to Port-au-Prince in

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<sup>73</sup> “Haiti-Duvalier: Everything that was said at the hearing of 28 February,” HaitiLibre.com, March 2, 2013.

<sup>74</sup> Trenton Daniel, “Attorney: Haiti’s ‘Baby Doc’ Duvalier hospitalized,” Associated Press, March 4, 2013.

<sup>75</sup> United Nations Radio, *UN offers to help Haitian authorities prosecute Duvalier*, February 1, 2011, <http://www.unmultimedia.org/radio/english/detail/112772.html>.

<sup>76</sup> UN Security Council, Report of the Secretary-General on the United Nations Stabilization Mission in Haiti, March 24, 2011, S/2011/183, available at <http://www.unhcr.org/refworld/docid/4d9448d32.html>, paragraphs 81-82.

<sup>77</sup> Clarens Renois, “Haiti politicians hope for reconciliation,” *Agence France Presse*, January 21, 2011, <http://www.abs-cbnnews.com/global-filipino/world/01/21/11/haiti-politicians-hope-reconciliation>

<sup>78</sup> “Haitian candidate open to including Duvalier officials,” *Agence France Presse*, March 2, 2011.

<sup>79</sup> Jacqueline Charles, “The Case against Haiti’s ‘Baby Doc’,” *Miami Herald*, February 27, 2013.

<sup>80</sup> Niko Price, “Haitian Leader Could Pardon Duvalier,” Associated Press, January 27, 2012.

July 2011, urged the creation of a truth commission, which she said would help promote national reconciliation in Haiti.

The U.N. expert on human rights in Haiti, Michel Forst, called the appearance of former president Jean-Claude Duvalier before the Haitian courts a victory for the rule of law. He also said that despite assurances “at the highest level of State” that the executive branch would not interfere in the judicial proceedings, that “that unfortunately was not the case.”<sup>81</sup>

## **Curbing Violence against Women**

Some Members of Congress have expressed special concern about violence against women in Haiti. Discrimination against women has been practiced in Haiti throughout its history. The widespread nature and Haitian society’s tolerance of this sexual discrimination, says the Inter-American Commission on Human Rights, “has in turn fueled brutal acts of violence and abuse towards women on a regular basis.”

Gender-based or sexual violence against women and girls has been described by many sources for many years as common and under-reported in Haiti. The most prevalent forms of this violence are domestic abuse, rape—sometimes as a political weapon—and childhood slavery. Violence against women has also included murder. Haitian girls and women in the poor majority are at particular risk of violence. The issue gained new attention after the earthquake, when women in tent camps became especially vulnerable to gender-based violence. Haitian government enforcement of or adherence to its obligations to protect rights that would protect women and girls from gender-based or sexual violence in particular is weak and inadequate.

The Martelly Administration has dramatically increased the budget of the Ministry for Women’s Affairs and Rights, which is responsible for developing national equality policies and the advancement of women. The FY2012 budget for the Ministry is US\$40.76 million, an increase of 828.2% (from 0.17% of the government’s budget in FY2011 to 1.41% in FY2012). Reportedly, the ministry has plans to introduce comprehensive legislation to prevent and eliminate violence against women and girls this year, but has not done so yet.

## **Security and the Debate over Reestablishing the Haitian Army**

For years, Congress has expressed concern over citizen security in Haiti. Congress has supported various U.N. missions in Haiti, and the professionalization and strengthening of the Haitian National Police force and other elements of Haiti’s judicial system in order to improve security conditions in Haiti. In what has proven to be a very controversial move, President Martelly has proposed recreating the Haitian army to replace MINUSTAH in a few years. The army, which committed gross violations of human rights over decades, according to numerous reports by the State Department, the OAS Inter-American Human Rights Commission, Amnesty International, and others, was disbanded by President Aristide in 1995. Martelly’s plan calls for creation of a 3,500-member army<sup>82</sup> to be built over three and a half years, at a cost of approximately \$95 million, including \$15 million to compensate former soldiers who were discharged.<sup>83</sup>

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<sup>81</sup> “Michel Forst vide son sac,” op.cit.

<sup>82</sup> “Haiti president wants to start recruiting new army,” Agence France Presse, September 28, 2011.

<sup>83</sup> “Martelly moves ahead with plan to restore army,” *Latin American Caribbean & Central America Report*, RC-11-10, (continued...)

Parliament would have to approve recreating the force. The majority Inité coalition said the government cannot afford an army, and should further develop the Haitian National Police, which MINUSTAH is already training to assume its functions.<sup>84</sup> The United States and other international donors support reform and capacity building in the police force, which currently numbers about 10,000, as the best means of continuing to improve citizen security. Others have also suggested establishing civilian corps to carry out disaster response and other duties Martelly is proposing for the army. In January 2012 Martelly reportedly acknowledged that a new army wasn't realistic, but also pledged to build a new Haitian security force of 3,000-5,000 members. It was not clear what difference there was between an army and a new security force.<sup>85</sup>

Former members of the Haitian army and would-be soldiers have protested in favor of reestablishing the army, and in 2012 occupying 10 old military bases. About 50 of them, wearing fatigues and some bearing arms, disrupted a session of parliament in April 2012 to voice their demands. After months of inaction, and under pressure from the U.N., the Haitian government closed the occupied bases and arrested dozens of pro-army protesters—including two U.S. citizens—after a march turned violent in May 2012.<sup>86</sup>

A U.N. Security Council mission to Haiti lamented the slow pace of police strengthening and worried that it could foster pro-army sentiments:

Although the performance of the Haitian National Police has been slowly improving, ... it still lacks the quantity and quality of personnel necessary to assume full responsibility for internal security.... The pace of recruitment, vetting and training, however, has been unsatisfactory. The mission was informed that the start of training for the next group of cadets was delayed owing to funding shortfalls and other administrative difficulties. The mission heard accounts that the slower-than-expected pace of development of the Haitian police risks fuelling support among certain Haitian sectors for the near-term creation of a national army.<sup>87</sup>

## **Counternarcotics**

President Obama designated Haiti as a major drug trafficking country in 2012, in large part because of its weak counternarcotics capacity in general, and the lack of virtually any law enforcement capacity along its southern coastline facing the Caribbean. Haiti is a transit point for cocaine being shipped by both sea and air from South America, and for marijuana coming from Jamaica to the United States, Canada, Europe, and other Caribbean countries. Some drugs are also sent through Haiti by land to the Dominican Republic. Weak institutions, poorly protected borders and coastlines, and widespread corruption are conditions that make Haiti attractive to drug traffickers and make it difficult for Haiti to combat trafficking.

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(...continued)

October 2011, p. 16.

<sup>84</sup> Ibid.

<sup>85</sup> Niko Price, "Haitian Leader Could Pardon Duvalier," Associated Press, January 27, 2012.

<sup>86</sup> Associated Press, "Mass. Man Jailed in Haiti Could Face Three Years behind Bars," *CBS Boston*, May 24, 2012, <http://boston.cbslocal.com/2012/05/24/mass-man-jailed-in-haiti-could-face-three-years-behind-bars/>. The two men are Jason William Petrie of Ohio, and Steven Parker Shaw of Massachusetts. If convicted of conspiracy charges, the two could face up to three years in prison according to a Haitian prosecutor.

<sup>87</sup> U.N. Security Council, *Report of the Security Council Mission to Haiti, 13-16 February 2012*, S/2012/534, July 11, 2012, p. 3.

Nonetheless, the Haitian government has committed itself to combating narcotics trafficking in recent years. According to the State Department's *International Narcotics Control Strategy Report (INCSR)* published in March 2013, the Martelly Administration is planning to strengthen the Haitian National Police to make them more effective in counternarcotics efforts, approving a new five-year development plan for the Haitian National Police (HNP) which will expand the counternarcotics unit to 200 officers<sup>88</sup>. The Obama Administration worked with other donors to update the development plan for the Haitian Coast Guard, and coordinate international efforts.

Although corruption is a widespread problem, the State Department reports that the government does not encourage or facilitate distribution of illicit drugs or the laundering of drug trafficking profits, and has fully staffed the HNP Inspectorate General at the upper leadership level for the first time in its 17-year history. Low pay and widespread poverty make low-level police and other officials vulnerable to bribery, however. The State Department has noted in the past that Haitian law enforcement officials cannot investigate allegations that some legislators may be involved in illicit activities because the constitution provides them with blanket immunity. The 2013 INCSR adds that "... resource shortages, a lack of expertise, and insufficient political will represent substantial obstacles to anti-corruption efforts."

Since 2008, Congress has included counternarcotics funds for Haiti in regional initiatives in addition to bilateral funding—first through the Merida Initiative, and then through the Caribbean Basin Security Initiative (CBSI). The Merida aid package aimed to "combat drug trafficking and related violence and organized crime."<sup>89</sup> Although the Merida Initiative initially included Central America, the Dominican Republic, and Haiti, its main focus was Mexico. CBSI, launched by the Obama Administration in 2010, is a regional security effort by the United States and Caribbean nations aiming to reduce illicit trafficking, advance public safety and security, and promote social justice.<sup>90</sup> U.S. counternarcotics programs in Haiti aim to enhance the professionalism and capability of the Haitian National Police. Such support ranges from providing police cadets with food and uniforms, to training in community-oriented policing and investigation methodology, to renovation of an operating base for the police's counternarcotics unit, joint enforcement operations, and support of five Haitian Coast Guard vessels.<sup>91</sup> In its 2013 report the Administration concludes that, "despite progress, the tempo of drug enforcement actions in Haiti remains stubbornly low."

## **Trade Preferences for Haiti**

Congress passed several bills, before and after the earthquake, to provide trade preferences for Haiti. In 2006 Congress passed the HOPE Act, or the Haitian Hemispheric Opportunity through Partnership Encouragement Act (P.L. 109-432, Title V), providing trade preferences for U.S. imports of Haitian apparel. The act allows duty-free entry to specified apparel articles 50% of which were made and/or assembled in Haiti, the United States, or a country that is either a

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<sup>88</sup> U.S. Department of State, *International Narcotics Control Strategy Report*, Vol. I, Drug and Chemical Control, "Haiti," March 5, 2013.

<sup>89</sup> U.S. Department of State, *The Merida Initiative*, U.S.-SICA Dialogue on Security, December 11-12, 2008, Washington, DC, December 2008, p. 3, [http://pdf.usaid.gov/pdf\\_docs/PCAAB861.pdf](http://pdf.usaid.gov/pdf_docs/PCAAB861.pdf).

<sup>90</sup> U.S. Department of State, *Caribbean Basin Security Initiative*, <http://www.state.gov/p/wha/rt/cbsi/>, undated, after November 10, 2011, June 22, 2012.

<sup>91</sup> U.S. Department of State, *International Narcotics Control Strategy Report*, Vol. I, Drug and Chemical Control, March 2012, pp. 247-250, and March 5, 2013.

beneficiary of a U.S. trade preference program, or party to a U.S. free trade agreement (for the first three years; the percentage became higher after that). The act requires ongoing Haitian compliance with certain conditions, including making progress toward establishing a market-based economy, the rule of law, elimination of trade barriers, economic policies to reduce poverty, a system to combat corruption, and protection of internationally recognized worker rights. It also stipulates that Haiti not engage in activities that undermine U.S. national security or foreign policy interests, or in gross violations of human rights.

Those trade preferences were expanded in 2008 with passage of the second HOPE Act as part of the 2008 farm bill (Title XV, P.L. 110-246), in response to a food crisis and then-President Préval's calls for increased U.S. investment in Haiti.<sup>92</sup> HOPE II, as it is commonly referred to, extended tariff preferences through 2018, simplified the act's rules, extended the types of fabric eligible for duty-free status, and permitted qualifying apparel to be shipped from the Dominican Republic as well as from Haiti. The act mandated creation of a program to monitor labor conditions in the apparel sector, and of a Labor Ombudsman to ensure the sector complies with internationally recognized worker rights.

Congress again amended the HOPE Act after the 2010 earthquake. Through the HELP, or Haiti Economic Lift Program Act (P.L. 111-171), Congress made the HOPE trade preferences more flexible and expansive, and extended them through September 2020. Supporters of these trade preferences maintain that they will encourage foreign investment and create jobs. Others argue that while the textile manufacturing sector may create jobs, some of the new industrial parks are being built on arable land and putting more farmers out of jobs, and that the manufacturing sector is being supported at the expense of the agricultural sector.<sup>93</sup>

## Legislation Passed in the 112<sup>th</sup> Congress

**P.L. 112-74 [H.R.2055].** Under the Consolidated Appropriations Act, 2012, none of the funds appropriated under Title III—bilateral economic assistance; Title IV—international security assistance; Title V—multilateral assistance; Title VI—export and investment assistance; or Title VIII—overseas contingency operations may be obligated or expended for assistance to Haiti except as provided through the regular notification procedures of the Committees on Appropriations. Haiti is deemed eligible to purchase defense articles and services under the Arms Export Control for the Coast Guard. Prior to the initial obligation of funds, the Secretary of State, in consultation with the Administrator of the USAID, shall submit to the Committees on Appropriations a detailed spend plan for bilateral economic assistance and international security assistance for Haiti. The bill authorizes specified funds to be made available for the Fund for Special Operations of the Inter-American Development Bank for debt relief to Haiti. The act also prohibits funds appropriated by it from being disbursed for a U.S. contribution to the general capital increases of the World Bank or the Inter-American Development Bank until the Secretary of the Treasury reports to the Committees on Appropriations that they are making substantial progress toward implementing specific reform commitments agreed to by the World Bank in 2009 concerning sound finances, effective management and governance, transparency and accountability, focus on core mission, and results, and agreed to by the IDB in 2010, including

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<sup>92</sup> For more information see CRS Report RL34687, *The Haitian Economy and the HOPE Act*, by J. F. Hornbeck.

<sup>93</sup> Briefing with Camille Chalmers, Executive Director of the Haitian Advocacy Platform for an Alternative Development, May 22, 2012.

transfers of at least \$200,000,000 annually to a grant facility for Haiti. Signed into law December 23, 2011.

**P.L. 112-234 [S.3315].** The GAO Mandates Revision Act of 2012 eliminated the requirement that the U.S. Government Accountability Office (GAO) annually review the program that governs the earned import allowance rule applicable to Haiti under the Caribbean Basin Economic Recovery Act. The GAO's mandate had been to evaluate the effectiveness of, and make recommendations for improvements in, the program. (The GAO published several such reports from 2010-2012.<sup>94</sup>) Signed into law December 28, 2012.

## Legislation in the 113<sup>th</sup> Congress

**H.Res. 31.** Would recognize the anniversary of the tragic earthquake in Haiti on January 12, 2010, honoring those who lost their lives, and expressing continued solidarity with the Haitian people. Introduced January 15, 2013, referred to the House Foreign Affairs Subcommittee on the Western Hemisphere February 25, 2013.

**H.Res. 61.** Would express the sense of the House of Representatives that the United States should work with the Government of Haiti to address gender-based violence against women and children. Introduced February 6, 2013; referred to the House Foreign Affairs Subcommittee on the Western Hemisphere on February 25, 2013.

**S.Res. 12.** Would recognize the third anniversary of the tragic earthquake in Haiti on January 12, 2010, honoring those who lost their lives in that earthquake, and expressing continued solidarity with the people of Haiti. Introduced January 24, 2013; agreed to in Senate with an amendment and an amended preamble by Unanimous Consent on March 11, 2013.

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<sup>94</sup> GAO: *Exporters' Use of the Earned Import Allowance Program for Haiti Is Negligible because They Favor Other Trade Provisions*, GAO-10-654, Jun 16, 2010; *Earned Import Allowance Program for Haiti*, GAO-12-204R, Nov 30, 2011; and *Follow-up on the Haiti Earned Import Allowance Program*, GAO-13-219R, Dec 14, 2012.