

THE MONITOR

Issued from Monday to Friday	Official Journal of the Republic of Haiti	Director General <i>Ronald Saint Jean</i>
178 th Year – Special No 1	PORT-AU-PRINCE	<i>Tuesday, 3 January 2023</i>

SUMMARY

NATIONAL CONSENSUS FOR AN INCLUSIVE TRANSITION AND TRANSPARENT ELECTIONS

SPECIAL ISSUE

NATIONAL CONSENSUS FOR AN INCLUSIVE TRANSITION AND TRANSPARENT ELECTIONS

The Executive Power, the Economic Sector, the Social Sector and the Political Sector:

Whereas, since the adoption of the Constitution of 1987, the country has known a cycle of chronic instability of the democratic institutions, and whereas Haiti is effectively in its 7th breakdown of the constitutional order with the mandate of four (4) Presidents not having been accomplished, the last President Jovenel MOÏSE being assassinated during the night between 6 and 7 July 2021, menacing the stability of the State and the very foundations of the Republic;

Whereas this instability leads the country into institutional dysfunction, making it impossible to respond to challenges of economic and social development;

Whereas the country is trapped in an endless crisis in the form of, on the economic level, an accelerated depreciation of the Gourde, a developing inflation being close to about 30%, an accelerated growth of the Consumer Price Index (CPI), in particular for imported goods reaching more than 40% in June 2022;

Whereas this situation causes an increase of food insecurity already being chronic for more than 50% of the Haitian population;

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Whereas the abductions, the violence, the proliferation of gangs, in addition to the health care crisis linked to the Covid-19 pandemic and the cholera, have caused losses of employment, limitations on the terrestrial communication between the different geographic parts of the country and limited the movement of the population;

Whereas all this constitutes a danger to human rights in a country that is threatened by a serious humanitarian crisis and is, moreover, suffering from a recent new wave of Cholera infections;

Whereas, on the political level, citizen Ariel HENRY has taken up his function as Prime Minister, on 20 July 2021, after his nomination by President Jovenel MOÏSE, and whereas, less than two (2) months later, political actors and actors of civil society have, within the context of an Agreement called “*Agreement from 10, 11, 12, 13 and 14 September 2021*”, decided to back the former in his leadership for the governmental actions;

Whereas the political fights have nevertheless become chronic and have been continuing to polarize the political class, the business sector and the social actors;

Whereas this has led to several agreements and propositions in which different groups have, each on its own, tried to impose their own individual view on how to tackle and solve the multidimensional crisis that the country has been facing;

Whereas, beyond the difficulties, the current interim situation may nevertheless constitute an opportunity in order to take stabilizing actions capable of orienting the work of the future elected representatives in order to better respond to the challenges with regard to a sustainable future;

Whereas, in this regard, the signatory parties to the present document, remaining committed to the rules of the amended Haitian Constitution, notably article 149, agree to employ different political, economic and social forces for the management of the city, in order to create the necessary conditions for the organisation of transparent and uncontested elections, to discuss the question of security, to contribute to the reinforcement of the rule of law by identifying the urgent economic and social reforms;

Whereas the different parties concerned nevertheless are conscious of their incapacity to resolve, alone and without any real dialogue, the economic as well as structural problems with which the country is confronted;

Whereas they recognise the necessity, on the one hand, to find a concerted and consensual Haitian solution to the current crisis and, on the other hand, to look for a larger consensus in order to guarantee in good faith the effective and harmonious implication of all the stakeholders in the management of the transition period;

Whereas they thus agree to establish a political balance and to put in place, in addition to the Government, two (2) institutions being able to overcome the current deficiencies, i.e. a High Council of Transition (HCT) and an Organ for the Control of Governmental Actions (OCGA);

Whereas it is mandatory for the Prime Minister, Ariel HENRY, to engage in a comprehensive dialogue with open-mindedness, by taking into account all propositions, all agreement protocols and agreements coming from the economic, political and social Sectors, a necessary step in order to give confidence to the actors and citizens with the perspective of the upcoming free and democratic general elections;

Whereas it is urgent to come together in order to find long-term solutions for Haiti’s security, economic and institutional challenges, to restore confidence of the public in Haiti’s political and electoral process and to ensure a responsible governance in the interest of the public;

Have agreed on the following:

Section I: About the Principles for the Transition

Article 1 The signatories of the National Consensus for an inclusive Transition and transparent Elections agree that the transition process shall be governed by the following political principles:

- a) **Long-term public interest:** the Transition Government is an interim administration with the task to govern a programme for fundamental reforms of the politics, of the public institutions and of the economy of Haiti. Free and equitable elections are a crucial step in a long-term process going beyond the elections

in order to transform the country and establish a more equitable social contract between the State and the citizens;

- b) **Transparency and responsibility:** the parties concerned (i) shall elaborate and publish a joint roadmap with commitments, steps and signposts towards constitutional changes, for free and equitable elections and with a programme for a long-term structural transformation, (ii) shall cooperate in order to guide and support the interim Government in the execution of this roadmap, (iii) and shall follow up and check on its execution through the organs of transition, and with the help of Haiti's impartial international partners;
- c) **Impartiality and end of impunity:** during the transition, the rules shall be applied to everyone on equal terms whether it be in the public sector or private sector. The parties concerned shall make every effort to identify, report and sanction disloyal and corruptive practices destroying the public and economic life of Haiti, in order to put an end to a climate of intimidation and impunity that undermines the judicial process of Haiti;
- d) **Political inclusion through dialogue:** during the transition, the process of political dialogue shall be conducted alongside an agenda of national transformation in order to ensure a large representation of the points of view and interests, and in order to promote an environment of constructive cooperation on the questions concerning the Haitians living within the country or abroad. A high-level political dialogue between the political parties, the civil society and the private sector shall be reinforced through consultation on the community level within the framework of a process of national dialogue;
- e) **Urgent action for the Haitians in difficulties:** the transition shall accord priority to the immediate and important measures with the view to putting an end to the humanitarian sufferings in the poorest communities, reestablishing security and the services, creating employment, removing young people from the grip and attractiveness of the gangs and rendering justice to those who have suffered thereunder. A programme of direct and urgent action shall be introduced in the most affected areas and the international community shall be approached in order to garner investments and supplementary aid;
- f) **Engagement and participation of the public:** the transition shall seek to reestablish confidence in Haiti's political and electoral institutions by making sure that the electoral process is open and encourages a new generation of Haitians, whether it be as voters or as candidates, to engage and participate in equitable and credible elections and the long-term revitalisation of the Haitian political system.

It is agreed that the parties concerned commit themselves to executing the principles defined above and resorting to an international observer mechanism, of which the Terms of Reference shall be elaborated four (4) weeks after the adoption of present Consensus at the latest.

Section II: About the Elements of Consensus

Subsection 1

About the security

Article 2 The parties concerned recognise the necessity to consider, as a prerequisite, the question of security of the lives and the property being a sovereign duty of the State. Further, they recognise the necessity to allow room for choice to social and food security in order to better cope with exclusion and inequalities.

Article 3 Taking into account the current deficiencies of the Haitian security forces, the parties concerned declare themselves favourable to immediate international assistance in matters of security, requested on 9 October 2022 by the Government, in order to assist the National Police of Haiti in the planning of interventions and the execution of operations guaranteeing the freedom of movement of the population and the management of the humanitarian crisis and the insecurity with which the country is confronted.

By the same token, the parties concerned undertake to organise, as soon as the adoption of the present Consensus, a national Forum bringing together the political, economic and social actors.

Said Forum shall allow to build up a National Plan for Security based on the realities of the moment, the Haitian culture, and taking into account the aspects of police intervention as well as the socio-economic component of insecurity.

By doing so, the parties concerned understand to contribute, on the one hand, to the return to a climate favourable to a political, economic, social and cultural life in order to permit the population to go about their everyday activities on the entire national territory and, on the other hand, to a durable consolidation of the peace in order to guarantee the presence of the State and the delivery of the basic services in the deprived areas.

Subsection 2

Paragraph 1

- **About the Organs of Transition**
- **About the High Council of Transition (HCT)**

Article 4 An organ is to be created, called “**High Council of Transition**” (HCT), having the mission to contribute to the definition of the strategic orientations of the public powers through:

- a) the creation of political and social conditions in order to return to a constitutional order through free, credible and transparent elections;
- b) the promotion of a political dialogue for a participation of the different actors at the management of the State during the transition period;
- c) the creation of the necessary conditions for a return to a climate of security and peace;
- d) the definition, follow-up and evaluation of responses to urgencies of public policies.

Article 5 The objective of the HCT is to favour the national dialogue in quest of a consensus on the signposts to be put into place in order to demonstrate the fault line for bad practices, and on the great challenges of the transition period, notably on matters concerning public security, the Constitution and elections, the economic reforms, justice, rule of law, and social and food security.

Article 6 The HCT, working in partnership with the Government, has the following tasks:

- ensure credibility and integrity of the elections by participating in the selection of the members of the Provisional Electoral Council (PEC) and by organising step-by-step evaluations coupled with recommendations for the performance of the electoral process;
- choose the Committee of Experts in charge of the revision of the Constitution;
- coordinate a high-level political dialogue in order to broaden the basis for the consensus between the principal political, social and economic actors of the country, on the basis of a programme of (i) security, (ii) political, constitutional and electoral reforms, (iii) good governance and (iv) economic and social measures;
- cooperate with the Prime Minister and the Council of Ministers in order to define a roadmap containing precise steps and timelines, and to execute a strategic action plan for the transition period;
- participate in the reconstitution of the Court of Cassation;
- participate in ministerial changes, changes in the high-level management of the public Administration and reforms of the Haitian diplomacy;

- inspire and ensure the economic reforms, notably on matters concerning State taxes, fiscal and monetary politics;

- make sure the establishment and execution of a global Plan of public security;
- identify and propose reforms in matters concerning human rights and reinforcement of the rule of law;
- identify and propose reforms targeting social and food security.

Article 7 The HCT is composed of three (3) members chosen pursuant to following formula:

- a) Economic sector: one (1);
- b) Social sector: one (1);
- c) Political sector: one (1).

Article 8 The HCT functions, by its nature, as a collegial body. It chooses one of its members for him/her to preside. In addition, the HCT deals with the following strategic challenges: (i) the security, (ii) the political, constitutional and electoral reform, (iii) the good governance and (iv) the social and economic measures.

The HCT meets on regular sessions and, at least once a month, with the Prime Minister. All its decisions are made by consensus or, if not possible, by simple majority. The latter are transmitted, in the form of resolutions, to the Council of Ministers through the Prime Minister.

The members of the HCT participate in the Council of Ministers without voting rights.

Paragraph 2

About the Organ for the Control of Governmental Actions (OCGA)

Article 9 An organ is to be created, called “**Organ for the Control of Governmental Actions**” (OCGA), having the mission to ensure respect for the rules of good management and transparency of public governance.

To this end, the OCGA is an institution capable of facilitating the integration of the representatives of the different sectors of public life into civilian control and into the control of governmental actions in the current context of a dysfunctional government.

Article 10 The tasks of the OCGA are as follows:

- Oversee the good functioning of the republican Institutions;
- Issue reasoned opinions on the Decrees, Agreements and national Budget;
- Give reasoned opinions on the legal acts by the Government;
- Support the process of national dialogue and of constitutional revision;
- Enquire into the execution of the governmental actions;
- Organise information sessions with the Ministers on important topics.

Article 11 The OCGA is composed of twenty-one (21) members selected among personalities coming from political organisations, socio-professional associations and local community organisations from ten (10) departments and the diaspora. Its composition must reflect a national and territorial participation as well as a female quota of 30%.

Article 12 The OCGA is managed by a bureau of three (3) members, with at least one female member.

The OCGA meets at least once a week. Its decisions are taken by simple majority. It is agreed that the organisation, the functioning and the working procedures of the OCGA are to be regulated in a manual of interior rules.

Subsection 3: About the Government

Article 13 The Government, having at its head the Prime Minister, exercises the Executive Power. The Prime Minister ensures the application of the decisions by the Government that is led by him. After ratification of present national Consensus, he evaluates, in concertation with the HCT, the composition of the governmental bodies and proceeds to the necessary changes at the level of the Government and the high-level management of the public administration.

Subsection 4: About the Court of Cassation

Article 14 The Government, in concertation with the HCT, nominates the judges of the Court of Cassation after certification by the High Council of Judicial Power (HCJP).

Subsection 5: About the Constitution and the Dialogue

Article 15 The HCT, in partnership with the Prime Minister, shall nominate a Council of constitutional experts who shall revise the Haitian Constitution. The issues concerned by the constitutional revision are, *inter alia*, the following:

- the duration and harmonisation of the mandates;
- the balance of powers;
- the authority and time of granting administrative discharge;
- the definition of the roles played at the level of local government;
- the conditions of integration and participation of the Haitians living abroad in the political life of the country;
- and the process of periodical amendment of the Constitution. Following the process of revision and consultation, which shall be led by the Committee of Experts and shall not exceed six (6) months, the electoral authorities shall submit the final draft Constitution to a public consultation with a view to its approval.

Further, the HCT shall establish a formal process of an inclusive and participatory political dialogue involving: (i) the principal political, economic and social actors, signatories and non-signatories alike, (ii) representatives of the ten (10) geographical departments of Haiti designated by the local authorities, (iii) the principal organisations of the Haitians of the diaspora. This political dialogue shall take place over the entire period of transition.

Subsection 6: About the Electoral Council and the Elections

Article 16 A Provisional Electoral Council (PEC) shall be established. To this end, the Government shall submit to the HCT a provisional list of twenty (20) personalities, coming from representative structures of the Haitian civil society in the homeland as well as in the diaspora. The HCT, in concertation with the Prime Minister, shall select nine (9) persons, among them at least three (3) women, as members of the PEC.

Article 17 The PEC, thus constituted, shall be nominated by the Government with the following tasks:

- a) Organise the public consultation on the revised draft Constitution;
- b) Publish an electoral calendar;
- c) Submit to the Government the draft electoral Decree;

- d) Organise the general Elections;
- e) Control, enjoying strict independence, all the electoral operations until the proclamation of the election results.

Subsection 7: About the Institutional and Economic Reforms

Article 18 The parties concerned recognise the necessity to carry out institutional and economic reforms during the transition period. To this end, the Government, in partnership with the HCT, makes an inventory of the human capital, the material and financial resources of the State, and ensures the functioning of the administrative Council and the revision of the organs directing the autonomous Bodies.

Thus, the reforms are carried out for the purpose of:

- a) Modernising the income capacities of the State;
- b) Tackling smuggling and arms trafficking;
- c) Continuing, in partnership with the private business Sector, the ongoing fiscal reforms;
- d) Elevating public taxes;
- e) Guaranteeing the efficiency of the monetary politics;
- f) Strengthening the control of the terrestrial, maritime and aerial borders of the country;
- g) Guaranteeing the functioning of the law enforcement bodies against narcotics trafficking, corruption and money laundering.

At the same time, the private Sector commits itself to assuming its responsibilities, including, in particular, compliance with its fiscal obligations. This shall permit a substantive increase of public taxes. And the Government, for its part, commits itself to the principle of transparency and sound management and shall publish, periodically, the amount of collected taxes and the incurred expenses.

It is agreed that the tax increase shall strengthen the financial capacities of the State. Thus, the Budget of the Republic should better take into account the necessity of financial resources being available for matters of security, harmonisation of the social climate, economic and social promotion of the youth and the women living, in particular, in deprived regions and areas, and with a view to the elections.

Subsection 8: About the Impartiality of the Transition Government

Article 19 The Prime Minister ensures the impartiality of the transition Government by obliging all the Ministers and Directors General to declare all eventual conflicts of interest.

Subsection 9: About the Duration of the Transition

Article 20 Taking into account the challenges of the country in terms of public security, social and humanitarian conditions, constitutional reform, strengthening the rule of law, economic reform and creation of conditions for free and equitable elections, and especially in terms of necessity to ensure that the reforms and progress lead to a long-term stable change for the Haitian citizens, the signatories of present Consensus agree that the transition period shall cover the upcoming general elections to be held in 2023 and the entry into function of a newly elected Government on 7 February 2024.

Section III: About the Particular Conditions

Article 21 The parties concerned agree that

- a) the Council of Ministers arranges to publish the present National Consensus for an Inclusive Transition and Transparent Elections in *The Monitor*, the Official Journal of the Republic;
- b) the Council of Ministers arranges to publish the names of the different members of the HCT in *The Monitor*, the Official Journal of the Republic;

- c) the Council of Ministers arranges to publish the names of the different members of the OCGA in *The Monitor*, the Official Journal of the Republic;
- d) the Government and the HCT formulate a roadmap for the transition;

- e) within a period not exceeding one (one) month after their entry into function, the members of the Government and all the Grand Officers and leading civil servants make their asset declarations before the competent authorities;
- f) the Prime Minister and the HCT do not have a relationship of subordination: one can dismiss the other from its functions;
- g) the Prime Minister and the OCGA do not have a relationship of subordination: one can dismiss the other from its functions;
- h) in the case of a member of the HCT or the OCGA resigning or being unavailable, the organ concerned makes contact with the respective constituent group that shall propose a new person through the signatories of the constituent group;
- i) the members of the HCT, the Prime Minister and the Ministers are not allowed to participate in the upcoming elections, even if they step down before the electoral campaign;
- j) the members of the OCGA are not allowed to participate in the upcoming elections, unless they step down six (6) months before the elections;
- k) the mandate of the OCGA expires as soon as the newly elected Government takes up its function;
- l) the mandate of the HCT expires as soon as the newly elected Government takes up its function.

Done, in good faith, in Port-au-Prince, on 21 December 2022, for all legal intents and purposes.

By:

The Executive Power:

Ariel HENRY

Prime Minister

The names and first names of the representatives of the Economic, Political and Social Sectors are the following: