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Preface

The EU Election Observation Mission (EUMOE) was present in Haiti from 12 November 2005, having been invited by The Provisional Electoral Council (CEP) to monitor the Haitian presidential, senatorial and parliamentary elections.

The EU mission was led by European parliamentary deputy Johan Van Hecke and was supported by a core management team of six persons based in the capital Port Au Prince. Twenty EUMOE long term observers (LTOs) were deployed in teams of two in each of the ten departments of Haiti. In the first two months of the mission there were an additional eight LTOs, providing four more teams to cover the most populous areas. As a consequence of the multiple postponements of the elections, these four teams were unable to continue and the mission proceeded with a team of twenty.

The first round of elections took place on 7 February 2006 with the assistance of the United Nations Mission in Haiti (MINUSTAH).

The EUMOE LTOs followed all the phases of the electoral process. Thirty-four short term observers (STOs) were additionally deployed throughout the country from 4 February to follow the delivery of the voting materials, the actual voting and the counting of ballots. The LTO and STO observer teams visited more than 10% of the total voting centres throughout the country.

For reasons of security and disagreements over the handling of results of the presidential elections, the EUMOE mission was unexpectedly terminated on 15 February and its members evacuated out of the country.

The EUMOE core management team returned to Haiti at the beginning of April to re-open the mission to monitor the second round of parliamentary and senatorial elections, (also re-elections at some locations), which were held on 21 April 2006.

On 12 April, twenty LTOs returned to observe in each of the ten departments. On 18 April, the LTOs were supplemented by thirty-eight STOs who were deployed across the country to follow the voting process. On election-day EUMOE observers covered more than 15% of the voting centres. Additionally, during both the first and second elections a delegation of European parliamentarians took part in the EUMOE observation teams and also jointly issued the final EUMOE declaration on the Haitian election.

NORDEM sent two long term observers to the EU mission in November 2005, Arild Stenberg and Maria Fuglevaag Warsinski. Stenberg was deployed for two months in the Department Grand-Anse in Jeremie. Due to the postponements, Stenberg had to leave the mission before the elections finally took place. Warsinski covered the Department South in Cayes for two months, from the end of November 2005 until the end of January 2006.

Two LTO teams had originally been stationed in the Department South due to the large geographic area, but with the unexpected postponements some team members had to end their mission and a redeployment of resources was required. Warsinski was sent to Fort Liberte in the Department North-East at the end of January and observed both elections from this base until the end of April 2006. The LTO team for the Department North-East was assigned one STO team for the election. There were no Norwegian short term observers serving with the EUMOE.

The EUMOE was the largest election observation mission in Haiti, with observers throughout the country. Two other international observation organisations were present, the International Foundation for Election Systems (IFES, with headquarter in USA) and the International Mission for Monitoring Haitian Election (MIEEH, run by French-Canadians).
IFES had been present from autumn 2005 until the conclusion of the first election with 12 LTOs, supplemented by an additional 24 STOs. The MIEEH mission consisted of 20 LTO and 127 STO observers. The Central American and Caribbean countries united under CARICOM were present only in the more populated departments. The Organisation Internationale de la Francophonie (OIF) also took part in the urban areas.

This report presents the findings of the Norwegian observers. Their observations correspond to those of the EUMOE. All opinions expressed in the report are the author’s responsibility and do not necessarily reflect the view of the Norwegian Centre for Human Rights.

The Norwegian Centre for Human Rights / NORDEM
University of Oslo
November 2006
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Preface

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Introduction

Haiti has been governed by an interim government headed by Gerard Latortue since April 2004. This government is supported by a UN peacekeeping mission (MINUSTAH) consisting of 6000 soldiers, an international police force (UNPOL), Canadian police advisors (CANPOL) and civilian staff led by Brazil, together with Canada and several South American, African and Asiatic countries. MINUSTAH has been responsible for re-establishing peace in the country, although disarming the numerous armed groups has proved to be difficult. Effective April 2006, there were 7151 troops and 1752 police supported by 2000 local and international civilian personnel.

The Haitian government had the responsibility to lift the country out of its deep crisis during the transitional period but the main practical task of Latortue's interim government was to prepare for elections by the end of 2005. Preparations started in the summer of 2005. The Provisional Electoral Council (CEP) was responsible for both the organisation and the conduct of these elections.

The CEP had first issued an election calendar, that was approved by the provisional president on 3 February 2005, that provided for local elections on 9 October 2005. The first rounds of parliamentary, senatorial and presidential elections were scheduled for 13 November 2005, with the possibility of a second round on 18 December 2005. According to the electoral law, the elections had to be held by 31 December.

The CEP election schedule proved to be overly ambitious in terms of organisation, logistics and security, requiring the postponement of the planned election dates so that international standards could be met. The main reasons were poor preparation and a lack of coordination between the different responsible parties. Haiti did not seem yet prepared to hold a democratic election to a minimum of international standards.

During the pre-election period, the UN had to intercede and mediate many times to get the CEP and the Organisation of American States (OAS/OEA) to co-operate and work with one another. The OEA was responsible for the process of voter registrations and the issuance of identity cards for all citizens who had registered to vote. MINUSTAH was responsible for security, for the transport of sensitive materials and for provision of technical electoral assistance. With the failures of local agencies the UN role rapidly expanded. MINUSTAH had to negotiate between the CEP and OAS, and between different political factions and had to maintain close supervision of the entire process.

The OAS started voter registration in April 2005. Due to the late participation of the Lavalas party, voter registration continued until November 2005. A total of 3,535,025 citizens registered by the deadline, more than 80% of the total potential voters.

The registration of political parties and candidates took a longer time than expected. Forty-four parties registered for the election. Among them were many new political parties created during the transitional period.

The first Haitian presidential and legislative elections were finally held in February 2006. Despite the initial administrative and organisational problems election day was conducted in an orderly manner with no major incidents or fraud and with more than 60% voter participation.
Following the Haitian presidential election a declaration was issued on behalf of the European Union:

“In view of the preliminary statement by the European Union Election Observation Mission, the European Union expresses its satisfaction that the presidential and parliamentary elections of 7 February passed off peacefully and notes that they will have marked an important step forward for the democratic process.

The European Union welcomes the high turnout by and the serious engagement of the people of Haiti in exercising their democratic right to choose their future leaders, despite the major technical and logistical problems encountered during the organisation of the vote.

The European Union welcomes the fact that a significant turning point has been reached in carrying through the democratic transition process.”

The lack of a clear winner however, led to potential instability in the country. Electoral laws require an absolute majority for a presidential candidate to be named the winner in the first round. No candidate received more than 50% of the votes in the first round. Due to fear of violent outbreaks throughout the country a settlement was negotiated between MINUSTAH and the CEP in which Rene Preval, who had received the most votes, was declared the winner. The crisis was resolved and the country went into a new phase of negotiations to create the grounds for a coalition government.

The second round of the Haitian parliamentary and senatorial elections, (also re-elections at some locations), were held on 21 April 2006. These elections were more efficient, lessons having been learned from the first round, with no major incidents of violence or fraud. Voter participation however, was at a marginal level.

The Chief of the EUMOE, Johan Van Hecke, declared after the second round of election, “The elections have been calm in an atmosphere permitting Haiti to take a long step forward in the march to democracy.” He noted that security had been well maintained by MINUSTAH and the Haitian Police, underlining that the cooperation had improved since the first round of elections. “It is a pity that the legislative election didn’t get the same attention as the presidential election”, said Van Hecke, regarding the lack of voter participation in the second round. He added that the EUMOE did register acts of intimidations and cases of fraud on election day but this did not affect the credibility of the election. The EUMOE concluded that the election went well.

The general views expressed in this report coincide with those of the EUMOE.

A third round of elections are still to be held in some parts of the country together with local elections. Neither has been scheduled at the date of this report.

Historical background

During the Spanish and French colonial era large numbers of Africans, mostly from Congo and Benin, were brought to forced slavery in Haiti. The cruelty of the slave trade continued until the end of the 1700’s when an uprising developed. Toussaint Louverture led the rebellion against the French, leading to a war of independence against Napoleon’s army that was brought to victory by Jacques Dessalines in 1804. Haiti achieved independence and the population achieved freedom. Haiti became the first independent Afro-American republic. Since then the country has continuously suffered many political and economic crises.
Haiti lost its independence in 1915, when it was occupied by USA, mainly due to its strategic position. Haiti regained independence in 1934, but kept close links to USA for many years.

In 1957 Francois Duvalier (aka “Papa Doc”) was appointed president. He established a notorious dictatorship, creating the feared Tontons Macoutes secret police. His son, Claude Duvalier (aka “Baby Doc”) continued to rule the country from 1971 to 1986, although with less cruelty.

A military junta, led by General Henri Namphy, then took power.

Haiti established a new constitution in 1987, which set out rules for the election of a president, a parliament, a prime minister with a cabinet of ministers and a supreme court.

The junta of General Prosper Avril led the country from 1988 to 1990. He stepped aside in 1990 to allow for free elections in Haiti.

Jean Bertrand Aristide became the first democratically elected president in 1991, but shortly after he came to power the army staged a coup and Aristide escaped to the USA. A US military intervention in 1994 ousted the military leadership and Aristide returned as president. His first action was to abolish the Haitian army.

In autumn 1995 Rene Preval, an Aristide ally, won the presidential election. However, Aristide and his party leadership in the Fanmi Lavalas retained de facto power. This became clear as Aristide tried to limit Preval from making reforms that could jeopardise Fanmi Lavalas economic power. The conflict of interests grew within the Fanmi Lavalas party between Aristide and Preval, allegedly due to Prevals successful efforts to curb the drug trade (several of Aristides close allies are currently serving jail sentences both in Haiti and the USA for drug trafficking). Preval served as president from 1996 to 2001 and opened Haiti to other Caribbean countries for trade. In the 2000 elections Aristide was re-elected president, but the opposition claimed the elections were irregular. The last years of the Aristide regime were dominated by violence, disappearances and killings that created instability and an economic crisis for the country. Armed gangs called ‘Chimers’ were organised within Aristide’s political party. Their task was to protect the president and his interests and to terrorise any political or economic opponents. It seemed that they were given criminal immunity.

Much of the Haitian upper class from Duvalier times left the country. Economic wealth became the preserve of the power structures. Political opponents struggled to exist and only the church had some freedom.

Port Au Prince University became a political meeting place. In December 2003, students demonstrated against the regimes’ killing of a well-known journalist. Group 184, a collective of Aristide opponents, supported the student demonstrations. Together they sparked widespread resistance to the regime among the population.

A former police officer, Guy Phillippe, had secretly organised insurgents in the north of the country together with former military officers. They armed themselves with weapons smuggled from the Dominican Republic. By the end of February 2004, the rebels had taken control of the northern part of the country. Haiti found itself on the brink of a civil war. The armed forces of Phillippe marched through the country to the capital, which they surrounded.

At the UN Security Council France demanded Aristides departure. The UN adopted a resolution giving Aristide a deadline of 29 February to go into exile. On 30 April 2004, the UN Security Council decided to create an international stabilisation force in Haiti to restore constitutional order to the country. USA and France sent 20 000 soldiers under the name Military Intervention Force (MIF). Both the USA and France forcefully helped Aristide to flee the country for Jamaica. He later asked for political asylum in South Africa, where he still has status as president in exile.
In June MIF was replaced by the international force of MINUSTAH, who established the conditions for an interim government to take power.

A council of wise men consisting of church leaders, Fanmi Lavalas party members, human rights activists and private citizens appointed Gerard Latortue as interim prime minister. The Supreme Court Chief Justice Boniface Alexandre became the president during the period of transition.

The interim government was faced with the challenge of lifting the country out of its deep crisis. Interim prime minister Latortue did improve relations with the international community and donor countries but the government failed to stop the ongoing criminal violence. By the beginning of 2005 dozens of people had been kidnapped and hundreds had been killed. Port Au Prince had become a dangerous city in which to live. Armed gangs barricaded themselves in the poorer districts of the capital.

Attempts by police or MINUSTAH to enter these criminal enclaves resulted in deadly shooting incidents. Cité Soleil was the poorest and most populated area in Port Au Prince, with a population of 500,000. It was occupied and controlled by armed Chimère groups who, by their violence, terrorised the entire country. The Chimères only lay down their arms when Rene Preval was declared the elected president in February 2006. From that time the country has experienced a remarkable decrease in incidents of violence.

Political background

Forty-four parties registered for the election, many being new political parties created during the transitional period. Haiti’s political stage was dominated by two political blocs; One consisted of former Lavalas allies connected to President Aristide who wanted to claim back power. The second major political bloc, Entente, was composed of political parties in opposition to the Aristide regime and close to the interim government.

**BLOC of LAVALAS, LESPWA, and PONT**

The Fanmi Lavalas was in a vacuum after Aristide left the country. Despite a crisis in leadership, Lavalas held a grip on large segments of the population, from the new rich upper class to the gangs of the slums. Lavalas used threats of instability to keep power during the politically unstable transitional period in the country. Lavalas had publicly refused to take part in the election, arguing that their condition for holding new elections in Haiti was that president Aristide returned to participate as their presidential candidate. Their request was turned down by both the interim government and by MINUSTAH. At the last moment Lavalas and former allies decided to take part in the election. A transformation was made by creating several new parties additional to the mother party Lavalas, all within an alliance that acted as a single bloc.

**LAVALAS**

Lavalas, starting as a movement in 1990, became the most significant party in Haiti in 1996 under the leadership of President Aristide. When Aristide fled the country, the party found itself in a leadership crisis. Aristide still had the majority support from the population.

After boycotting the election process the party entered the election campaign at the last moment with legislative candidates and a new presidential candidate. The Lavalas political leadership first
turned to their former leader Preval, asking him to be the Lavalas presidential candidate, but he declined.

Marc Bazin surprisingly became the presidential candidate for Lavalas. Bazin was prime minister in 1991 under a short military regime. He also served as a minister during the second Aristide administration. Bazin was the candidate of a coalition between the newly founded MIDH (Movement for the Installation of Democracy in Haiti) and the Lavalas party. His campaign did not achieve much visibility during the election period with very few posters of Bazin visible before the election. He also made very few public appearances and the election result confirmed that his candidature had been ineffective for Lavalas. It was also clear that the party had gambled more on their candidates for Senate, who had more local support in the different departments.

**LESPWA**

Rene Preval had been very popular during his period as president from 1996 to 2001, opening Haiti to trade with neighbouring countries. Preval especially enjoyed a good relationship with Cuba and Venezuela. He also normalised relations with the Dominican Republic. Many had high hopes for his leadership and for the country at the time. Preval had been isolated from the political stage by Aristide after the to had split politically but he had support from a strong political group who wanted him back in power. Preval first formed the political party Lespwa in August 2005. The party was a coalition of former Lavalas movements and peasant organisations. Preval became the obvious party presidential candidate. Throughout the election campaign it was visible that Lespwa had a large budget and ample resources as they quickly created the biggest political campaign throughout the country. International political experts told EUMOE that Lespwa was partly financed by Taiwan. According to the Haitian media the amount of the donation was four million US dollars.

Taiwan established a relationship with Haiti since Preval was last president. Taiwan helped Preval through economic programs; investments and new factories financed by UNI bank, which was partly owned by Taiwan.

**PONT**

The party Pont was established in early August 2005. Behind the party were wealthy, former high ranking Lavalas members. The party was lead by Jean-Marie Cherestale, a former minister under Aristide who became their presidential candidate. Pont was the other significant wing of Lavalas that broke out of the former coalition, although this time it seemed more from convenience than political disagreement. On the local level the candidates of Pont were mostly former Lavalas deputies who had become very wealthy during the Aristide regime.

**BLOC of ENTENTE**

Already in 2000, the leaders of OPL and Fusion had joined with MOCHRENA and ALYANS to form a coalition of opposition groups called Convergence Democratique (CD). It was the beginning of the Entente block.

The three leading political parties in this coalition were Konba, OPL (Struggling People’s Organisation), and Fusion. This political union wanted to forge a strong unity that could gather different social classes and groups to continue the spirit and work of the interim government. The social gaps and the differences between the parties and between the party members, particularly between Konba and OPL, led to difficulties in cooperation and strength inside the Entente bloc.
KONBA

Konba was established in January 2005. Businessman Charles Baker was the only white candidate to run for president. Konba, also called Kombah, (Kombit pour rebatir Haiti /The fight to regain Haiti) had asked Baker to be their candidate as it was thought he would draw much support from the urban mulatto upper-class. Baker became a popular candidate in the urban areas and also in the rural areas among young people who wanted to look towards. After the election, it was clear that the mulatto upper class living in the wealthy suburb of Petionville had not voted for him, but for Preval.

OPL

OPL (Struggling People’s Organisation) was created in 1996 after a political break with Aristide and the Lavalas party. The party agenda had the character of a strong workers union mixed with populist Marxism. The soft-spoken intellectual leader Paul Denis was respected but his voice did not reach further than among his faithful union members. The party had very strong rural support throughout the country and it was one of the few parties that had a defined political agenda for the country and the worker class.

FUSION

The political party Fusion was formed late in April 2005 as a coalition of two established centre left parties, Panpra and Konakrom. The French Socialist Party openly supported the Fusion presidential candidate Serge Gilles during the election campaign. Fusion was a political socialist party with marked liberalism. The political leadership and power structure was concentrated in Port Au Prince while on the local level several of the senatorial and legislative candidates were businessmen who ran their campaigns and their party on their own.

Other parties:

ALYANS

The Alyans party was newly created out of several smaller parties. The party Alyans had a populist, patriotic image attracting people from former Lavalas members to anti-Aristide rebels and young students as members. The presidential candidate for the party was Evans Paul, a well known long-time opponent of Duvalier and a political activist who became the mayor of Port Au Prince during the Aristide rule before being forced to leave his post on accusations of corruption. Sources in the Haitian press claimed that Alyans was financed by the Dominican Republic.

RDNP

Leslie Manigat was one of the most popular presidential candidates, running for the party RDNP (Rally of Progressive and Nationalist Democrats). The party had a Christian democratic centre political platform. Manigat had been imprisoned and exiled under Duvalier but later came back to take the post as president for a brief period in 1988 before the military coup. He became the runner-up to Preval after the first round of the election.

MOCHRENA

Many Protestant voters gathered around the party Mochrena, as it was the most popular rightist Christian democratic-party. (New Christian Movement for a New Haiti) The party was formed in 1997. Pastor Luc Mesadieu was their presidential candidate. Mesadieu was well known as a long time activist in the political opposition and a charismatic church leader with much influence on his religious followers.

FRN  and MODEREH
The rightwing nationalistic party FRN (Front for National Reconstruction), with rebel leader Guy Phillippe as presidential candidate, and the party Modereh, (meaning the Movement for Democratic Reinforcement of Haiti), with presidential candidate Dany Toussaint, were the most controversial two political parties rallying during the election.

Guy Phillippe was both loved and feared for creating a resistance army to take control over parts of Haiti. To many people Phillippe was seen as a liberator who, at the end of the Aristide regime, marched into Port Au Prince as Aristide fled. Phillippe had both inspired the resistance and clamped down brutally on both Aristide supporters and civilians during the military operation.

Allegations of involvement in drug trafficking, weapon smuggling and guerrilla warfare led to the two parties being blacklisted by the USA together with three more Haitian political parties. Due to this blacklisting FRN and Modereh did not receive any logistic or financial support from any international agency during the election campaign. Presidential candidate Dany Toussaint was on one occasion arrested by MINUSTAH forces during his election campaign tour. The arrest was damaging and humiliating for the candidate, even though he shortly afterward was released.

GFCD and RANFO

Two other parties were linked to the Haitian former military structures from the Duvalier times, GFCD with presidential candidate Hubert De Ronceray, a well-known neo-Duvalerist and the RANFO party led by Jean Tide. The parties were announcing the return of their former leader in exile in France Baby Doc, Claude Duvalier.

See list of political parties;
http://www.cep-ht.org/ListedesPartis.pdf

The Legislative Framework

The Constitution

The Haitian legislative framework is based on the Haitian Constitution of 1987 and The Law on Political Parties of July 1986, written when democracy was re-established in Haiti. The government consists of a National Assembly and a president.

Under Article 1 of the Constitution, the Republic of Haiti is defined as a parliamentary democracy under a presidential regime. Article 29 states that national sovereignty shall be expressed under three powers, executive, legislative and judicial.

**Executive power** is divided between the president and the prime minister. The president is directly elected for a five year term by an absolute majority. The president selects a prime minister from among the members of the majority party in parliament. The prime minister appoints the Cabinet of Ministers with the approval of the president. Cabinet nominees are accepted after a vote of confidence from the National Assembly.

**Legislative power** is vested in the National Assembly, which is bicameral, consisting of the parliament and the senate. Parliament is composed of ninety-nine directly elected deputies who serve for a mandate of four years. Deputies are elected on the basis of a simple 50% majority in the first round and on the basis of total votes in the second round. One deputy represents each of the constituencies of a municipality (from one to three, depending on population).
The thirty senators are also elected directly, on the basis of a simple majority in the first round and total votes in the second round. Three senators are elected from each department. They have varying mandates of six, four and two years depending on the number of votes they received. One third of the Senate is re-elected every second year. (Art. 82 Decree of 3 February 2005)

The National Assembly established the Provisional Electoral Council (CEP).

*Judicial power* is divided into two judicial and administrative orders. The Judicial pillar consists of a Supreme Court, the Appeal court and the Courts of First Instance (Civil Courts).

Ten Supreme Court judges are appointed to ten year terms and are inviolate for that tenure. Judges of the Courts of First Instance are appointed to seven years terms. The Supreme Court is empowered to rule on the constitutionality of laws.

Electoral Decrees

As the 1987 Constitution was later modified, the legislative framework is further based on the Consensus of Political Transition of April 4 2005, the Presidential Electoral Decree of Alexandre Boniface of 3 February 2005 and the Presidential Decree of 12 October 2005.

EUMOE assessed that the Decree of 3 February 2005, with its amendments, constitutes a good framework for the electoral organisation. However, the EUMOE notes that the electoral decrees still had shortcomings on issues such as electoral dispute resolution (see Review of Complaints Process). The general impression is that the legal framework forms a sound base for the development of democracy in Haiti. The problem rather seems to be a general lack of respect for the rule of law.

After the first round of elections, only two deputies out of 99 were elected directly and no senators. The weak result showed limitations to the electoral system. Based on the first round election results, the CEP decided to re-organise elections for deputy in 14 circumscriptions. The senatorial election had to be re-organised in the North-East Department.

(See electoral law and decree CEP:)

http://www.cep-HT.org/loielectoral.html,
http://www.cep-HT.org/infleg.html

The Electoral Administration

Article 192 in the Haitian 1987 Constitution foresees a Permanent Electoral Body to organise and conduct elections. For the 2006 elections, the interim government created a provisional electoral administration (CEP) that was responsible for the presidential, senatorial, parliamentary and local elections.

Haiti did not have a permanent electoral administration structure, the CEP being a provisional electoral council that was only created for the transitional period.

“The CEP is a public institution, independent and impartial. The responsibility of the organisation is to control the elections in the whole of the Haitian territory.” (Art 1a, Electoral Decree of 3 February 2005)
The EUMOE has been critical of the poor election organisation and preparations by the CEP. There were considerable technical and logistical problems. “Such a motivated population deserves well prepared and organised elections”, said Johan Van Hecke, Chief of the mission in an interview to Radio Metropole on 8 February 2006.

The CEP is a collegium consisting of nine members. Decisions are taken by consensus. The office of the CEP consists of a president, a general secretary and an economic chief. From 13 October 2005 a general director, Jacques Bernard, was nominated by the transitional government with responsibility to execute decisions made by the CEP. The CEP was mostly financed by international donors. CEP was also responsible for financing electoral activities and costs.

On departmental levels, the CEP was represented by the Departmental Electoral Offices (BED). There were 11 BEDs, one in each of the ten departments. In the West Department, which included Port Au Prince, there were two BEDs. Each BED had three members, the president, the vice-president and the secretary who were nominated directly by the CEP. (Art.8, Electoral Decree of 3 February 2005) The BED was administratively responsible for supervising the activities of the Communal Electoral Offices (BEC). Each of the 170 communes had a BEC that consisted of three members performing duties similar to the BED but on a local level. BEC members were chosen by the CEP. (Art.9 and 10, Electoral Decree of 3 February 2005)

The electoral supervisors were agents chosen directly by the CEP for each commune and communal section. Their job was to identify registration centres and to supervise the voting inscription. During the election they were responsible for gathering the verbal process (i.e. compilation of the vote tallies) and to record contestations or irregularities to the verbal process. The supervisors could thus intervene in cases of contestations and ensure the correct registration of voters, but unfortunately the supervisors had not been nominated when that process took place. Each voting centre had managers in charge during the election. Each voting office had a polling station committee with four members. Voting stations had up to 400 registered voters.

In the Decree of 12 October 2005, there was one important modification to the electoral law on contestations. Article 14 directed that contestations from local elections received by the BEC could be given to an appeal body called The National Electoral Office for Contests (BCEN) before going to The Central Electoral Office for Contests (BCENC). Article 14 modified this process, creating 142 Communal Electoral Offices of Contestation, 11 Departmental Electoral Offices of Contestation and one National Electoral office of Contestation. Each of the offices on the communal level was composed of members of the BEC and a lawyer. On the national level, there were three sections each with three consultants and two lawyers.

Departmental level offices were responsible for contestations of the legislative election, which they could take to the National Office. The National Office (BCENC) was responsible for contestations concerning presidential elections. Decisions made by the BCENC were not reversible and could not be changed by the Court of Appeal.

Voter and Civic Education

Civic education initiatives towards the voters were not observed in abundance. Civic education has been especially important in Haiti due to the high percentage of illiterate citizens. There should have been more initiative from the electoral authority, the political parties and the civic society with support from the international community to educate the citizens about democratic
institutions. Despite limited finances and a poor strategy towards civic education by the different actors in the electoral organisation under the CEP the media played an active role in informing the population about the election process. There are no specific laws as to responsibility of the media for voter and civic education.

MINUSTAH and the OAS signed a Memorandum of Understanding in November 2004, under which a committee of electoral cooperation was formed. One of the duties of the UN was to assist financially in civic education and in the formation of regional coordinators.

MINUSTAH Civic Affairs held several courses and seminars throughout the country during the election process for media, political parties, and citizen groups such as women's organisations. The groups were politically conscious of the importance to vote, but more civic training regarding an understanding of democracy is needed overall.

MINUSTAH conducted several information campaigns during the election with posters, advertisements and video spots on TV during the registration and during the election.

The OAS had the responsibility to register trained civic agents who would be sent into the communities to encourage voters to register.

The OAS, BED and MINUSTAH together organised and assisted basic training for the managers, supervisors and the members of voting stations.

During the 7 February election, it was clear that many of the local staff had little knowledge of the process. This contributed to delays and mistakes. Before the second election round, BED and MINUSTAH organised new training for election station members resulting in improved performance on election day, and keeping the election within the time schedule.

The BEDs and BECs were not trained. Many BEC members stated that they needed training and information about what the managers and supervisors were supposed to do. During the second tour, both the BED and the BECs work improved significantly due to their previous experience.

Local groups such as women’s organisations, farmer cooperatives, the national voodoo organisation Conavo, student organisations and national observation groups like Conseil National d’Observation des Election (CNO) mobilised their own members within their communities to talk about the importance to vote. Some of these organisations were strongly linked to the former Aristide regime. The student organisation SOCOS started their activities in October 2005, covering the rural area and teaching people about their civic rights and obligations.

During the second tour of elections there was a very low rate of mobilisation and participation by voters. There seemed to be a lack of interest in the election after the president was elected.

Voter Registration

Registering for voting is a legal obligation for all citizens from 18 years of age. Registration confers the right to a new digital national identity card (Art 38. Electoral Decree of 3 February 2005).

To register, the citizen must give their name, sex, date of birth, identification number from the department and commune, and a home address. The voter must give a digital fingerprint, a signature and a photograph for registration and for the ID card. In cases of illiterate voters the information will be established at the moment of registering. If the person has no ID card, two
witnesses from the same family or area will identify the person (Art.40 Electoral Decree of 3 February 2005). An individual cannot be a witness to identify other persons more than three times (Art.41 Electoral Decree of 3 February 2005))

The General Electoral List (LEG) was prepared by the CEP, as was The Partial Electoral List (LEP), corresponding with the voting stations (BV). A LEP may not contain more than 400 voters. The CEP had to produce the list 30 days before the election and the BED and BEC were obliged to display the LEP in public (Art. 49 Electoral Decree of 3 February 2005).

The UN had given the OAS the task of registering voters and delivering the identity cards. According to the 2003 census, the total number of eligible voters was 4,448,065. Voter registration began in April 2005 and finished at the end of October 2005. A total of 3,535,025 eligible voters, (80%), were registered for identification cards.

EUMOE found that the process of registration started before the full organisational setup for handling the process was in place. The circumscription and the voting centre to which the voter belonged were still not clear even when the voters received their ID card and voting cards. The distribution of the ID cards took a much longer time than was foreseen, but most voters did receive their cards. During this process errors were made, with incorrect registrations of voters. Delays and mistakes prolonged the whole election process and was a significant reason for the delay of the election itself. This was a particular problem to those voters who lived in remote areas and had difficulties in reaching the registration centres.

According to the election law, no one should be required to travel more than two hours to their voting centre. In the two departments observed by the Norwegian LTO, Department South and Department North-East, voters had to travel from five to ten hours to reach their registration centre and their voting centres. Each communal section had only one registration office. In remote areas, there was a limited service of mobile registration offices.

The local media played a crucial role in informing the population about voting registration and where to obtain their Identification cards and vote.

Partisans from political parties were the most active in the field to mobilise voters to register and vote, including sponsorship of individual travel costs for registration and voting. It also included giving money to an entire community to projects such as road building to buy votes. Senatorial candidate Boulos, from Fusion in Department North-East gave money to the villages of Meillac and Ferrier to mobilise voter support. It seemed that many voters in the rural areas gave their support to the candidate who could give them financial support, which meant that the parties and candidates with the most money would get the votes.

The crude use of financial aid as an incentive to vote reflected a lack of regulations to control the conduct of campaigns. This method of obtaining votes was observed as practice in many parts of the country (EUOM Report 4, Department de Sud, LTO 13).

During both rounds of elections in Department North-East, there were many hundreds of voters that could not vote, some during both elections, some only during the second election and some during the first election. This attributed to the fact that the LEP were incomplete or incorrect and that the voters’ names changed on the lists between the first and second rounds of the election. The EUMOE stated in their assessments that the LEP created problems during the election in many voting centres, when voters could not find their names on the list and therefore were not allowed to vote. These were voters who had registered at the designated voting centre and were in possession of valid ID cards.
Candidate registration

It is required that an election candidate must possess sole Haitian citizenship, with de facto permanent residence in the country for the last five years. This has proven difficult since many prominent politicians from the opposition lived abroad during the last period of the Aristide regime and they often also have dual citizenship. Much judicial controversy took place during the candidate registration over this issue.

In November 2005, the CEP published lists of political parties and candidates for the election. Thirty-five presidential candidates were accepted while three candidates were rejected. Jose Jacques Nicolas (Independent Candidate), was rejected on the basis of an incomplete dossier and Samir Mourra (MPH), and Dumarsais Simeus (TET ANSANM), for their dual nationality.

Forty-four political parties were accepted to run for election. There were several rejections among the legislative candidates by the BED. A lack of transparency in the system made it difficult to verify why some candidates were accepted and others were not. To be registered with the CEP, groups or political parties were required to produce the following documents (Art. 12, Electoral Decree of 3 February 2005)

- Act of establishment of political party, verified with notaries, with status and objectives.
- Acts of recognitions from other political parties.
- Document of agreement on political cooperation, if that is so.
- List with 5000 names of political party members, with ID numbers and signatures.
- Act of agreement on emblem for the party.

Presidential candidates and political parties had to register with the CEP and pay a fee. The deputy candidates had to register and pay a fee to the BED, while candidates in the municipal election were required to register and pay a fee to the BEC.

“To accept the candidature declaration for Presidency, Senator and Deputy, the candidate must give additionally the following documents; a written declaration of personal information, such as birth certificate, proof of ownership of property, attestation of residence and a copy of tax payment”. (Art. 118 Electoral Decree of 3 February 2005)

BED decisions on rejecting deputy candidates on the basis of incomplete documents were believed to involve personal rivalry and political sympathy as part of the decision-making. In Department South, circumscription of Port Salue, a former Lavalas Mayor Mr. Duclair (now a candidate for Lespwa) was rejected based on a lack of documents to prove his ownership of land and residence in Port-Salut. Mr. Duclair not only lived in Port-Salut in his own home, but he also had two more properties in Port-Salut. Contesting the rejection did not help in this case. The result was that Lespwa did not have any candidates in this circumscription.

As a general tendency, candidates contested other candidates and the official decisions were often not based on transparent and objective procedures, but were rather biased. In the case of Bernard Laguerre, Alyans candidate for the circumscription of St Jean du Sud / Arniquet in Department South, he was first rejected, but with the help of lawyers and money the BED reversed their decision and Laguerre won the election. In Department North-East the Fusion senatorial candidate Rudolph Boulos was accepted, even though he had no connection to the Department and owned no property there, as required by law. There were also claims that he actually lived in St Domingo and had Dominican citizenship, however he was wealthy and his brother was Director of the Haitian Chamber of Commerce, which may explain his acceptance.
Legislative candidates who were rejected were not given proper explanations. Official responses to decisions on rejection were delayed and in some cases no explanation was ever given.

There was evidence of bureaucratic confusion when the CEP, having received a list of approved legislative candidates from the BED, then changed the candidates’ circumscriptions without explanation, leaving two candidates of the same party in some single circumscriptions and none in others.

In Department South the Mochrena candidate for Deputy, Delince Pierre, died in obscure circumstances in beginning of January. On the 7 February election, the dead man was still on the list of candidates. (EUOM Report 7, 12 Jan 2006, LTO 13)

There was a lack of direction as to the management of the registration of candidates which dissolved into administrative chaos. There was inconsistency with regards to the treatment of the dossiers, which multiplied the complaints. The EUMOE observed a movement of candidates between different circumscriptions without their being related to the municipalities. LTO 13 could report in their EUOM report 5, that this happened to several candidates without their knowledge in different circumscription as Port au Piment and Port Salue. Part of the reason was changements and creations of new circumscriptions during the pre election period.

The Election campaign

The official election campaign started on 8 October 2005. The campaign was nearly invisible in the beginning because of uncertainties as to the dates of the election, a general lack of money, preparation problems, a lack of communication and bad infrastructure. The EUMOE highlighted the economic difficulties facing the political parties, and especially the candidates, due to the constant delay of the election, which prolonged the election campaign to more than a month and a half.

The EUMOE observed that the campaign was conducted peacefully. Some candidates actively encouraged their partisans to stay calm and to respect the principles of a democratic election campaign. There were only isolated reports of incidents during political rallies. Political meetings did not attract large crowds as the great majority of the population were not politically interested.

During the second round of elections, the EUMOE observed very little activity from the candidates and their parties to mobilise voters, probably due to a lack of economic resources and determination. The only political party that had the finances and determination to continue an active campaign was Lespwa. Overall, freedom of movement, freedom of expression and freedom of public meeting was respected.

In both Department South and North-East, Lespwa was the political party that was most visible during the whole election campaign. It was clear that they had the biggest budget. Lespwa operated with the most cars and the most people that were constantly in the field. Lespwa had the biggest and the most widely visible public posters, especially in the cities. Most of their posters featured Preval, while smaller posters of local candidates were seen throughout the countryside on nearly every tree, showing the huge mobilisation of partisans.

The yellow-green t-shirts displaying the face of Preval, could be seen everywhere, in every village, clearly indicating a large budget, a sophisticated information campaign and good logistics. This was uncharacteristic of Haitian politics.
In Department North-East the Fusion candidate for senate, R. Boulos (one of the few white candidates in the whole election), had a huge budget to run his campaign for senate that he personally financed. Boulos gave up to 20,000 US dollars in cash support to local villages for road projects just before the election, this was verified by the LTO team in three villages. The observers also observed that Boulos used a helicopter for his campaign, and aircraft to drop posters and to tow election banners in the sky. This level of expenditure in such a poor department was highly excessive. Nevertheless, Boulos received the most votes in both elections.

Campaign Financing

The CEP had received money from the transitional government to give to the majority parties for presidential, senatorial and deputy campaign support. CEP members first proposed to favour parties of which they were members, but this proposition was rejected by the government.

The election law on the financing of political parties is complex and favours the larger parties. (Art. 149 and Art. 152, Electoral Decree of 3 February 2005)

“All political parties that have registered with the CEP intending to participate in the coming elections, and who have presented a list of forty-thousand signatures of Haitian citizens, with their Identification numbers, have the right to get a subvention. The amount will be decided by the Council of Ministers” (Art. 149)

The government had at its disposal 55,000,000 Gourde (3,100,000 Euro) to give to political parties for election campaigns. According to the election law on financing election campaigns, the political parties had to hand in forty thousand supportive signatures to the CEP to qualify for financial support. The deadline for compliance was extended until 8 December 2005 but no political party (out of 38) met the requirement.

The CEP then modified the law, giving the possibility of financial aid to parties who had given only thirty eight thousand names. The parties PAIN, MPH, OPL ALYANS, FUSION, OLP, RDNP, PNPDH, REPAREN, FRONCIPH and PUN met this requirement and received 1.5 million Haitian Gourdes amongst them. There was no transparency in the dissemination of these funds that were to be given to the parties for presidential, senatorial or deputy campaigns.

The senatorial candidates were given 10,000 Gourdes by the CEP. According to the candidates, this was derisory as most had used more than 100,000 Gourde.

Department South’s Fusion candidate for senate, Mr. Jeannot, claimed that he had used 600,000 Gourdes during his campaign, financed by himself and his sponsors alone. His sponsors were anonymous donors who wanted him to represent the department. Jeannot also confirmed media reports claiming the French Socialist party had given 100,000$ US in support to Fusion in 1995. He stated that the French Socialist Party still supported the party, but he was not aware if his party was still receiving economic support. Jeannot stated that neither he nor the party on the department level had received any support at the time of interview (12 January 2006).

These claims of no financial support from party headquarters raise serious questions as to the use of the 1.5 million Gourdes given to those parties by the CEP.

It was impossible for the EUOM observers to get any documentation of the financing of the political parties and their candidates both on local and national levels. There were no budgets, no receipts, no open bank accounts to verify how much money had been received or spent.

All the candidates in the two departments observed by the Norwegian LTO stated that their party and the individual candidates in the department had to finance themselves or with support from members or sponsors. They additionally stated that they did not know how their party or its
presidential candidates were financed. They appeared to receive no financial support from their party’s main offices in Port Au Prince.

The CEP confirmed to the EUMOE that none of the political parties had transparency or any satisfying legal documentation on how they financed the party and its candidates.

In the Electoral Decree of 3 February 2005 it was stipulated that a maximum of one million Gourdes was allowed to be given to a political party or candidate by a donor (Article 153). Article 154 of the same decree further stated that one person could not give more than 50,000 Gourdes to a political party without notifying the CEP.

Finally, in Article 155 all political parties were required to give the CEP detailed lists of all financial donations exceeding 50,000 Gourdes by individuals or organisations.

The Media

“During the election campaign the state media, radio and television must make an agreement with all the candidates giving certain hours of airtime. Private media should not practice discriminating methods.”

(Election law on Media Art. 137)

Despite a lack of finances and no common strategy among the different participants implicated in the election organisation, the media was active in informing the population on different aspects of the election. There were daily reports covering the whole election campaign, especially on the radio, in which the election process was explained and candidates were given the possibility to present themselves to the voters. The state media generally assured a fair presentation to all candidates during the election campaign and followed the laws that provided free airtime for candidates.

The huge diversity with in the private media sector was positive in that it gave a more pluralistic view, but the private radio stations were often politically biased and this was manifested with reportages that discredited certain candidates. The private media in general did not follow the legal requirement to not discriminate or favour certain candidates. EUOM registered incidents in which payment was demanded from certain candidates to obtain time on the air, while other candidates obtained free air time (EUOM Report 4, 22 Dec 2005, LTO 13, Department de Sud).

As the campaign proceeded and the political climate escalated, manipulation was observed in the way that information was distributed. Some political groups and private organisations used the media to promote negative views on MINUSTAH, claiming that they were responsible for the lack of public security. This increased the tension between MINUSTAH and certain groups.

The EUOM claimed in several reports that the laws regulating the media during the election period were insufficient and there was no penalty specified for violation. EUOM stated that the CEP should be responsible for establishing rules for broadcasting, especially for the private media. There should be equality of access to media and the practice of only those parties and candidates capable of buying media access should be prohibited. The EUOM concluded that the CEP and BED should ensure that all parties and candidates have access to the media and should develop close communication with the media to keep the public better informed.

Remote areas of Haiti are mostly served by private radio stations. In these areas there is no land or mobile telephone coverage, therefore the communication provided by these stations is even more important. Often these stations gave the only information available to BECs in many
communes around the country, about meetings that were to take place or news on the election process.

The state television and radio stations, with several private television and radio stations, generally covered only the capital Port au Prince due to insufficient radio reception in the rest of the country. Most printed newspapers were only available in the Port Au Prince area. Internet news was more accessible throughout the country and was read by a larger public, especially the young generation.

In the districts, the radio stations were most able to give information to the whole population. Radio broadcasts were longer, cheaper to produce and could be received on battery powered radio sets in remote areas. The Haitian media worked well to educate the population and to make them aware of the importance of voting. As an effective means of communication the media have much power in Haiti, but the problem is that the media have no democratic tradition. Until the end of the Aristide era, the media was understood primarily as a propaganda tool.

There were few private television stations in the departments and newspapers were a rarity. Private radio stations were numerous. The private stations were seen as biased, overtly supporting some candidates and parties and only inviting candidates from favoured parties to their stations. Those favoured candidates were on the air regularly. Biased, negative comments on the other parties were normal. There were also radio stations that were self-proclaimed as Christian or pro-Aristide / Lespwa as well as commercial/pro-private sector stations. Candidates that did not fit into one of these definitions found it difficult to get any airtime.

Observation on the Polling Day

First Election Round

The first presidential and legislative election was held on 7 February 2006 and voter turnout was high. There were many reports of logistical and technical problems for both the voters and the organisers of the election.

Across the country there were delays of two hours before polling stations opened. This resulted in prolonged opening hours. The mega voting centres did not have the capacity to handle all of the voters. (mega centres were located in very densely populated areas and consisted of several voting centres co-located)

Irregularities were observed in the handling of sensitive materials and during the procedures with the verbal process by members of the polling stations due to a lack of knowledge and training. Improved conditions to ensure secret voting are needed. The counting of votes proceeded calmly in a positive atmosphere, without major incidents.

Department North-East

The North-East Department is one of the poorest in Haiti. It is situated on the north coast near the border of the Dominican Republic. The centre of the department is Fort Liberte, where the MINUSTAH administration and main military base is located. Additional forces are based in the border town of Ouanamenthe and the little commercial town of Trou du Nord on the road to the city of Cap Haitien. The infrastructure is extremely poor; most of the department has no electricity or telephone service. There are no paved roads. Food and water is difficult to find and
there is little production of food or commercial trade. According to UNPOL sources the principal means of income is smuggling cross the border to the Dominican Republic.

This department has eleven communes consisting of seven circumscriptions. Nineteen political parties presented candidates in the department. 23 candidates from thirteen parties competed for the senatorial election. 58 candidates ran for deputy. The total number of registered voters in the department was 129,150.

The EUOM was the only international mission having a LTO team in the department during the entire electoral process. Additionally, a STO team came for election day. Two teams were formed, each containing one LTO and one STO. One team covered the opening in Trou du Nord voting centre (VC), observed Terrier Rouge VC and witnessed the closing of Fort Liberte VC. This team continued to monitor the handing over of the sensitive materials to MINUSTAH until they were transported the next day by helicopter to headquarters in Port Au Prince.

Team two covered the opening of Fort Liberte VC, observed Ferrier VC, and witnessed the closing of Ouanamenthe VC. The team remained until the voting materials were delivered to MINUSTAH. Each team operated from opening to the closing of the operation, visiting 5-7 voting centres and 15-20 polling stations.

**Observation of the opening**

LTO team two arrived at 0530 at the voting centre Ecole National St. Joseph in Fort Liberte. A long queue of voters had already lined the road. The BEC, managers and supervisors of the VC, members of the polling station, the Haitian National Police (PNH), election guardians, MINUSTAH staff and UNPOL were already present. The only official not present was the president of the BED. He had boycotted the election in a personal protest against CEP and MINUSTAH, with whom he was in conflict. By his action he had wanted to stop the election in the department. A member of the CEP was present in his name to make decisions and to coordinate with all of the local participants together with the BEC of Fort Liberte who acted as the BED with MINUSTAH to ensure that due process was followed.

When the voting materials had been delivered to the voting centre by MINUSTAH forces the night before, the guards with the supervisor had received the materials. During the hand-over however there had been a lack of communication between MINUSTAH and the supervisor on an important detail. Neither the members of the polling station who received the voting materials nor the MINUSTAH Police and military delivering them had knowledge of how to treat the materials. Each of the boxes contained a specific number that was linked to a specific polling station. This number also matched the appropriate LEP. Due to a lack of experience and knowledge of the proceedings by the polling station members who received the sensitive materials from the managers, this was not understood. The consequence was that the boxes came to the wrong polling stations, resulting in the wrong LEP, wrong numbers and wrong signatures on the ballots. Polling station members created chaos through their attempts to deal with the situation, changing the numbers of polling stations, changing polling station members as well as changing the LEP displayed on the walls. This problem was repeated throughout the department.

Just before the opening of the polling stations a new tension was created when the party observers disagreed about which polling station to cover. Each political party was allowed to have only one member per polling station. The BEC had given all the participating political parties an access card for their observers, coinciding with the polling stations in the department.

The voting centre opened at 08.00h, two hours late, and large crowds of voters were finally allowed to enter. It was chaotic at first but the polling staff members worked slowly with each voter and no incident occurred.
Observation of the polling

During the day the LTO team visited Ferrier voting centre, Dilaire voting centre and Ouanamenthe annex voting centre. No violence or major disturbances was observed, the overall security situation was under control. The turnout of voters was high despite the long distances many had travelled. Some of the candidates from Fusion and Alyans financed the transport of voters to the voting centres.

Especially in the rural areas, many older voters were illiterate and were helped by relatives or by members of the polling board according to the rules, in front of the observers. This was done in best faith, but several party observers used the opportunity and solicited voters, especially those who were illiterate, offering undue advice in helping them to vote. The party observers fought over voters. The election staff members did what they could to ease the atmosphere.

The LTO team arrived at the voting centre in Ouanamenthe at 1500. It was supposed to close at 1600 but due to the delay of two hours in opening, it closed at 1700. The Voting Centre had 23 stations, each serving 400 voters. Spanish troops were in charge of security, with UNPOL and PNH. Ouanamenthe was a security red zone on the MINUSTAH map, due to previous violence and killings a month prior to the election. On election day, however, the city was calm.

The major problem observed during the day was the attitude of the party observers inside the polling stations. They became very aggressive towards voters towards closing time, creating an intimidating, chaotic and disordered atmosphere. A party observer would accompany a voter at the time of voting, telling them what to do. This occurred in front of members of the voting station, who at first tried to stop it, but gave up in the end and let it happen. The most aggressive observers were from Fusion, Alyans, Lavalas and Lespwa. The LTO team observed obstruction and harassments by the party observers in many polling stations.

Conditions for secret voting were not ensured in many of the polling stations. Voting looked rather public and, at times, intimidating for the voter. In all polling stations, local observers were present and the managers and supervisors were handling the different problems as well as could be expected. EUMOE were the only international observers observed in any of the voting centres during election day. MINUSTAH kept a low profile, being ready to respond to security problems.

Observation of the closing and counting

Ouanamenthe city voting centre closed all the polling stations at 1700. After the last voter had left the polling staff members organised the counting of ballots. Eleven party agents and two local observers were present for the counting. The president of the voting centre counted the presidential votes. Each vote was shown to the party agents, making the process very slow. The amount of ballots before the election coincided with the number of ballots counted at the closing the polling station.

Few of the counted ballots were invalid or blank. Slightly more than half of the registered voters on the LEP for this station had voted, 264 voters out of 400 eligible.

It was soon clear what the outcome would be. Preval gained the most votes with former military leader Phillippe second and Baker third. The senatorial votes were counted and Boulos from Fusion was the clear winner with OPL Armand in second place and Fusion in third place. The deputy count resulted in the most votes going to Fusion with Alyans in second place.

All the local observers and party agents except those from the winning parties then left and polling station members started to write the verbal process under lights and lamps from the EUMOE. Due to the mistakes that had been made in the morning, the wrong number of the polling station was written on the verbal process. Also due to the mistakes from the morning, the
staff wrote the wrong code number on the verbal process. Before the verbal process could be transferred, the supervisor had to correct the errors he discovered in handling the voting materials. Due to the lack of light it was difficult to see the different colours of the copies of the verbal process. The ballots were also put into the wrong bags and without the verbal process. It was 0500 when the polling station members handed the materials and the verbal process to the manager. The manager gathered the sensitive materials from all the polling stations before delivering it to MINUSTAH at 0900 in the morning of 8 February.

**Observation of the tabulation**

MINUSTAH organised convoys and collected all of the materials from the department before 1200 on the 8 February. The MINUSTAH force was accompanied by representatives of the BEC to the main base at Fort Liberte in the Department. All of the BECs took part in controlling the verbal processes, with the help of representatives from the Civil Affairs section of MINUSTAH. The LTO team was also present. Many of the verbal processes had mistakes regarding the content in relation to the voting material. When all of the election materials were processed, the voting materials and the verbal processes were delivered by helicopter to Port Au Prince.

The LTO teams from Port Au Prince intended to observe the counting and gathering of materials in the tabulation centre, but they were denied access and could not follow the procedures. The presidential results were unclear, with different members of the CEP publicly announcing different results. This caused public confusion and fear.

Violence broke out and spread after the election due to confusion as to the results and a sense by the people that the results would be manipulated to deny Preval victory. Trouble was concentrated in Port Au Prince, where angry crowds barricaded main roads, bringing the capital to a standstill as the violence increased. It became unsafe for foreigners to move about in public. The political tension increased when reporters showed images of many ballots supporting Preval thrown in a rubbish dump outside the capital. MINUSTAH and western countries negotiated between Preval, the interim government and the CEP for a swift final result.

Preval had received between 49% and 51% of the votes. The CEP came to an ad-hoc decision to ignore the electoral law stipulation by which blank votes should be considered valid as protest votes and the candidate must win with an absolute majority. Instead, the CEP applied the “Belgian Formula” of distributing the blank votes proportionally among the candidates, prorating the blank ballots based on the votes received by each candidate. This resulted in Preval achieving 51% of the votes needed to win in the first round. It is unfortunate that new rules were made as a consequence of the election result.

Prevals victory solved a potential crisis for the country, but it was done under pressure by Lespwa political supporters and was questionably undemocratic and unfair to the other candidates. The question was raised among the political opponents and commentators as to why the same Belgian formula was not applied to solve the result of elected deputies.

The EUOM came into direct conflict with the CEP during the counting of the first round, when the EUOM observers were not admitted to the tabulation centre. This was but one example of a lack of general transparency in the CEP.

(During the second round counting in the tabulation centre EUOM observers had unlimited access.)

The EUOM evacuated the mission from Haiti on 15 February, partly because of increased insecurity and violence (Le Monde, 17 February 2006).
It appeared that this was also a reaction to the way the CEP, MINUSTAH and western diplomats had come to a consensus on how to resolve the crisis that had erupted after the first round of elections when Preval did not get the needed 50% of the votes.

Due to the evacuation of all EUMOE observers, it was not possible to observe the post election results until the mission’s return on 11 April. The LTO team later learned that in the department North-East, Preval had received the most votes in the presidential election. Boulos, the Fusion candidate for Senator had received 46% of the votes. Alyans candidate Karl Charles Pierre received 30% of the votes and Fusion candidate Judnel came third with 15%. Fusion and Alyans got the most votes for their deputy candidates with Lespwa in third place. On the national level the voter turnout was 60%.

Second election round

The second round of legislative elections were better organised and conducted as a result of the operational and logistical experience gained from the first round. The second round was also calm and without violence. However, the voters did not turn out in the same numbers as the first round.

Proceedings to handle the verbal process and the ballots after counting were more flexible and better explained with manuals and markings. Administrative agents were placed in every polling station to oversee the whole process. Problems still remained with ensuring the secrecy of voting. Some voters were not able to vote because they were not on the LEP and party agents voted where they served as observers with no guarantee that they had not voted before. Across the country, polling stations opened and closed on time. MINUSTAH and the Haitian electoral organisation established better cooperation and MINUSTAH were more visible at voting centres than in the first round. The second round was calm with only isolated exceptions such as in Artibonite, where a party agent was killed. In the second round a total of 194 candidates ran for the remaining 97 deputy seats in parliament. 54 candidates competed for 27 senate seats.

Department North-East

The LTO team was operating in the field from 11 April. They were joined by a STO team two days before the election. The STO teams were integrated into the LTO teams, and each of the groups kept the same routine as for the first round except that Team One now started in St Suzanne due to a local election re-organisation. Throughout the department, voting centres opened punctually at 0700, except for two VCs that opened after 0800 due to local disagreements between the members of the voting station.

The president of the BED and his staff took an active part on election day, with support from the CEP Advisor. The former Spanish–Moroccan UN military force in the area had been replaced two weeks before the election by Uruguayan troops who quickly adapted and made themselves visible in the department. They conducted a good security and logistic operation. Additional UNPOL officers were stationed throughout the country to assist in the days before and after election. The PNH was also dispatched from Port Au Prince with Special Police unit UNMO. These efforts secured a peaceful election.

On election day there was not much international presence in the department except EUEOM, MIEEH who had two teams in Trou du Nord and Ouanamenthe, and a Dominican observation
group. The LTO team witnessed the direct economic support links between the Dominican observer group and the Boulos election team. Boulos private cars were used by the observers and their expenses were covered by the Boulos team.

**Observation of the opening**

When LTO Team Two arrived in Fort Liberte at 0530, the preparations were going well. One factor was that the vice president in the polling station did not have to sign all the 420 ballots before opening. The voting materials had been correctly delivered and the polling station members had been trained in how to use them. The VC opened at 0700.

Most voters came in the morning hours and the opening went well. The CEP had made a new rule due to the problems with party-agents, limiting their presence to only three in each polling station. This caused some disturbances at the opening, with polling station members denying party agents access. At 0900, after pressure by the political parties, the BED allowed the presence of 7-9 party agents, the same as the first round.

Outside the polling station, some fake party coordinators from Lavalas, Lespwa and Pont caused disturbances by trying to enter the voting centre. The Lespwa supporter who claimed to be a coordinator was later observed entering the VC as a voter.

**Observation of the polling**

Three voting centres were visited, Ferrier, Dilaire, and the annex voting centre in Ouanamenthe. Generally, the voting centres operated more efficiently, the voters were fewer, the party agents were also fewer and much calmer. In Ferrier and in Ouanamenthe, two fake party agents were observed and one was expelled after the BEC intervened. The party agents were allowed to vote in the voting centre. After voting, their registration card was supposed to be marked, but this was not done and when the agents were allowed to change polling station it was unclear if they voted more than one time. In all of the polling stations there were from seven to eleven party agents. As the day proceeded and most of the voters had voted, there were more party agents than voters.

The LTO team directly witnessed a disturbing and tense situation in Ouanamenthe outside a polling station. When well-known Alyans militant leader Jean Robert voted for the second time in a polling station under an incorrect name he was recognised and a party-agent from Lavalas started to scream in protest. While Robert walked away, partisans and groups of Lavalas and Alyans supporters confronted each other. The vice president of the BED arrived with the judge, party representatives, police and MINUSTAH. All argued about what actually happened and what to do about it. The supervisor of the VC refused to close the polling station or accept the contestation. He also refused to identify himself to the authorities, raising the question of his involvement. However, this was never proven, as nobody wanted to investigate. It thus appeared more important to stop a potentially violent situation than to enforce the law by closing down the polling station and annulling the results. The polling station continued to operate without action being taken.

The last voting centre visited was the mega centre in Ouanamenthe. MINUSTAH forces were present in strength with soldiers and a tank outside the VC. The building and sensitive election material was secured by election guardians, PNH and UNPOL officers. There had been no disturbances during the day and the work of the members of the polling station went well.

The LTO team noted the names of the polling station members, comparing them with the list of those approved by the CEP and referring to the list from the BEC from the first round training. The members present did not match any of the lists. Names had been removed from all three lists and additionally 1/3 of the members in all the polling stations did not appear on any approved list.
During the first election round, there were almost no polling station members from Lavalas, Pont or Lespwa (except in St Suzanne) based on the list approved by CEP. For the second round, CEP created a list with a strong Lespwa presence. The other parties refused to accept this, accusing CEP and MINUSTAH of wanting to manipulate the result. The political parties put pressure on the BED, threatening to boycott the elections if they did not get their representatives as members in the polling station. The night before election day, a consensus was reached between the political parties, the CEP advisor, the president of BED and BEC representatives, with names added from the different political parties to the list of polling station members.

The party agents observed by the team behaved in a proper manner on election day. The parties changed strategy, their party members now attempted to influence the voters before they entered the voting centre. Women and older people were particularly targeted by the activists. Several times illiterates, mostly women, would come into the polling station either to vote for Lespwa, or by pointing at the horse symbol of Alyans, which could indicate that they were following instructions.

The LTO team also noted that there were cases where members of polling stations told all of their voters that they had to mark three candidates for Senate, not one, which was the minimum required. This gave a possibility for more candidates to get votes. It seemed that they did not know the rules.

The LTO Team One reported that the election went well in St. Suzanne with high participation. There were tensions in Trou du Nord between Fusion and Alyans partisans around the VC, but no incidents reported other than frustration by over one hundred voters who could not vote since their names did not appear on the LEP. This was also the case in Ouanamenthe circumscription. The hotspot in the department was Terrier Rouge, with conflict between partisans of Alyans and Konba, both having candidates running for deputy. Konba had accused Alyans of massive fraud in Colonie VC. Colonie was pro-Alyans while Terrier Rouge was pro-Konba, so it was also a conflict of power between the two areas. MINUSTAH intervened and stopped potential violence between partisans.

**Observation of the closing and counting**

The voting centre closed on time and MINUSTAH secured the area, blocking the VC with their tank. There had been several changes made to the handling of the voting materials that were now better marked with polling station numbers on the document of the verbal process. Additionally, a manual with images now explained the procedures and handling of the ballots and how to differentiate the colours of the verbal processes to be sealed in different envelopes while the ballots and the materials were to go in different ballot boxes.

Members of the polling station followed the new procedure. The ballots were first counted, starting with senatorial votes. The unused ballots, destroyed ballots and unmarked ballots were counted, adding this to the number of valid ballots. The difference from the first round was that the ballots had not been counted before the opening of the polling station, so nobody knew the exact number of ballots delivered, but the approximate figure was 420 ballots.

Participation had been low with a total of only 175 votes for deputy of 400 registered voters in the polling station. Five votes for deputy were blank and three votes were annulled giving a total of only 183 voters participating. This was compared and confirmed with the LEP. As voters could vote for several candidates on the same ballot, the total figure of 333 votes cast for senate did not reflect the actual number of voters.
The polling station delivered the sealed ballot boxes and envelopes at 2000 in the evening. The rest of the country had finished two hours earlier, while department North-East was still counting up the votes.

**Observation of the tabulation**

Election materials from the department were gathered by MINUSTAH during the evening and, accompanied by the BECs, brought to the MINUSTAH base in Fort Liberte before midnight. The exception was two remote mountain areas, whose material was delivered the next day by UNPOL. BED, BEC and MINUSTAH went through the sensitive materials together, comparing the verbal processes and the figures of ballots before sealing them. Cooperation was excellent between these election organisations.

Department North East sent the voting materials to Port Au Prince by helicopter at 1300 on the 22 April. North East was the first department to finish the tabulation. The department had the highest voter turnout in the country, with 47.3 % voters’ participation. The probable reason for the high turnout was the repeat of the senatorial election and the total rerun of the election in St Suzanne.

On the national level the total voter participation was 30.8 %.

St. Suzanne has to organise a second legislative round of election before any deputies can be elected. It is still unclear when this can take place. A second round senatorial election was planned on 17 June, but has been postponed with no new dates set. Department North East has at present no representation in the National Assembly. There can be no participation in the senate without another election round to decide who will get the three senators seats. It is the same scenario with the deputies, who are not represented in the parliament. As a result, the Department North East is not participating in any of the national Haitian institutions of government.

The local elections have been postponed several times and the dates are still not fixed. Instead, the central government have choose the leaders on a local level as heads of the twelve departments, who will then nominate the town mayors and members of the communal assemblies (ASEC) and the municipal assemblies (CASEC).

**The review of Complaints Process**

**Complaints in Department North East**

After the first round of the elections, five contestations were received from the department North-East to the National Office for Electoral Contestations (BCEN). Three were approved on 4 April, those being from two senatorial candidates and one deputy candidate.

The successful protest of Amos Andre, the Mochrenha candidate for senate, led to a decision to repeat the senatorial election in the whole department. Rayneld Francois, an independent candidate for senate, had contested that neither his photograph nor his emblem was on the ballots. The complaint was accepted and the senatorial election was repeated in this department.

In Trou du Nord, the first election round between the three main candidates for deputy led to a contestation that, when approved, resulted in a tense situation with public incidents. Donal Dorsainvil of Fusion received the most votes while Fritz Gerald Rozefordt of Pont was in second place and Pierre Wanique of Alyans was third. As a result of the decision by the BCEN, Rozefordt, a former town police chief during Aristide times, lost. Wanique, a guerrilla leader who had taken part in organising the uprising against Aristide, took the place of Rozefordt for the second round. In the second round, however, both of the militants lost to the wealthy businessman Dorsainvil.
Other contestations were not approved. In the circumscription of St. Suzanne four political parties, MPH, Fusion, Alyans and Pont contested the electoral process and the results. Accusations were made against the whole electoral structure on the communal level, from the local BEC to the local members of polling stations, accusing most of them of being partisans of Lespwa and guilty of manipulating the votes in favour of Lespwa. After the April elections, Lespwa won even stronger support in St. Suzanne.

In Fort Liberte the Lespwa candidate Charles Pierre had received the most votes. His opponent from Alyans contested the result after losing the second election, but it was not accepted. In circumscription Fort Liberte / Ferrier, Colas Bilgot, an OPL candidate in the first round, contested the result, claiming that members of the polling station had manipulated the result. He showed the LTO team copies of several verbal processes in the voting station in Fort Liberte that showed repeated inaccuracies by numbers and letters in the results of the votes he had received. The evidence of fraud seemed well documented, but the contestation was never accepted by the BCED and therefore not taken into consideration. The difference in the figures was critical for the candidate to run for the second round. As the lowest numbers were chosen by the polling station to be counted, he lost his right to participate in the second round. Thus he accused both the BED and most of the members in the voting stations involved for being pro-Alyans.

After the second election and within the deadline of 72 hours to deliver contestations, the LTO team was given copies of two complaints. The first was by an Alyans candidate against a Fusion deputy who had won in Mont Organise / Capotille circumscription. This appeared to be a false contestation made as a counter accusation against a situation that was witnessed by MINUSTAH Police concerning harassment of candidates and partisans and intimidation of voters at the polling station. The Alyans candidate was a well-known former Lavalas activist related to criminal groups within local Lavalas politicians who controlled illegal smuggling operations across the border area to the Dominican Republic. The contestation was rejected by the BCED.

The other contestation came from the deputy Konba candidate Jean Pierre in Terrier Rouge circumscription. Konba filed against the other candidate, Enos Pierre of Alyans, claiming that the members of the polling station in the voting centre in Colonie were pro-Alyans and that they took part in mass fraud, provocations and intimidations. The contestation, which was also signed by the supervisor of the voting centre, was initially rejected by the BCEN. Unrest continued between the groups with Konba partisans blocking the main road in and out of Terrier Rouge. The result was that the Alyans candidate won the second round in Terrier Rouge.

Complaints on National Level

The Simeus-Case was the most significant one in the pre-election period ending with a juridical scandal that created a juridical instability. This happened after the publication of the Presidential Decree of 12 October, which eliminated the possibility of appeal to the Appeal Court to retry an appeal of application of candidature after the case had been rejected by the National Electoral Office of Complaints (BCEN). This conflict arose after The Appeal Court had supported a candidate (Simeus) who had been rejected by the BCEN.

The Simeus case became the Simeus Affaire as Simeus brought his case to the Appeal Court, where the judges annulled the decision by the CEP and BCEN and instead decided that Simeus could be a presidential candidate. The cabinet of the interim president then stepped in and retired five of the judges from the Court who had come to this verdict, and re-enacted the former decision, rejecting Simeus as a candidate.

The CEP had also rejected another presidential candidate, Samir Mourra of the MPH (Mobilization Pour le Progress Haitien) together with Dumarsais Simeus of TET ANSANM, both for their dual nationality. The creation of a State Commission on Candidates (CENC) did not
improve matters due to the rules of function, the limited mandate given to the Commission and a lack of follow up action on its decisions. The lack of transparency in CENC decision-making created questions to the whole election process.

Few parties and candidates made any formal complaints. The EUOM concluded after both the first and second round of elections that there were few protests delivered by the candidates. According to the EUOM in their preliminary declaration of 24 April this was likely due to a lack of experience by the candidates and the lack of a judicial framework for protests even to be considered. Many complaints were therefore eliminated at the level of the Departmental Office for Electoral Contestations (BCED) before coming to the attention of the National Office for Electoral Contestations (BCEN).

“All candidates or its delegates can, in the seventy-two hours that follows publication of the results foreseen in Art.195, contest the election result of another candidate if the vote, the counting of the votes or the redaction of the verbal process have been irregular and not adequate to the present decree or if there has been fraud during the election.” (Election Law Art. 198)

In such cases the contestation must be signed by the candidate or his delegate.

“If an electoral fraud is proven to have taken place by a representative of the candidates or his party or his political groups then votes in favour of this candidate, on the level of the implicated voting station, must be declared null.” (Election Law Art. 202)

Most protests were likely terminated at the departmental level of the BCED, (meaning the BED with a judicial expert). After the first round of elections in February, sixty-five contestations were approved for review by the BCED. Fourteen of these were accepted and as a consequence the elections had to be redone in those circumscriptions involved.

The senatorial election was annulled in department North East after the first round, and the second round of senatorial election has yet to be organised. In the circumscription of St. Suzanne both the legislative and the senatorial election had to be re-organised while in circumscriptions in department West, Artibonite, Nippes and Grand Anse, the legislative election also had to be re-organised.

After the second round of elections, there were no visible adjustments or major changes made to the results. The CEP had not accepted any complaints received from candidates complaining on the accuracy of the process result, or accusations of fraud. It can thus be questioned if there were legitimate reasons to believe that any fraud took place.

The EUOM assessed that CEP decision making in regards to complaints was not founded on solemn judicial criteria.

The Commission for Electoral Guarantee (CGE), that was created only three weeks before the 7 February election, made recommendations to the CEP concerning certain regulations in The Election Decree that had not been applied. On the basis of the electoral decree Article 160, the CGE recommended changes and criticised the poor work of members in the Communal Electoral Committee (BEC) and Departmental Electoral Committee (BED) in respect to election preparations and conduct of the first election round.

The EUMOE found that the CGE as a judicial reference guaranteeing electoral transparency had no executive power over the CEP and was therefore ineffective.
Conclusions and recommendations

Although the legal framework does form a sound base for the structures of democracy in Haiti these structures are largely hollow and symbolic. The historical lack of democracy and the culture of self serving corruption meant that there was no popular understanding of, or respect for, law, justice or due process. In the absence of truly functional national institutions it is questionable if the elections were held too early.

These institutional failings are directly related to the human rights situation in the country. A UN report on the Haitian human right situation during the period of the transitional government states that

“There is a sickness in the Haitian judicial system, marked by a dysfunction in the penalty system; the judges and the commissars are lacking independence. The people's difficulties in accessing justice create frustration and anarchy”.

Before the election the UN had advised of a need to reform the whole judicial system.

The UN should continue to help building the state institutions and must educate a new civil service to run the country. The current human component of the police and justice structures needs to be renewed, re-educated and paid according to their work. The people and the media need to be empowered and encouraged to be the watchdogs on the culture of corruption within the political system.

The changes and improvements in the proceedings due to the earlier failures made the second round of elections more efficient, the timing was dramatically reduced and, due to more understandable proceedings, less mistakes and irregularities were noted in the result of the verbal process. The cooperation between MINUSTAH and the election organisation made a technically successful election possible.

The preliminary declaration of the EUOM of 24 April noted that while the EUOM did register acts of intimidations and cases of fraud on election day this did not affect the credibility of the election. The EUOM conclusion was that overall the election went well.

However, while organisational progress was made between the first and the second round of elections, the low turnout of 30.8 per cent indicated a lack of interest from voters who did not give the second round the same importance as the presidential election.

There was a weak election campaign before the second round and no major effort by the CEP or the media to organise debates between candidates.

There are certain aspects to the election process that should be improved such as the secrecy of voting, the voting of party agents and the updating and adjusting of the LEP. The CEP should take the responsibility to address these issues as they have corrected many mistakes from the first election.

After many initial problems with registering the candidates and delivering ID cards, success was achieved with more than 92% of the ID cards delivered to voters. The electoral system revealed its weakness most notably in relation to the senatorial election in which no senators were elected on the first round and just two deputies.

The election campaign was generally seen as weak due to a lack of finances to support the party candidates. There was also a lack of initiative. Only LESPWA had finances to support a robust political election campaign that was visible throughout the country.
The media generally did an important job in informing the public on the voting operation and the irregularities that took place.

Civic education was almost completely neglected during the long electoral process. There is a consensus between the electoral organisers that in the future civic education should be given a higher priority in the process of democratization of Haitian society.

Despite the obvious shortcomings and challenges as outlined in this report, Haiti has indeed taken a step forward towards democracy but the lack of participation during the second election shows that more development is needed.

Comments on the election observation mission

The presence of the European Union Observation Mission during the Haitian election seemed to be much appreciated by the Haitians due to its perceived impartiality. Its presence gave credibility to the election process and therefore its statements and actions received much attention.

The general views expressed in this report coincide with those of the EUMOE.

The significant difference between monitoring the elections in the departments, compared to the capital, is that in the department the views of the voters and the administration are readily accessible and the frustration of being isolated from the main events was felt and shared by voters and administrators with the observers. It is this LTOs impression that the EUMOEes presence during the Haitian election gave credibility to the election process. However, there were aspects of this mission that deserves critical attention.

The EUMOE mission started by monitoring the electoral process and the work of the electoral body, the CEP and other national bodies involved, as well as monitoring the roles of the international organisations OAS and MINUSTAH. The EUOM and MINUSTAH signed an agreement on support and co-operation.

On the practical level, this agreement gave the Mission observers status as UN staff in regards to security, health care, eventual evacuation and admission to use base facilities. On the ground, this agreement helped the observers, who were working under the challenge of poor communications, to work more effectively by allowing for easier exchange and delivery of information with MINUSTAH. The UN accepted responsibility for the security of observers on the ground in case of emergency, which gave the EU parliament the assurance it needed to give to its member countries the green light to have the mission in Haiti.

The highly political decision to withdraw from the election and to evacuate its observers after the first round was made before election results were publicly announced. This decision was never explained in public and led to anxiety and concern amongst the Haitian population when the mission was withdrawn. The observers were evacuated to Santo Domingo and the mission was closed. The mission leadership justified their abrupt departure from the whole country on the basis of disorder in the capital. They did not explain the main reason for this sudden closure to the observers and there was uncertainty as to the future of the mission.

Upon the return of the observers for the second round of the election, Mr. Van Hecke elaborated on the reasons for the evacuation. Apologising for the lack of information provided earlier he explained to the observers that the withdrawal was based on the observed actions of the American
countries and MINUSTAH in usurping the role of the CEP in a way that was not in accordance with democratic principles.

With this explanation by the EUMOE leadership, the withdrawal appeared to have been the correct reaction to observed external interference in the process of a democratic election. Nevertheless, it would have been good as a part of a mission to have been better informed and aware about important decisions being made at the time on the mission’s role and future.

Appendices
(not published in web edition)

1. EU MOE Déclaration Préliminaire, Port-au-Prince, le 24 avril 2006