

APPENDIX C: Major Corruption Cases in Haiti and Government of Haiti Efforts to Address Corruption

Major Corruption Committed Among the Public and Private Sectors in Haiti and Corruption Prosecutions Investigated by the Haitian Judiciary

The 2014 Law on Prevention and Repression of Corruption, the country's first anti-corruption law, criminalizes a wide variety of corruption-related offenses, including illicit enrichment, bribery, embezzlement, illegal procurement, insider trading, influence peddling, and nepotism. The law imposes sentences of 3-15 years imprisonment and gives legal authority to the government's Anticorruption Unit (ULCC) and its Financial Intelligence Unit (UCREF) to launch corruption investigations. The judicial system generally oversees cases of corruption, but the Senate prosecutes high-level officials and parliament members accused of official corruption. Law enforcement authorities and the government's anti-corruption agencies have launched several corruption investigations since January 2015, but no administration has prosecuted a high-level official for corruption. Despite many reports of widespread corruption associated with the PetroCaribe program, the alleged scandal has yet to result in a single prosecution.

Human rights organizations have reported that several judicial officials, including judges and court clerks, arbitrarily charge fees to initiate criminal prosecutions and that judges and prosecutors fail to respond to those who cannot afford to pay. Credible allegations cite unqualified and unprofessional judges who received appointments as political favors. Persistent accusations indicate that court deans, who are responsible for assigning cases to judges for investigation and review, at times assigned politically sensitive cases to judges with close ties to figures in the executive and legislative branches. Judges frequently closed cases without bringing charges and often did not meet time requirements.

2015

In March, Nonie Mathieu, one of ten judges on the high administrative and financial court (CSCCA), was accused of misappropriating 37 million Haitian Gourdes (\$694,000). While there was an internal investigation, by law, only the Senate can order an official audit of the CSCCA and formally charge the judge. The Senate had ceased functioning as of January, due to Parliament's failure to hold elections; thus, the Senate could not audit and charge the judge.

There were frequent reports of corruption in the Haitian National Police (HNP), though new leadership at the Office of the Inspector General (OIG) helped to

improve the unit's efficiency and advance more internal investigations. Initial investigations indicated the 2014 prison break at the Croix-des-Bouquet facility was an orchestrated event involving multiple HNP officers. Five officers were fired, seven were suspended, and 12 others received letters of reprimand.

In April, HNP and judicial officials were implicated in a scheme to extort money from a Haitian-American inmate. Enock Gene Genelus, the prosecutor in Gonaives (Artibonite Department) investigating an assault and domestic dispute matter against the accused, directed HNP officers to escort the defendant from jail to an ATM to withdraw \$50,000 to pay the defendant's attorney. A Ministry of Justice investigation resulted in the firing of Genelus.

The replacement of the ULCC director in February by someone with little anti-corruption experience also hampered anti-corruption efforts, according to government watchdog groups. Although the ULCC remained operational, the number of cases forwarded for prosecution decreased significantly. ULCC officials cited a lack of prosecutorial follow-through as an impediment to resolution of matters referred for prosecution.

2016

In 2016, Senator Youri Latortue, chair of the Senate's Ethics and Anti-Corruption Committee, released a report and called for an investigation into the management of the PetroCaribe program, a strategic oil alliance signed with Venezuela in 2006, to support economic development, social programs, and infrastructure. According to protesters and local media, between two to six billion dollars went missing from the program, and citizens saw few of the promised benefits. The report listed several systemic vulnerabilities and lack of controls within Bureau of Monetization of Development Aid Programs (BMPAD) for the PetroCaribe funds and alleged dubious management practices (such as limited tenders and back-dated contracts) but did not identify a specific disappearance of funds. The targets of Senator Latortue's investigation included former prime ministers Jean Max Bellerive, Gary Conille, Laurent Lamothe, and Evans Paul, who served in the Michel Martelly or Rene Preval administrations. Some of the targets of Latortue's allegations decried the investigation as politically motivated, as many investigation targets were his political opponents.

In another case, Sandro Joseph faced corruption charges from his time as director of the National Insurance Agency from 2006 to 2008. In response, Joseph issued a list of prominent citizens, including former president Rene Preval and three sitting

senators, who he claimed received funds unlawfully from the agency. Joseph was acquitted of all charges in September 2016.

Despite the appointment of a new ULCC director, considered generally neutral and effective by civil society groups, in April, ULCC officials cited a lack of prosecutorial follow-through as an impediment to resolution of matters referred for prosecution.

In August, UCREF published a 68-page report which charged that Jovenel Moïse, then the CEO of Agritrans and a presidential candidate, had likely laundered some \$6 million through his company's banana-exporting agribusiness between 2007 to 2013. The unit launched a money laundering case against Moïse, but the investigation never led to formal charges.

2017

The new government under President Moïse replaced the chief prosecutors in all 18 judicial jurisdictions, as well as the heads of ULCC and UCREF. Judges commented this created a new venue for executive influence on judicial decisions because executive appointees can prevent cases from being investigated or brought before a judge altogether. Human rights groups particularly criticized President Moïse for firing Sonel Jean-Francois as UCREF director general – one year into a three-year term – in an attempt to muzzle the aforementioned money laundering investigation against him.

In August, President Moïse fired Minister of Social Affairs and Labor Roosevelt Bellevue for alleged corruption related to the overinflated price of government-purchased school kits, resulting in almost a million-dollar discrepancy. An August 10 ULCC report cited numerous violations of public procurement laws by government officials and determined that the then minister of economy and finance, Jude Alix Salomon, issued an illegal waiver to justify school kit purchases. The report did not, however, support a finding of overbilling for the school kits. On August 15, the Superior Court of Audits and Administrative Disputes implicated Bellevue in the school kits affair.

In November, the Senate's Special Commission of Investigation issued a 656-page report detailing alleged embezzlement and fraud by current and former Haitian officials managing \$2 billion from Venezuela's PetroCaribe discounted oil program from 2008 to 2016. Public pressure reportedly led Moïse to fire two high-ranking officials in his government for their involvement in the scandal.

2018

In October, a judge ordered the arrest of former HNP director general Godson Orelus in connection with his role in illegally smuggling arms and ammunition into the country in 2016. Orelus was charged with a number of crimes, including money laundering. After Orelus appealed the charges, a judge released him from custody in April 2019, and an appellate court dropped the charges a month later.

In November, unknown assailants fired numerous gunshots into the home and vehicle of Dieunel Lumerant, the presiding judge in an arms-trafficking case involving then chief of the National Palace Security Vladimir Paraison.

2019

On January 31 and May 31, the Audit Bureau issued reports on the government's spending of PetroCaribe funds between 2008 and 2018. The two reports identified numerous current and former government officials and private-sector contractors involved in questionable disbursement of government funds, overbilling, collusion, favoritism, and embezzlement. The reports implicated past administrations for alleged misappropriation of public funds, as well as President Moïse for alleged misappropriation of contracts worth \$1.2 million prior to his presidency. Based on the Audit Bureau's report to the chief prosecutor, then prime minister Jean-Henry Ceant announced a formal complaint against several former government officials, after which the chief prosecutor transferred the case to the judiciary. On July 15, the investigative judge assigned to the PetroCaribe case issued subpoenas for former prime ministers Jean Max Bellerive and Laurent Lamothe and several other high-level officials to answer questions.

2020

In July, a new director general, Hans Joseph, became head of the ULCC. That same month, Youth Minister Max Athys resigned after publicly stating he had found little evidence of the sports facilities for which PetroCaribe funds had been disbursed under the supervision of Olivier Martelly, son of the former president. A third report issued by the Superior Court of Auditors and Administrative Disputes in August stated more than 140 billion Haitian gourdes (HTG) (\$2 billion) in PetroCaribe funds had been embezzled or wasted in "worthless" projects. On August 10, the Center for Human Rights Research and Analysis (CARDH) reported aid worth hundreds of millions of Haitian gourdes meant for the government's response to COVID-19 had been misappropriated, accusing the government of a vast "operation of corruption, pauperization, and human rights violation." The center alleged the government had spent at least 2.4 billion Haitian gourdes (\$34 million) in the "greatest opacity" without the approval of the High

Court of Public Accounts, the state entity responsible for reviewing and approving government contracts, including during states of emergency.

In August, Carmen Cantave, mother of former Senator Youri Latortue, appeared before the ULCC as part of an investigation into corruption in the National Old Age Insurance Office's (ONA, Social Security equivalent) loan programs. Cantave was allegedly paid over \$10,000 as a Senate employee between October 2019 and January 2020, when Latortue's term ended. According to local press, Latortue said his mother was not a staff member and was "just doing him a favor" by receiving the money that was meant for payment of staff salaries.

2021

In February, the ULCC announced the launch of an investigation into the purchase of a \$3.36 million home in Laval, Quebec by Marie-Louisa Aubain, wife of Senator Rony Celestin, originally reported by Canadian press. The story referred to Aubain as a diplomat at the Haitian Consulate in Montreal and included a call from prominent Haitian human rights organization National Network for the Defense of Human Rights (RNDDH) for an investigation.

In April, a local nonprofit organization, the Eyes Wide Open Foundation (FJKL), published a report on HNP's financial mismanagement between 2016 and 2019, based on a decision rendered on March 25 by the Superior Court of Auditors and Administrative Disputes which rejected an audit of the HNP's finances and called for a greater level of detail. According to the FJKL, the poor management of HNP finances posed a danger to public security by limiting the organization's operational capacity. The FJKL also highlighted errors in the High Court's judgments and recommended strengthening the institution, which plays a fundamental role in the fight against corruption.

On June 26, Investigative Judge Ramoncite Accime announced his decision to suspend the PetroCaribe investigation indefinitely and unfreeze the defendants' assets due to what he termed a lack of evidence. Judge Accime also ordered the release of the frozen assets of six businesses, including President Moise's energy company Comphener, Inc. Despite these actions, however, the judge did not explicitly absolve the defendants of guilt.

2022

The ULCC opened an investigation into corruption by the General Administration of Customs (AGD) Director General Romel Bell, and ULCC investigators, cooperating with HNP officers, raided the AGD Central Office May 20. AGD is

the largest agency under the Ministry of Economy and Finance (MEF), and economists estimate the Government of Haiti loses roughly \$650 million each year due to AGD under-reporting of revenue, fraudulent reporting, underqualified staff, and intentionally depressed performance metrics. The action came in the wake of several high-level U.S. government interventions urging the Government of Haiti to reform its customs system and to consider new leadership at the AGD.

Government of Haiti Efforts to Address Corruption and Restore Trust in Public Institutions

While the Haitian government rarely prosecutes government and law enforcement officials accused of committing abuses and corruption, it has taken some positive steps. In early 2022, the ULCC presented its 2020-2030 strategy to combat corruption; the previous anti-corruption strategy had expired in 2019. Later in May, the ULCC signed a memorandum of understanding with the National Library of Haiti to create an anti-corruption documentation center to give the public more access to resources related to fighting corruption. In June, the ULCC presented a draft bill protecting whistleblowers, witnesses, experts, and victims in the criminal sector.

When Hans Joseph became the Director General of the ULCC two years ago, the unit had only two commissions to carry out investigations, each headed by an attorney and including a certified investigator (often seconded from the HNP) and other support staff. The ULCC worked to increase the number of commissions and thus its investigative capacity, in addition to conducting training for government prosecutors and court clerks on the 2008 law requiring the declaration of assets. The ULCC also has a hotline number, which allows citizens to report corruption. As of May 2021, the ULCC had submitted 70 requests asking for the prosecution of 7 persons, as well as 63 former mayors. The ULCC under Joseph has not shied away from investigating high profile, politically well-connected individuals. Among the cases referred for prosecution were that of prominent businessman Reginald Boulos, as well as former Senator Youri Latortue and his mother. All three are accused of having misused loans obtained from Haiti's social security office. Unlike the Audit Bureau, the ULCC does not have the autonomy of an independent institution.

On PetroCaribe, while Investigative Judge Ramoncite Accime indefinitely suspended the investigation in 2021, prominent political actors outside of the government have asserted that investigations into financial crimes, like PetroCaribe, should remain a priority.

The Government of Haiti receives donor assistance to improve its capacity to combat corruption. The ULCC signed a Memorandum of Understanding (MOU) in July 2021, with the Organization for American States' Anti-Corruption Project in Haiti (OAS/RILCH), to strengthen investigative capabilities by setting up integrated financial crime investigation teams with the participation of OAS experts. UCREF has likewise signed an MOU with OAS/RILCH in February 2022, under which OAS/RILCH will provide training and carry out joint work with UCREF staff. In April 2022, School of the Judiciary of Haiti signed an MOU with OAS/RILCH; the latter will provide experts for specialized training. The Government of Haiti had requested the creation of OAS/RILCH, particularly to support the creation of anti-corruption infrastructure in the country. In the past, the ULCC received assistance through USAID's Supporting the Efficient Management of State Resources Project (GERÉ).

Pursuant to Executive Order 13818, which builds upon and implements the Global Magnitsky Human Rights Accountability Act, in 2018, the U.S. Department of Treasury designated Senator Felix Ramon Bautista from the Dominican Republic, along with five entities owned or controlled by him, for engaging in significant acts of corruption in both his home country and Haiti. Since his designation, the May 2019 report on the misuse of PetroCaribe funds, issued by Haiti's Supreme Audit Bureau, implicated construction firms owned by Bautista.

In 2020, the Treasury Department also designated three individuals in Haiti pursuant to Executive Order 13818 for being foreign persons responsible for or complicit in, or having directly or indirectly engaged in, serious human rights abuses. The three designated individuals – Jimmy Cherizier, former Haitian National Police Officer; Fednel Monchery, the Director General of the Ministry of the Interior and Local Authorities; and Joseph Pierre Richard Duplan, President Moïse's Departmental Delegate – are alleged to have contributed to human rights abuses while in office or abused their official roles to facilitate the planning and execution of the 2018 La Saline attack.