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The Honourable Colin Powell
Secretary of State
U.S. Department of State
2201 C Street, N. W.
Washington DC 20520
USA

7 May 2004

Dear Secretary Powell,

When Irene Khan, Amnesty International's Secretary General, met Ambassador John Negroponte in New York on 2 April, she was pleased to hear that the United States government agreed that the situation in Haiti deserves sustained international attention. The UN Security Council has since adopted Resolution 1542 creating the United Nations Stabilisation Mission in Haiti (MINUSTAH). Amnesty International welcomes the priority it gives to the promotion and protection of human rights, as well as its commitment to ending impunity and establishing an independent judiciary and a state based on the rule of law. The organisation also believes that MINUSTAH's stated commitment to comprehensive and sustainable disarmament and the protection of civilians will be crucial elements in establishing a secure and stable environment in Haiti.

In this regard, Amnesty International also welcomed the assurances you gave during your visit to Port-au-Prince in early April that disarmament of all armed groups is a top priority for the United States government. An Amnesty International delegation visited Haiti from late March to early April, and found a profound sense of insecurity and fear among Haitians from across the political and social spectrum because of the actions of the many armed groups still at large. Our delegation likewise concluded that the first step towards establishing the rule of law must be a nationwide disarmament program.

The presence of the Multinational Interim Force (MIF), largely comprised of US forces, has certainly contributed to an improvement in the security situation in Port-au-Prince. However, we regret that the MIF has not, as Amnesty International and others have repeatedly urged, seriously engaged with the Haitian authorities to disarm rebel and other armed groups. In addition, there are three issues concerning the behavior of US forces in Haiti which we believe merit your immediate attention: reports that US soldiers have carried out illegal and intimidating searches at the premises of grassroots organizations; the failure to clarify the legal basis on which a number of Haitians are apparently being held by US forces in the National Penitentiary in Port-au-Prince; and the failure to carry out appropriate investigations into the reported killings of at least six Haitian men by US military personnel.

Searches carried out by US Marines

Amnesty International is concerned at reports that US Marines have carried out violent searches on 20 and 23 April at the Hervé Medical Centre and at the building where a peasant organisation, *Tet Kole*,

and a trade union, *Antèn Ouvriye*, have their offices. According to the information received by Amnesty International, the US Marines did not show a search warrant, nor were they accompanied by a justice of the peace as required by Haitian law. In both cases, doors were opened by force and damaged and furniture or materials broken. Reportedly, members of the staff of the Hervé Medical Centre were made to lie on the floor, while those of *Tet Kole* and *Antèn Ouvriye* were held at gunpoint, with their hands on their heads for some two hours while the search was being conducted. They also had to answer repeated questions on their activities and the origin of their financing, and had to surrender the keys to all their offices and filing cabinets, one of which was smashed open by the US Marines. The documents in it, belonging to both organisations, were read on the spot. Soldiers also confiscated the amount of 34,850 Haitian *gourdes* belonging to *Tet Kole*, which they said could be claimed back with a reference number they left.

Amnesty International understands that MIF soldiers were searching for a suspect involved in issuing false passports who had an office in the same building in which the two above-named organisations were housed. However, the US Marines do not appear to have taken adequate steps to protect civilians from being subjected to unreasonable search and seizure, they did not produce warrants or any other authorisation to carry out the search, and the searches appear to have been carried out in a violent and intimidating manner. We have received reports that violent searches for weapons may have taken place in other areas of Port-au-Prince, but that the people involved are afraid to denounce them. We would be grateful to receive information about these incidents and on any measures taken to ensure that US forces conduct such operations only after obtaining appropriate warrants or authorization, and without intimidation or destruction of property.

Detainees in apparent custody of US forces

The Amnesty International delegation visiting Port au Prince established that a number of people – reportedly under 40 at the time - were apparently being held in the national penitentiary, some of them in the custody of US forces. A part of the prison was controlled by US marines and the delegation was not permitted access. The delegates asked a representative of the political section of the US Embassy in Port-au- Prince about these detainees. Although he acknowledged that some Haitians were kept under guard by the US forces, he was unable to provide details about the prisoners or the legal context of their detention. We understand that former Minister of the Interior and National Security, Jocelerme Privert, as well as at least one other (rumoured to be Amanus Mayette, a former *Fanmi Lavalas* MP) are still being held in the apparent custody of US forces.

Need for investigations into killings by US forces

Attached to this letter are descriptions of four incidents that took place between 7 and 12 March in which at least six Haitians were reportedly killed by US forces. The circumstances of the killings are not clear; it is not known whether all of the victims were armed or posing an immediate threat, not all of the bodies have been recovered, and there have apparently been no investigations undertaken in order to establish whether troops were defending themselves from attack, or whether excessive force may have been used.

International standards require security forces to respect the principles of proportionality and necessity, and to resort to lethal force only when necessary to protect lives, including their own if they come under attack. However, all killings resulting from the deliberate use of lethal force should be subject to a thorough, prompt and impartial investigation, which should determine, at minimum, the cause, manner and time of death, as well as the person or persons responsible. The families of the victims should be kept informed of the progress and results of investigations. If the investigations indicate that any of these killings may have been carried out unlawfully, those responsible should be brought to justice. The families of anyone found to have been unlawfully killed should be provided with fair and adequate compensation.

We would appreciate receiving details about the number and identity of those apparently being held in US custody, and the steps taken by those guarding the detainees to ensure that they have access to full legal safeguards. We also seek clarification about the legal basis on which such persons are being held by US forces operating under the mandate provided to them by the UN Security Council. In addition, we seek assurances that any killings resulting from the deliberate use of lethal force by US personnel – including those cited below– should be properly investigated, in accordance with international standards.

Yours sincerely,

Susan Lee
Director
Americas Regional Program

Appendix: Reported killings by US Marines

In the period from 7 to 12 March 2004, at least six people were reported to have been killed by US Marines in four separate incidents, according to information received by Amnesty International.

On 7 March, US Marines reportedly shot and killed a gunman who allegedly fired at them during a demonstration in front of the National Palace. According to Major Crusan, the Marines were shot at from the top of a building and subsequently returned fire in that direction. MIF personnel certainly have the right to defend themselves if they come under attack, although witnesses allege that US forces present did nothing to protect the unarmed demonstrators after gunmen allegedly opened fire on them. Seven people were killed during the demonstration, including a Spanish photographer, and more than thirty wounded.

On 8 March, US Marines in Port-au-Prince opened fire on a car which approached a check-point at high speed, reportedly ignoring road signs, at around 8 pm. The driver was killed and his passenger wounded. According to press reports, US Marine spokesman Sergeant Edwards said the vehicle was seen as a threat because of the speed with which it approached the check-point. Master Sergeant Ruiz of U.S. Southern Command in Miami said that the US Marines fired in self defence. US Marine Commander Gurganus added that the victims had 'hostile intent' and that 'this is clearly one that we are not going to investigate'. However, it is not at all clear on what basis the soldiers determined that the two men had "hostile intent", given that the checkpoint was new and that high speed driving is normal in Port-au-Prince, nor is it clear what happened in the immediate aftermath of the incident. According to Sergeant Edwards, the body of the driver, Mutial Telusma, was handed over to the Red Cross, and the injured passenger was given to the custody of the Haitian National Police. However, an HNP Inspector-General reportedly told Reuters that he had not received a report of an injured person being handed over to the HNP after the incident.

Moreover, a body was found the next morning still lying in the vicinity of the check point. A man claiming to be the victim's cousin reportedly identified the body as that of the 31-year-old taxi driver Mutial Telusma. He reported that Mutial had collected his brother Sedelin Telusma from his job at the airport and was driving home at high speed when he encountered the road block where both were shot by the US Marines. Sedelin Telusma was reportedly treated for two gunshot wounds.

On 9 March U.S. Marines reportedly shot and killed at least two people. According to press reports, US Marines spokesman Major Crusan said the US Marines were patrolling near the residence of Prime Minister Yvon Neptune when they allegedly came under 'hostile fire'. The US Marines shot back at gunmen thought to have fired from a nearby rooftop. According to Major Crusan, the US Marines thought they killed two people. The US Marines came under fire again when, three hours later, they returned to the scene with Haitian National Police to remove the bodies. According to Sergeant Edwards, they found blood, shell casings and impact marks, but no bodies.

On 12 March, US Marines reportedly killed at least two men during an exchange of gunfire between a US Marines patrol and unidentified gunmen. According to Sergeant Edwards, the US Marines were patrolling on foot and in armoured vehicles in Port-au-Prince's Bel-Air district, which is near the National Palace, when they were fired upon by several gunmen. The US Marines say they returned fire, allegedly killing two of the gunmen. However, journalists are said to have seen three bodies at the scene of the shooting. Residents of Bel-Air also said that the US Marines had killed three people.

In addition, Amnesty International has received reports that at least six other persons have been killed by US Marines, although the cases could not be independently verified. On 11 March, two men were killed near the St Martin church and, around that date, two others near St. Anne church. On 20 March two other people were killed and two others wounded in Canapé Vert.