

Acuerdos Bilaterales

Clasificación: 76-2008

Fecha de Ingreso: 11 de febrero de 2008

Nombre de Acuerdo: Memorandum of Understanding between the General Secretariat of the Organization of American states, through its Department of Internacional Legal Affairs, and the Ministry of the Attorney General of the Republic of Trinidad and Tobago, to execute a Project to support Implementation of the Recommendations from the Committee of Experts of the Follow-up Mechanism for Implementation of the Inter-American convention Against Corruption

Materia:

Partes: SG/OEA & Ministry of the Attorney General of the Republic of Trinidad and Tobago

Referencia: Trinidad and Tobago

Fecha de Firma: 1º. de noviembre de 2007

Fecha de Inicio:

Fecha de Terminación:

Lugar de Firma:

Unidad Encargada:

Persona Encargada:

Original:

Claves:

Cierre del proceso:



**Organización de los Estados Americanos
Organização dos Estados Americanos
Organization des États Américains
Organization of American States**

To: Dante Negro, Office of International Law

WP

From: Wendy Pond, Office of Legal Cooperation

Re: Original signed Memorandum of Understanding for your files

Date: November 13, 2007

For your files, and in accordance with Article VII, section 7.5 of the "Normas para la negociación, preparación, revisión, firma y registro de acuerdos en la Secretaría General" (Executive Order No. 05-06. Rev1), please find an original signed copy of the

MEMORANDUM OF UNDERSTANDING BETWEEN THE GENERAL SECRETARIAT OF THE ORGANIZATION OF AMERICAN STATES, THROUGH ITS DEPARTMENT OF INTERNATIONAL LEGAL AFFAIRS, AND THE MINISTRY OF THE ATTORNEY GENERAL OF THE REPUBLIC OF TRINIDAD AND TOBAGO, TO EXECUTE A PROJECT TO SUPPORT IMPLEMENTATION OF THE RECOMMENDATIONS FROM THE COMMITTEE OF EXPERTS OF THE FOLLOW-UP MECHANISM FOR IMPLEMENTATION OF THE INTER-AMERICAN CONVENTION AGAINST CORRUPTION

MEMORANDUM OF UNDERSTANDING

BETWEEN

**THE GENERAL SECRETARIAT
OF THE ORGANIZATION OF AMERICAN STATES,**

**THROUGH ITS DEPARTMENT OF INTERNATIONAL
LEGAL AFFAIRS,**

AND

**THE MINISTRY OF THE ATTORNEY GENERAL
OF THE REPUBLIC OF TRINIDAD AND TOBAGO**

VI. ENTRY INTO FORCE AND SCOPE OF THIS MEMORANDUM OF UNDERSTANDING

6.1. This Memorandum will take effect on the date the Parties sign it and will remain in force until the activities covered under it come to an end.

6.2. The Executing Agency acknowledges that GS/OAS is in no way responsible for any expenses required for full implementation of the Project beyond the consultant's fees and the contribution to hold the Workshop, as set out in the aforesaid terms and conditions. It is likewise specifically understood that the hiring of the consultant and the granting of the above contribution entail no commitment whatever on the part of GS/OAS to fully or partially fund any extension of the Project or any program or project that may directly or indirectly result from it, or create any obligation for it in connection with the measures that the country may include in the Plan of Action to implement the Committee's recommendations.

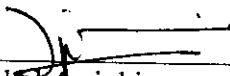
6.3. The commitments made by GS/OAS in this Memorandum and the activities it may carry out in connection therewith imply no waiver of its privileges and immunities with respect to its property and staff members under the relevant treaties and principles of International Law and other legal provisions.

6.4. Any dispute or claim arising from the interpretation or implementation of this Memorandum will be settled by direct negotiation between the Parties. Should the Parties fail to arrive at a satisfactory solution, they shall submit their differences to an arbitration procedure commonly agreed upon, the outcome of which will be final and binding.

6.5. This Memorandum may be amended only with the consent of both Parties given in writing by their duly authorized representatives. The amendments will be shown on attachments to this Memorandum and will become an integral part thereof.


In witness whereof, the present Memorandum is signed in two identical copies in English, by the duly authorized representatives of the Parties, on the dates and places indicated below.

For the General Secretariat of the OAS



Jean Michel Arrighi
Director
Department of Legal Affairs
City: WASHINGTON D.C.
Date: 11/1/2007

For the Executing Agency



Cheryl Blackman
Permanent Secretary
Ministry of the Attorney General
Trinidad and Tobago
City: P.O.S
Date: 26/9/07

ANNEX A

TERMS OF REFERENCE FOR THE NATIONAL CONSULTANT

I. BACKGROUND

1.1 **Purpose of the Project:** The General Secretariat of the Organization of American States (hereinafter "GS/OAS") and the Ministry of the Attorney General of the Republic of Trinidad and Tobago (hereinafter the "Executing Agency"), signed a Memorandum of Understanding (hereinafter "the Memorandum") to carry out a technical cooperation Project (hereinafter "the Project") intended to help Trinidad and Tobago implement the recommendations from the Committee of Experts of the Follow-up Mechanism for the Implementation of the Inter-American Convention against Corruption (hereinafter, respectively, "the Committee" and "MESICIC") concerning the provisions of the Inter-American Convention against Corruption (hereinafter the "IACAC") selected for review in the framework of the first two rounds (as set out in the Committee's reports on the country, which may be found on MESICIC's web page: http://www.oas.org/juridico/english/mesicic_com_expertos.htm).

1.2 In line with the purpose of the Project described in paragraph 1.1 of these terms of reference, the Memorandum provides for the hiring by GS/OAS, subject to the conditions set out below, of a consultant (hereinafter "the consultant") to do the following:

a. Prepare a Preliminary Draft Plan of Action to implement the above-mentioned recommendations (hereinafter the "Preliminary Draft Plan of Action"), which will be submitted to the Executing Agency for approval and will specifically identify actions enabling the country to consider adopting the measures suggested by the Committee's reports with regard to each recommendation, and propose alternative measures to implement those recommendations if different measures are chosen after due consideration. The Preliminary Draft Plan of Action will be drafted according to the standard format attached to this document (ANNEX C) and will cover, among other matters, the following:

i. Identify for each measure suggested by the Committee to comply with each recommendation, or such alternative measures as are proposed for that purpose, the type of legal action that would be required to implement it, the studies, plans, projects or programs needed to put it into effect, or such other actions as may be needed for that purpose.

ii. Should the country have already implemented measures suggested by the Committee for a particular recommendation, briefly identify such measures in the Preliminary Draft Plan of Action.

iii. Identify the entities, authorities or agencies involved in enacting such measures or in designing, preparing or implementing the studies, plans,

projects, programs or any other action needed to put such measures into effect.

iv. Calculate the approximate time needed to consider, adopt or implement each measure suggested by the Committee in relation to each recommendation, or such alternative measures as are proposed for that purpose.

v. Propose indicators to objectively gauge progress in implementing the steps proposed in the Preliminary Draft Plan of Action.

vi. Calculate the approximate cost of implementing each step included in the Preliminary Draft Plan of Action and indicate possible funding sources, domestic or international.

vii. Briefly cover other matters connected with the purpose of the consulting work that the Executing Agency may want to include in the Plan of Action.

b. Obtain the Executing Agency's approval of the Preliminary Draft Plan of Action. Should changes be suggested, make the necessary revisions required to obtain approval.

c. Once the Preliminary Draft Plan of Action has been approved by the Executing Agency, prepare everything that will be needed to present and discuss it as the Draft Plan of Action for implementing MESICIC's recommendations (hereinafter the "Draft Plan of Action") at a National Workshop to Implement the Inter-American Convention against Corruption (hereinafter "the Workshop") to be held by the Executing Agency. Efforts will be made to include as participants in the Workshop representatives of the entities, authorities or agencies referred to in paragraph 1.2.a.iii above, among them representatives of the legislative and judicial branches, civil society, the private sector and international cooperation agencies. Prepare, among the activities leading up to the Workshop, a preliminary draft agenda for it, including a preliminary identification of participants, all of which will be submitted to the Executing Agency and to GS/OAS.

d. The Draft Plan of Action will be published on the Executing Agency's web page or a web page made available by the State for that purpose, 30 days before the Workshop is held, so that the consultant may receive comments on the proposal. These comments will be reviewed in light of the Workshop results and taken into account when preparing the final version of the Plan of Action.

e. Organize working groups to discuss during the Workshop the Draft Plan of Action, once it has been presented, so that the comments, observations and recommendations from such groups may be used to enrich its content.

f. Produce a final report on the Workshop, summarizing the contributions of the various working groups on each measure recommended by the Committee. The report should include a final list of participants. The report will be submitted to the Executing Agency for approval. Should changes be suggested, make the necessary adjustments to gain approval.

g. Revise the Draft Plan of Action based on the contributions made by the Workshop participants, and submit the revised proposal to the Executing Agency. Should changes be suggested, make the necessary revisions required to obtain approval.

II. PROFILE OF THE CONSULTANT

2.1 Type of Consultant: National.

2.2 Duration: The consultant will provide services for a total of (6) months, divided into three two-month periods, not necessarily consecutive, to begin on the date agreed upon by GS/OAS and the Executing Agency. The services described below will be performed for each period.

- The first period will be devoted to preparing the Preliminary Draft Plan of Action and securing its approval from the Executing Agency as the Draft Plan of Action (activities in 1.2.a and b. above).

- The second period will deal with preparing the presentation of the Draft Plan of Action in the Workshop, organizing the working groups to discuss it, and preparing and securing approval of the final report (activities in 1.2. c., d., e. and f. above).

- The third period will focus on introducing into the Draft Plan of Action the adjustments from contributions by participants in the Workshop and obtaining the approval of the Executing Agency (activity in 1.2. g. above).

2.3 Location of services: These services will be rendered in the city where the Executing Agency is located, except for the period when the Workshop is held, if it is held elsewhere.

2.4 Qualifications: i. Professional degree in law, political science or public administration; ii. Proven knowledge of the local legal environment and proven experience in the public sector of the country; iii. Knowledge of international instruments on combating corruption, particularly the IACAC; and iv. Experience in providing satisfactory services to projects of similar dimension, complexity and technical focus.

2.5 Fees and payment: The amount and form of payment of the consultant's fees will be governed by the following provisions:

a. The total amount of the consultant's fees for this contract will be the equivalent in national currency of EIGHT THOUSAND (\$8,000) US DOLLARS.

b. Payment of that sum will be made, subject to prior written authorization from GS/OAS, in three disbursements, as follows:

- The first, equivalent in national currency to THREE THOUSAND (\$3,000) US DOLLARS, when the Preliminary Draft Plan of Action is delivered and approved as the Draft Plan of Action by the Executive Agency, following the activities described in 1.2.a. and b. above.

- The second, equivalent in national currency to THREE THOUSAND (\$3,000) US DOLLARS, when the final report on the Workshop is delivered and approved, after completion of the activities in 1.2 .c., d., e. and f. above.

- The third, equivalent in national currency to TWO THOUSAND (\$2,000) US DOLLARS, when the revised Draft Plan of Action containing the contributions from Workshop participants is delivered and approved by the Executing Agency, after completion of the activity in paragraph 1.2 .g above.

c. Each payment mentioned in this provision is contingent on satisfactory performance of the contract and will be made after GS/OAS written certification of that performance, which includes written approval by the Executing Agency of the documents produced by the consultant, and after ascertaining that they cover all matters specified in these terms of reference. The amount specified constitutes the total price, on every account, of the end product or service rendered under this contract and includes the fees and expenses that the consultant may incur as well as the consultant's direct remuneration for the end product or services provided under this contract.

2.6 Travel expenses and per-diem: Should the consultant need to travel, in order to attend the Workshop, to a city other than the city where the Executing Agency is located, the cost of transportation and per-diem will be borne by GS/OAS.

III. DOCUMENTS AND REPORTS

3.1 Aside from the activities set out in paragraph 1.2 above, the consultant will be responsible for preparing and presenting the following documents, which will need to be approved in writing by the Executing Agency:

a. Preliminary Draft Plan of Action, to be known as the "Preliminary Draft Plan of Action for Implementing MESICIC Recommendations in Trinidad and Tobago";

b. Draft Plan of Action, to be known as "Draft Plan of Action for Implementing MESICIC Recommendations in Trinidad and Tobago ";

c. Preliminary draft agenda for the "National Workshop on Implementing the Inter-American Convention against Corruption in Trinidad and Tobago" that will discuss the Draft Plan of Action and will include a preliminary identification of participants;

d. Final report on the Workshop; and

e. Draft Plan of Action to be known as "Draft Plan of Action for Implementing MESICIC Recommendations in Trinidad and Tobago," adjusted to include contributions from the Workshop and approved by the Executing Agency.

3.2 In addition to the instructions set out in these terms of reference, the consultant will take into account the following:

a. The reports approved by the Committee of Experts of MESICIC on the country, which may be found on the website mentioned in paragraph 1.1 above.

b. The Inter-American Convention against Corruption.

c. The legal framework of the country.

d. The plans or strategies to combat corruption of the country.

3.3 The documents referred to in paragraph 3.1.b., c., d. and e. above will be delivered to GS/OAS duly approved in writing by the Executing Agency on the dates agreed upon by the latter and GS/OAS.

3.4 The documents will be written in English and presented in "Word" electronic format.

3.5 The consultant will have no ownership, authorship, trademark or any other rights, should such rights apply, over the work and documents connected with the services, reports and documents provided by the consultant under this contract. All such rights belong to GS/OAS and the country.

IV. SUPERVISION

4.1 The consultant's services will be directly supervised by a person designated by the Executing Agency, whose approval the consultant will secure as prescribed in these terms of reference.

4.2 GS/OAS will verify that the documents produced by the consultant include the approval of the person designated for that purpose by the Executing Agency, and that they cover all matters specified in these terms of reference.

ANNEX B

MINIMUM REQUIREMENTS FOR THE NATIONAL WORKSHOP

The Executing Agency will organize and hold a National Workshop known as "National Workshop on Implementing the Inter-American Convention against Corruption in Trinidad and Tobago" designed to include representatives of entities, authorities or agencies involved in considering, adopting or implementing measures to comply with the recommendations made to the country by the Committee of Experts of MESICIC, among them representatives of the legislative and judicial branches, civil society, the private sector and international cooperation agencies. This Workshop will present and discuss the Draft Plan of Action so as to enrich it with contributions from the participants and will be subject to the following minimum requirements:

- a. Presentation of the Inter-American Convention against Corruption (IACAC) and its Follow-up Mechanism (MESICIC). This presentation will be made by the Technical Secretariat of the Mechanism.
- b. Presentation of the report adopted by the Committee of Experts of MESICIC on the country. This presentation will be made by one of the Senior Experts of the review subgroup or by the Executing Agency through a person designated for that purpose.
- c. Presentation of the Draft Plan of Action to implement the recommendations from the MESICIC Committee of Experts. This presentation will be made by the Executing Agency through a person designated for that purpose.
- d. Setting up working groups to review and discuss the Draft Plan of Action. These groups will be organized according to the connection or familiarity of the participants with each provision of the Convention reviewed in the report. The results of their work would be expected to contribute to the implementation of the recommendations made for each provision. The Executing Agency should designate one rapporteur for each group.
- e. Preparation of a final report on the Workshop. This report would summarize in an orderly fashion the contributions from each working group and include a final list of participants in the Workshop. Preparation of the report is the responsibility of the national consultant referred to in the Memorandum to which this Annex is attached.

ANNEX C

**STANDARD FORMAT FOR PREPARING THE PLAN OF ACTION TO
IMPLEMENT THE RECOMMENDATIONS FROM THE MESICIC
COMMITTEE OF EXPERTS (FIRST AND SECOND ROUND OF REVIEW)**

SECTION I. FIRST ROUND OF REVIEW

In line with the thematic structure of the country report¹ in the First Round of review, provide the following information on each recommendation made by the Committee in its report:

1. First Recommendation (transcribe the text of the first recommendation from the First Round of review):

A. First Measure (transcribe the first measure suggested by the Committee to comply with the recommendation, or the alternative measure proposed for that purpose):

i. Indicate the type of legal action required to adopt it, the studies, plans, projects or programs needed to implement it, or such other actions as may be needed;

ii. If the country has already put into practice the first measure suggested by the Committee, or on alternative measure, indicate so briefly;

iii. Indicate the entities, authorities or agencies responsible for or involved in adopting the measure in question or in designing, preparing or implementing studies, plans, projects, programs or any other action needed to implement the measure;

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As a guide, the second-to-last page of this standard format describes that structure in relation to the matters discussed in the First Round of review.

iv. Calculate the time needed to consider, adopt or implement the measure;

v. Propose indicators to objectively gauge progress in the actions proposed for implementing the measure;

vi. Calculate the approximate cost of implementing the measure and indicate possible funding sources, national or international.

NOTE: Repeat items i-vi for each measure suggested by the Committee with respect to the first recommendation.

2. Second Recommendation (transcribe the text of the second recommendation from the First Round of review):

A. First Measure (transcribe the first measure suggested by the Committee to comply with the above recommendation or the alternative measure being proposed);

i. Indicate the type of legal action required to adopt it, the studies, plans, projects or programs needed to implement it, or such other actions as may be needed;

NOTE: Repeat items i-vi for each measure related to each recommendation made by the Committee in its report from the First Round of review.

SECTION II. SECOND ROUND OF REVIEW

In line with the thematic structure of the Second Round of review,² transcribe one by one the recommendations made by the Committee to the country in the report. For each implementing measure suggested by the Committee, or for the alternative measures proposed, provide the information set out in Section I of this document.

SECTION III

Briefly refer to any other matters connected with the purpose of the consulting services that the Executing Agency believes should be included in the Plan of Action.

² As a guide, the last page of this standard format describes that structure in relation to the matters discussed in the Second Round of review.

THEMATIC STRUCTURE OF COUNTRY REPORTS IN THE FIRST ROUND OF REVIEW

1. STANDARDS OF CONDUCT AND MECHANISMS TO ENFORCE COMPLIANCE (ARTICLE III.1 AND 2. OF THE CONVENTION)

1.1 Standards of conduct to prevent conflicts of interest and mechanisms to enforce those standards.

1.2 Standards of conduct and mechanisms to ensure proper conservation and use of resources entrusted to government officials.

1.3 Measures and systems requiring government officials to report to appropriate authorities acts of corruption in the performance of public functions, of which they are aware.

2. SYSTEMS FOR REGISTERING INCOME, ASSETS AND LIABILITIES (ARTICLE III.4 OF THE CONVENTION)

3. OVERSIGHT BODIES FOR THE SELECTED PROVISIONS (ARTICLE III. 1, 2, 4 AND 11 OF THE CONVENTION)

4. MECHANISMS TO ENCOURAGE PARTICIPATION BY CIVIL SOCIETY AND NONGOVERNMENTAL ORGANIZATIONS IN EFFORTS TO PREVENT CORRUPTION (ARTICLE III.11 OF THE CONVENTION)

4.1 General participation mechanisms

4.2 Mechanisms for access to information

4.3 Mechanisms for consultation

4.4 Mechanisms to encourage participation in government administration

4.5 Mechanisms for participating in the follow-up of public administration

5. ASSISTANCE AND COOPERATION (ARTICLE XIV OF THE CONVENTION)

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

7. GENERAL RECOMMENDATIONS



THEMATIC STRUCTURE OF COUNTRY REPORTS IN THE SECOND ROUND OF REVIEW

1. SYSTEMS OF GOVERNMENT HIRING AND PROCUREMENT OF GOODS AND SERVICES (ARTICLE III.5 OF THE CONVENTION)

1.1 Government hiring systems

1.2 Government procurement of goods and services

2. SYSTEMS FOR PROTECTING PUBLIC SERVANTS AND PRIVATE CITIZENS WHO, IN GOOD FAITH, REPORT ACTS OF CORRUPTION (ARTICLE III.8 OF THE CONVENTION)

3. ACTS OF CORRUPTION (ARTICLE VI OF THE CONVENTION)

3.1 Definition of acts of corruption in Article VI .1 of the Convention

3.2 Application of the Convention to other acts of corruption not described therein, by virtue of Article VI .2

4. GENERAL RECOMMENDATIONS