

## Acuerdos Bilaterales

Clasificación: 81-2003

Fecha de Ingreso: 29 de julio de 2003

Nombre de Acuerdo: Memorandum of Understanding

Materia: Relaciones Generales de Cooperación

Partes: SG/OEA & The Trust for the Americas.

Referencia: TA

Fecha de Firma: 7 de julio de 2003

Fecha de Inicio: 7 de julio de 2003

Fecha de Terminación:

Lugar de Firma: Washington, D.C / Estados Unidos.

Unidad Encargada:

Persona Encargada:

Original:

Claves:

Cierre del proceso:



## MEMORANDUM OF UNDERSTANDING

This document is to clarify the mutual understanding between The Trust for the Americas (hereinafter called "The Trust") and the General Secretariat of the Organization of American States' Inter-American Agency for Cooperation and Development Department of Information Technology for Human Development (hereinafter referred to as "OAS/IACD/DITEC-HD") for the channeling of funds for OAS/IACD/DITEC-HD through The Trust.

*Whereas* The Trust of the Americas is a non-profit Organization within the OAS system but with separate legal existence from the Organization;

*Whereas* the general purposes of The Trust, as stated in its bylaws, are to promote and foster integral development and to fight poverty in the Western Hemisphere through programs, projects and activities focused on social development and the creation of productive employment, education, economic diversification and integration, trade liberalization and market access, scientific exchanges and technology transfer, strengthening of democratic institutions, tourism, sustainable development and protection of the environment, and culture;

*Whereas* contributions made to The Trust for the Americas are deductible and receive a special treatment for U.S. tax purposes;

*Whereas* OAS/IACD/DITEC-HD has a program on The Educational Portal of the Americas Initiative for which it is interested in obtaining funds from external donors such as private companies, cooperation agencies, multilateral institutions, foreign governments, and the like;

*Whereas* OAS/IACD/DITEC-HD has expressed an interest in using The Trust as a vehicle to negotiate and receive donations from external donors, taking advantage of The Trust's non-profit status and the tax benefits associated with it;

*Whereas* The Trust agrees to serve as a channel for donations intended for the implementation of programs by OAS/IACD/DITEC-HD, an arrangement that requires both parties to establish the terms governing their relationship;

*Whereas* the Legal Department of the Organization of American States has advised the parties that the terms of their relationship shall be included in a Memorandum of Understanding.

The parties thereby agree to the following terms:

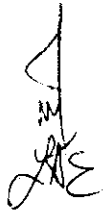
**FIRST - NEGOTIATION OF GRANTS.** OAS/IACD/DITEC-HD will negotiate independently with potential grantors for the donation of funds or resources for the implementation of its programs. Once funds are approved and prior to their disbursement, OAS/IACD/DITEC-HD will expressly notify the donor that funds will be received by The Trust for the exclusive use of OAS/IACD/DITEC-HD, identifying for that purpose the beneficiary program and the conditions for its execution. OAS/IACD/DITEC-HD shall make clear to the donor that The Trust acts only as a channel for the processing of the funds and the issuance of tax certificates, and that after receiving such funds The Trust will transfer them to the OAS/IACD/DITEC-HD for the execution of a given program.

**SECOND - RECEIPT AND CHANNELING OF FUNDS.** Funds received by The Trust on behalf of OAS/IACD/DITEC-HD would be transferred to the accounts of the OAS/IACD/DITEC-HD and the OAS Secretariat for Management will produce pertinent reports for both the donor and The Trust stating that (1) funds were received in The Trust's accounts; (2) funds were then transferred from The Trust's accounts and deposited into OAS/IACD/DITEC-HD's accounts. The OAS Secretariat for Management may charge a fee for the management of the funds. In this case, OAS/IACD/DITEC-HD will negotiate directly with the Office of the OAS Treasurer regarding the specific fee to be charged and assume such costs. OAS/IACD/DITEC-HD will reimburse any fee that the OAS might charge to The Trust for receiving and processing the funds from donors, or for their transfer to OAS/IACD/DITEC-HD.

**THIRD-PROGRAM EXECUTION.** OAS/IACD/DITEC-HD is solely and entirely responsible for the correct use of the funds donated and channeled through The Trust, in accordance with the timing, terms, conditions and limitations set by the donor on the grant. OAS/IACD/DITEC-HD is consequently responsible for the implementation, execution and termination of the program for which funds were donated, and will be in charge of selecting and supervising its staff, purchasing its equipment, managing its relations with partner institutions, conducting audits, and the like. The Trust assumes no responsibility for the management of funds or the implementation of the program.

**FOURTH - BUDGETARY AND PROGRAM CHANGES.** The Trust and the OAS Secretariat for Management, through the Office of the OAS Treasurer, will ensure that funds are spent according to the agreement with the funding source. Any changes that are made by OAS/IACD/DITEC-HD to the budget of an ongoing program must be made in conformity with the rules of the OAS and the requirements of the funding source, providing a previous notice and authorization is given. Any request of changes to the budget, the schedule of expenditures, the purpose of the program or the terms of the grant, must be authorized by and channeled through the Executive Director of The Trust before being submitted to the grantor.

**FIFTH - REPORTING OBLIGATIONS.** OAS/IACD/DITEC-HD will directly assume the responsibility of reporting to its donors on the status of a given project and the use of funds disbursed. However, considering the fact that funds will be channeled through The Trust, some donors might require The Trust to act as guarantor, producing reports on the status of the program on behalf of OAS/IACD/DITEC-HD. In such case, OAS/IACD/DITEC-HD will prepare and revise the reports with the highest standard of



quality following the reporting requirements set by the donor, and The Trust will review and present them to the donor.

OAS/IACD/DITEC-HD will report to The Trust on the financial status of the program based on the budget and the schedule of expenditures approved by the donor, as well as on the status of the project's implementation. These reports will conform in format and frequency to the requirements indicated by the donor in the terms of the grant. For this purpose, before sending reports to the donor, OAS/IACD/DITEC-HD will first present them to The Trust for review and comments. If no comments are made within 3 days, OAS/IACD/DITEC-HD is free to send the report/s to the donor.

**SIXTH - ADMINISTRATIVE FEE.** The Trust will charge OAS/IACD/DITEC-HD an administrative fee for the receipt, processing and channeling of funds as well as for the fulfillment of those reporting obligations it would assume before donors related to the execution of a project. This fee is equivalent to 22% of the total authorized overhead for a given project and is intended to cover the administrative and personnel costs The Trust might incur. This fee is based on an overhead rate equal or less than 18% of the total budget requested by OAS/IACD/DITEC-HD and authorized by the donor. In case a higher overhead rate is approved, The Trust reserves the right to request a re-negotiation of the fee. Additionally, if a project requires direct financial supervision from Trust personnel, the individual exercising such financial supervision should be listed as a line item in the project's budget.

**SEVENTH - INDEMNIFICATION.** OAS/IACD/DITEC-HD will defend, indemnify and hold harmless The Trust and its Board of Directors, Executive Director, employees and contractors from any demands, claims, damages, liabilities, expenses or harms, including attorneys fees, arising in connection with the execution of a program for which funds are received by and channeled through The Trust. Any expenses incurred by The Trust in this regard, shall be reimbursed and assumed by OAS/IACD/DITEC-HD.

**EIGHT - SCOPE OF THIS MEMORANDUM OF UNDERSTANDING.** The rights, limitations and reporting obligations set forth by this document pertaining to The Trust and OAS/IACD/DITEC-HD are limited to projects for which funds are channeled through The Trust. OAS/IACD/DITEC-HD and The Trust are autonomous in the management of funds and projects that do not fall under this condition.

**NINTH - COVENANT NOT TO COMPETE.** In the event that there is a reasonable expectation that a project for which OAS/IACD/DITEC-HD is seeking resources falls into the areas of service or interest of The Trust (for example, Information and Communication Technologies for Development and Transparency and Anti-Corruption), OAS/IACD/DITEC-HD will notify The Trust prior to the soliciting of funds from external parties. The same reporting requirement will apply with regards to donors to whom there is a reasonable expectation The Trust will solicit funds or present proposals. OAS/IACD/DITEC-HD agrees not to compete with The Trust for the same project and with the same donors. These limitations and reporting obligations only apply to projects whose funds are to be channeled through The Trust.

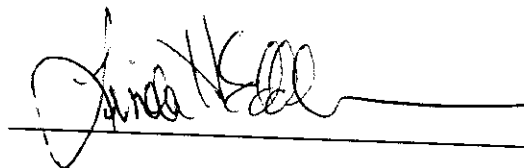
**TENTH - AMENDMENTS.** Any changes, modifications, additions or amendments to the terms of this Memorandum of Understanding shall be made in writing and signed by the authorized representatives of each party.



**ELEVENTH - FINAL AGREEMENT.** This document and the terms included herein represent the only and exclusive terms of the relation between the parties for the channeling of funds. This document replaces and leaves with no effect any previous agreement, whether verbal or written between the parties.

**TWELFTH - DISPUTE RESOLUTION.** Any dispute between the parties in the interpretation, execution or termination of this agreement will be resolved by the Treasurer of the OAS and The Trust, currently Mr. Emilio Rivero, L. Ronald Scheman, currently Director General of the IACD, and the Chief of Staff of the OAS, currently Mr. Fernando Jaramillo.

ACKNOWLEDGED: General Secretariat of the Organization of American States



**Linda H. Eddleman**  
Executive Director

**The Trust for the Americas**

**July, 7, 2003**  
Washington, D.C.



**Carlos E. Paldao**  
Director, DITEC-HD

**Inter-American Agency  
for Cooperation and Development**

**July, 7, 2003**  
Washington DC, EEUU