

Acuerdos Bilaterales

Clasificación: 92-2004

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Nombre de Acuerdo: Memorandum of Understanding between the United Nations and the General Secretariat of the Organization of American States concerning electoral assistance to Haiti

Materia: Observación electoral/ Democracia

Partes: SG/OEA & United Nations

Referencia: UN

Fecha de Firma: 3 de noviembre de 2004

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Lugar de Firma:

Unidad Encargada:

Persona Encargada:

Original:

Claves:

Cierre del proceso:

Memorandum of Understanding between the United Nations and the General Secretariat of the Organization of American States concerning electoral assistance to Haiti

3 de noviembre de 2004

United Nations

Organization of American States

**Memorandum of Understanding between the United Nations and
the General Secretariat of the Organization of American States
concerning electoral assistance to Haiti**

The Parties to this Memorandum of Understanding (“MOU”), the United Nations and the General Secretariat of the Organization of American States (“GS/OAS”),

Whereas by resolution 1542 (2004) of 30 April 2004 the Security Council decided to establish the United Nations Stabilization Mission in Haiti (“MINUSTAH”);

Whereas by that same resolution the Security Council supported the establishment of a Core Group chaired by the Special Representative of the Secretary-General for Haiti and comprising also his/her Deputies, the Force Commander, representatives of the Organization of American States (“OAS”) and the Caribbean Community (“CARICOM”), other regional and subregional organizations, international financial institutions and other major stakeholders, in order to facilitate the implementation of MINUSTAH’s mandate, promote interaction with the Haitian authorities as partners and to enhance the effectiveness of the international community’s response in Haiti, as outlined in the Secretary-General’s report (S/2004/300);

Whereas by that same resolution the Security Council requested that, in carrying out its mandate, MINUSTAH cooperate and coordinate with the OAS and CARICOM;

Whereas by that same resolution the Security Council gave MINUSTAH the mandate to assist the Transitional Government of Haiti in its efforts to organize, monitor, and carry out free and fair municipal, parliamentary and presidential elections at the earliest possible date, in particular through the provision of technical, logistical, and administrative assistance and continued security, with appropriate support to an electoral process with voter participation that is representative of the national demographics, including women;

Whereas the United Nations acknowledges the past and present commitments and efforts of the OAS to foster real and lasting democracy in Haiti;

Whereas the OAS General Assembly, resolution 2058 adopted on 8 June 2004, reaffirms the commitment of the OAS to strengthening Haiti’s democracy and calls on the OAS Special Mission for Strengthening Democracy in Haiti, in accordance with Articles 23 and 24 of the Inter-American Democratic Charter, to assist the country’s Provisional Electoral Council in preparing, organizing and overseeing the elections and the proclamation of the results, in cooperation with MINUSTAH;

Whereas by that same resolution the OAS General Assembly resolved to instruct the OAS Secretary General to establish the necessary coordination with the Secretary-General of the United Nations and to identify the areas of collaboration between the Special Mission of the OAS and the United Nations, especially those related to strengthening of democratic institutions, the holding of elections and the promotion of human rights;

Whereas both the United Nations and the OAS are committed to this endeavour and recognize the importance of working together to coordinate their efforts to provide electoral assistance to Haiti;

Whereas the Secretariat of the United Nations and GS/OAS have on 17 April 1995 concluded a Cooperation Agreement which provides, inter alia, that the Secretary-General of the United Nations and the Secretary General of the Organization of American States shall take appropriate measures to ensure effective cooperation and liaison between the Secretariats of the two organizations;

Whereas the United Nations and the Government of Haiti concluded a Status of Forces Agreement on 9 July 2004 and this Memorandum of Understanding is without prejudice to the provisions thereof;

Recognizing that the ultimate authority for the implementation of MINUSTAH's mandate rests with the United Nations;

Whereas this MOU is without prejudice to the privileges and immunities of the Parties, including their subsidiary organs and their personnel;

Now therefore the United Nations and GS/OAS hereby agree as follows:

Article I

Purpose

1. The present MOU sets out the terms and conditions under which the United Nations pursuant to its mandate in Haiti will cooperate and coordinate with GS/OAS in order to assist the Haitian Provisional Electoral Council in its responsibility to organize, monitor and carry out free and fair municipal, parliamentary and presidential elections.

Article II

Areas of cooperation and coordination

2.1. Establishment of an Electoral Cooperation Committee

a. To ensure that the assistance provided to Haiti's electoral process is effective and coherent, the Parties shall establish an Electoral Cooperation Committee ("ECC").

b. The ECC shall be composed of one representative from the United Nations who shall be the Chair of the Committee and one representative of the OAS who shall be the Vice Chair of the Committee. Membership in the Committee shall be extended to a representative of CARICOM, subject to CARICOM's acceptance and agreement to the terms of this MOU.

c. Decisions of the ECC shall be taken by consensus with all members present.

- d. The main functions of the ECC will be:
- (i) Seeking to ensure the regular sharing of information amongst the organizations involved on their electoral activities;
 - (ii) securing an effective reporting mechanism through the Chair of the ECC to the United Nations Special Representative of the Secretary-General, who will keep the Core Group regularly informed of electoral activities;
 - (iii) deciding on joint actions that the Parties may conduct in the electoral field consistent with the provisions of this MOU and each Party's respective responsibilities;
 - (iv) ensuring the coordination, effectiveness and coherence of actions that the Parties may separately conduct in the electoral field consistent with this MOU and each party's respective responsibilities thereunder;
 - (v) functioning as a problem-solving mechanism on matters that are within the scope of the ECC as set out in Articles III and IV of the present MOU;
 - (vi) facilitating cooperation with other agencies and organizations when necessary in order to coordinate the provision of international technical assistance;
 - (vii) such other functions as are specified in this MOU.

2.2 Secretariat of the ECC

a. MINUSTAH will act as the secretariat of the ECC, which will be located at MINUSTAH's Headquarters, within existing resources. The head of MINUSTAH's electoral component will be the chair of the ECC. She/He will designate the electoral personnel required to support the ECC from among his/her staff.

b. The secretariat of the ECC shall be responsible for:

- (i) Arranging the meetings of the ECC as decided by the EEC;
- (ii) formulating the meetings' agenda in agreement with all members of the ECC;
- (iii) keeping the record of issues raised in meetings of the ECC and decisions made;
- (iv) monitoring, through the staff described in I above the implementation of decisions of the ECC;
- (v) inviting other relevant agencies and organizations to the meetings when so decided by the ECC.

Article III

Responsibilities of the United Nations with respect to the electoral process

3. The United Nations will be responsible for:

a. Assisting the Provisional Electoral Council ("PEC") to plan, organize and hold elections;

- b. supervising all aspects of the electoral process as requested by the Transitional Government of Haiti;
- c. assisting the PEC in the areas of legal/political affairs, finance, operations and logistic, civic education, training and regional coordination;
- d. undertaking expert monitoring and quality assurance control processes to ensure the quality of electoral technical assistance projects pursuant to this MOU;
- e. providing continued security for the entire electoral process;
- f. chairing the ECC.

Article IV

Responsibilities of the GS/OAS with respect to the electoral process

- 4.1. GS/OAS will be responsible for:
 - a. Conducting the voters registration exercise;
 - b. undertaking any joint action agreed upon by the ECC within the scope of this MOU;
 - c. vice – chairing the ECC.

Article V

Financial arrangements

5.1 In carrying out their activities with regard to electoral assistance in Haiti, including joint actions, the United Nations and GS/OAS will pay the salaries and emoluments of their respective electoral staff, operational expenses and related support costs from their own resources.

5.2 To facilitate the necessary operational coordination and collaboration, the United Nations and GS/OAS agree to share information, in accordance with their respective policies and procedures, on the mobilization and utilization of these resources.

Article VI

Liability

6.1 Each Party shall be responsible for dealing with all claims against it by its own officials, employees and agents, and by any third parties, for death, injury, property loss or damage arising out of, in connection with or related to this MOU.

6.2 Each Party shall, at its sole cost and expense, indemnify, hold and save harmless, and defend the other Party, its officials, employees and agents, from and against all suits, proceedings, claims, demands, losses and liability of any nature or kind, including, but not limited to, all litigation costs, attorneys' fees, settlement payments, damages, and all other related

costs and expenses, based on, arising out of, related to, or in connection with any acts or omissions of the responsible Party, or any of its officials, employees or agents.

Article VII
Dispute settlement

7.1 All disputes between the OAS and the United Nations arising out of or in connection with the implementation of this MOU shall be settled by consultations between the United Nations Special Representative of the Secretary-General for Haiti and the Secretary General of the OAS or officials designated by them. If such consultations are not successful in bringing about a resolution of a dispute, that dispute shall, at the request of either party, be referred to the Secretary-General of the United Nations and the Secretary General of the OAS for resolution through consultations between them or those officials that they may designate for the purpose.

7.2 Nothing in this MOU shall be construed as a waiver of the privileges and immunities of the Parties, their subsidiary organs, and their personnel.

Article VIII
Duration and entry into force

8.1 This MOU shall remain in effect for as long as MINUSTAH assists the Transitional Government of Haiti in its efforts to organize, monitor and carry out municipal, parliamentary and presidential elections in compliance with Security Council resolution 1542 (2004).

8.2 This MOU shall enter into force on the date of its signature by the parties.

Article IX
Amendment

9.1 This MOU may only be modified or amended by written agreement signed by both Parties.

Signed by the duly authorized representatives of the Parties in duplicate originals at the place and on the date indicated below:



Sir Kieran Prendergast
Under-Secretary-General
for Political Affairs
For the United Nations

Date: **NOV 2 2004**

Place: *New York, New York*



Ambassador Luigi Einaudi
Acting Secretary General
Organization of American States
**For the General Secretariat
of the Organization of the American States**

Date: *Nov. 3, 2004*

Place: *Washington, D.C.*