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## South American Union of Nations Constitutive Treaty

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# SOUTH AMERICAN UNION OF NATIONS CONSTITUTIVE TREATY<sup>1,2</sup>

**T**HE Republic of Argentina, the Republic of Bolivia, the Federative Republic of Brazil, the Republic of Chile, the Republic of Colombia, the Republic of Ecuador, the Cooperative Republic of Guyana, the Republic of Paraguay, the Republic of Peru, the Republic of Suriname, the Oriental Republic of Uruguay and the Bolivarian Republic of Venezuela.

## PREAMBLE

BASED on the shared history and solidarity of our multiethnic, multilingual and multicultural nations, which have fought for the emancipation and unity of South America, honouring the vision of those who forged our independence and freedom in favour of that union and the building of a common future;

INSPIRED by the Cusco Declaration (December 8th, 2004), the Brasilia Declaration (September 30th, 2005) and the Cochabamba Declaration (December 9th, 2006);

AFFIRMING their determination to build a South American identity and citizenship and to develop an integrated regional space in the political, economic, social, cultural, environmental, energy and infrastructure dimensions, for the strengthening of Latin America and Caribbean unity;

CONVINCED that the South American integration and South American unity are necessary to promote the sustainable development and wellbeing of our peoples, and to contribute to the solution of the problems which still affect our region, such as persistent poverty, social exclusion and inequality;

CERTAIN that integration is a decisive step towards the strengthening of multilateralism and the rule of law in international relations in order to achieve a multipolar, balanced and just world, in which the sovereign equality of States and a culture of peace prevail and in a world free of nuclear weapons and of weapons of mass destruction;

CONFIRMING that both South American integration and the South American union are based on the guiding principles of: unlimited respect for sovereignty and territorial integrity and inviolability of States; self-determination of the peoples; solidarity; cooperation; peace; democracy, citizen participation and pluralism; universal, interdependent and indivisi-

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1. (Signed in the city of Brasilia, Brazil, on the 23rd day of the month of May of the year 2008, pending on ratification of nine countries to enter into force)
  2. Available at <http://www.comunidadandina.org/INGLES/csn/treaty.htm>

ble human rights; reduction of asymmetries and harmony with nature for a sustainable development;

UNDERSTANDING that South American integration should be achieved through an innovative process, which would include the progress achieved so far by the MERCOSUR and CAN processes, as well as the experiences of Chile, Guyana and Suriname, and which goes beyond the convergence among them;

CONSCIOUS that the process of building a South American integration and union is ambitious in its strategic objectives and will be flexible and gradual in its implementation, ensuring that each State honour its commitments according to its own reality;

RATIFYING that fully functioning democratic institutions and the unrestricted respect for human rights are essential conditions for building a common future of peace, economic and social prosperity and for the development of integration processes among the Member States;

AGREE:

### **Article 1 Constitution of UNASUR**

The States Party to this Treaty decide to constitute the Union of South American Nations (UNASUR) as an entity with international juridical character.

### **Article 2 Objective**

The objective of the South American Union of Nations is to build, in a participatory and consensual manner, an integration and union among its peoples in the cultural, social, economic and political fields, prioritizing political dialogue, social policies, education, energy, infrastructure, financing and the environment, among others, with a view to eliminating socioeconomic inequality, in order to achieve social inclusion and participation of civil society, to strengthen democracy and reduce asymmetries within the framework of strengthening the sovereignty and independence of the States.

### **Article 3 Specific Objectives**

The South American Union of Nations has the following objectives:

bb) The strengthening of the political dialogue among Member States to guarantee a space for consultation in order to reinforce South American integration and the participation of UNASUR in the international arena;

cc) The inclusive and equitable social and human development in order to eradicate poverty and overcome inequalities in the region;

dd) The eradication of illiteracy, the universal access to quality education and the regional recognition of courses and titles;

ee) Energy integration for the integral and sustainable use of the resources of the region, in a spirit of solidarity;

ff) The development of an infrastructure for the interconnection of the region and among our peoples, based on sustainable social and economic development criteria;

gg) Financial integration through the adoption of mechanisms compatible with the economic and fiscal policies of Member States;

hh) The protection of biodiversity, water resources and ecosystems, as well as cooperation in the prevention of catastrophes and in combating the causes and effects of climate change;

ii) The development of concrete and effective mechanisms to overcome asymmetries, thus achieving an equitable integration;

jj) The consolidation of a South American identity through the progressive recognition of the rights of nationals of a Member State resident in any of the other Member States, with the aim of attaining a South American citizenship;

kk) Universal access to social security and health services;

ll) Cooperation on issues of migration with a holistic approach, based on an unrestricted respect for human and labour rights, for migratory regularisation and harmonisation of policies;

mm) Economic and commercial cooperation to achieve progress and consolidation of an innovative, dynamic, transparent, equitable and balanced process focused on an effective access, promoting economic growth and development to overcome asymmetries by means of the complementarities of the economies of the countries of South America, as well as the promotion of the wellbeing of all sectors of the population and the reduction of poverty;

nn) Industrial and productive integration, focusing especially on the important role that small and medium size enterprises, cooperatives, networks and other forms of productive organisation may play;

oo) The definition and implementation of common or complementary policies and projects of research, innovation, technological transfer and technological production, aimed at enhancing the region's own capacity, sustainability and technological development;

pp) The promotion of cultural diversity and the expression of the traditions and knowledge of the peoples of the region, in order to strengthen their sense of identity;

qq) Citizen participation through mechanisms for interaction and dialogue between UNASUR and the various social actors in the formulation of South American integration policies;

rr) Coordination among specialised bodies of the Member States, taking into account international norms, in order to strengthen the fight against corruption, the global drug problem, trafficking in persons, trafficking in small and light weapons, terrorism, transnational organised crime and other threats as well as for disarmament, the non-proliferation of nuclear weapons and weapons of mass destruction, and elimination of landmines;

ss) The promotion of cooperation among the judicial authorities of the Member States of UNASUR.

tt) The exchange of information and experiences in matters of defence;

uu) Cooperation for the strengthening of citizen security;

vv) Sectoral cooperation as a mechanism to deepen South American integration, through the exchange of information, experiences and capacity building.

#### **Article 4 Bodies**

The Bodies of UNASUR are:

1. The Council of Heads of State and Government
2. The Council of Ministers of Foreign Affairs
3. The Council of Delegates
4. The General Secretariat

#### **Article 5 Institutional Development**

Sectoral Ministerial Meetings, and meetings of the Councils at Ministerial level, Working Groups and other institutional levels may be convened as required on a permanent or temporary basis, in order to fulfill the mandates and recommendations of the competent bodies. These bodies will report on their activities through the Council of Delegates, which will present its findings to the Council of Heads of State and Government or to the Council of Ministers of Foreign Affairs, as appropriate.

The agreements adopted by the Sectoral Ministerial Meetings, Councils at Ministerial level, Working Groups and other institutional levels will be submitted for consideration by the competent body which has summoned or created them.

The Energy Council of South America, created by the Declaration of Margarita (April 17th, 2007), is part of UNASUR.

#### **Article 6 The Council of Heads of State and Government**

The Council of Heads of State and Government is the highest organ of UNASUR.

Its responsibilities are:

a) To establish policy guidelines, plans of action, programmes and projects of the South American integration process and to decide on the priorities to be implemented;

b) To summon Sectoral Ministerial Meetings and to create Councils at Ministerial level;

c) To decide on the proposals presented by the Council of Ministers of Foreign Affairs;

d) To adopt the political guidelines for relation with third parties;

The ordinary meetings of the Council of Heads of State and Government will be held annually. Upon the request of a Member State, ex-

traordinary meetings may be summoned through the Pro Tempore Presidency, subject to the consensus of all Member States of UNASUR.

### **Article 7 The Pro Tempore Presidency**

The Pro Tempore Presidency of UNASUR will be held successively by each of the Member States, in alphabetical order, for periods of one year.

Its responsibilities are:

- a) To prepare, summon and preside over the meetings of the bodies of UNASUR;
- b) To present to the Council of Ministers of Foreign Affairs and to the Council of Delegates the annual program of activities of UNASUR, with dates, venues and agenda of the meetings of its bodies in coordination with the General Secretariat;
- c) To represent UNASUR in international events, with the prior authorization of the Member States;
- d) To undertake commitments and to sign Declarations with third parties, with prior consent of the appropriate bodies of UNASUR.

### **Article 8 The Council of Ministers of Foreign Affairs**

The Council of Ministers of Foreign Affairs has the following functions:

- a) To adopt Resolutions in order to implement the Decisions of the Council of Heads of State and Government;
- b) To propose draft Decisions and prepare the meetings of the Council of Heads of State and Government;
- c) To coordinate positions on central themes of South American integration;
- d) To develop and promote political dialogue and coordination on themes of regional and international interest;
- e) To oversee and evaluate the integration process as a whole;
- f) To approve the annual Programme of activities and the annual working budget of UNASUR;
- g) To approve the financing of the common initiatives of UNASUR;
- h) To implement the policy guidelines for relations with third parties;
- i) To approve resolutions and regulations of an institutional nature or on other themes falling within its jurisdiction;
- j) To create Working Groups based on the priorities established by the Council of Heads of State and Government.

The ordinary meetings of the Council of Ministers of Foreign Affairs will be held every semester and may be convened by the Pro Tempore Presidency on an extraordinary basis at the request of half of the Member States.

### **Article 9 The Council of Delegates**

The Council of Delegates has the following functions:

- a) To implement, through the adoption of the appropriate Provisions, the Decisions of the Council of Heads of State and Government, and the Resolutions of the Council of Ministers of Foreign Affairs, with the support of the Pro Tempore Presidency and the General Secretariat;
- b) To prepare the meetings of the Council of Ministers of Foreign Affairs;
- c) To prepare draft Decisions, Resolutions and Regulations for the consideration of the Council of Ministers of Foreign Affairs;
- d) To ensure the compatibility and to coordinate the initiatives of UNASUR with other existing regional and subregional integration processes in order to promote the complementarity of efforts;
- e) To establish, coordinate and oversee the Working Groups;
- f) To oversee the political dialogue and consultation and coordination on issues of regional and international interest;
- g) To encourage the opportunities for dialogue so as to facilitate citizen participation in the South American integration process;
- h) To propose to the Council of Ministers of Foreign Affairs, for its consideration and approval, the draft ordinary annual working budget.

The Council of Delegates is composed of one accredited representative of each Member State. It will meet preferably every two months, in the territory of the State which occupies the Pro Tempore Presidency or another agreed venue.

### **Article 10 The General Secretariat**

The General Secretariat is the body that, under the leadership of the Secretary General, executes the mandates conferred upon it by the organs of UNASUR and represents them accordingly. Its headquarters shall be the city of Quito, Ecuador.

Its responsibilities shall be:

- a) To support the Council of Heads of States and Government, the Council of Ministers of Foreign Affairs, the Council of Delegates and the Pro Tempore Presidency in the fulfilment of their duties;
- b) To propose initiatives and to oversee the implementation of the directives of the organs of UNASUR;
- c) To participate with the right to speak and to perform the role of secretary in the meetings of the organs of UNASUR;
- d) To prepare and submit the Annual Report and the respective reports to the corresponding organs of UNASUR;
- e) To serve as depository of the Agreements in the framework of UNASUR and to arrange for their respective publication;
- f) To prepare the draft Annual Budget for the consideration of the Council of Delegates and to adopt the necessary measures for its proper management and execution;

g) To prepare the draft Regulations for the functioning of the General Secretariat and to submit them for the consideration and approval of the corresponding organs;

h) To coordinate with other integration and cooperation entities of Latin America and the Caribbean with a view to developing those activities requested by the bodies of UNASUR;

i) To execute, according to the regulations, all the legal acts necessary for the proper administration and management of the General Secretariat;

The Secretary General shall be appointed by the Council of Heads of State and Government, following a proposal by the Council of Ministers of Foreign Affairs, for a term of two years, renewable only once. The Secretary General shall not be succeeded by a person of the same nationality.

During the exercise of his or her functions, the Secretary General and the staff of the General Secretariat shall be exclusively dedicated to UNASUR and will not request, neither accept, instructions from any Government nor any authority other than UNASUR, and will refrain from acting in a manner inconsistent with their status as international civil servants with sole responsibility to this international organisation.

The Secretary General shall be the legal representative of the General Secretariat.

In the selection of the employees of the General Secretariat, an equitable representation for each Member State will be guaranteed, taking into account, as far as possible, criteria of gender, language, ethnicity and others.

### **Article 11 Juridical Sources**

The juridical sources of UNASUR are the following:

1. The Constitutive Treaty of UNASUR and other additional instruments;
2. The Agreements concluded by the Member States of UNASUR as a consequence of the instruments mentioned in the item above;
3. The Decisions of the Council of Heads of State and Government;
4. The Resolutions of the Council of Ministers of Foreign Affairs;
5. The Provisions of the Council of Delegates.

### **Article 12 Approval of the Legislative Measures**

All the norms of UNASUR will be adopted by consensus.

The Decisions of the Council of Heads of State and Government, the Resolutions of the Council of Ministers of Foreign Affairs and the Provisions of the Council of Delegates may be adopted with the presence of at least three quarters (3/4) of the Member States.

The Decisions of the Council of Heads of State and Government, the Resolutions of the Council of Ministers of Foreign Affairs adopted with-



out the presence of all Member States, shall be forwarded by the Secretary General to the absent States, which shall make known their position within thirty (30) days after receipt of the document in the appropriate language. In the case of the Council of Delegates, that deadline shall be fifteen (15) days.

The Working Groups shall hold sessions and make proposals as long as they have a quorum of half plus one of the Member States.

The legislative measures emanating from the organs of UNASUR will be binding on the Member States once they have been incorporated into each Member State's domestic law, according to its respective internal procedures.

### **Article 13 Adoption of Policies and Creation of Institutions, Organizations and Programmes**

One or more Member States may submit for the consideration of the Council of Delegates a proposal for adoption of policies, creation of common institutions, organisations and programmes which will be adopted in a consensual manner, on the basis of a flexible and gradual criteria of implementation according to the objectives of UNASUR and the provisions of Articles 5 and 12 of this Treaty.

Programmes, institutions and organisations in which Member States participate prior to the entry into force of this Treaty may be considered as UNASUR programmes, institutions or organisations, in accordance with the procedures outlined in this article and in accordance with the objectives of this Treaty.

The proposals will be submitted to the Council of Delegates. Once approved by consensus, they will be forwarded to the Council of the Ministers of Foreign Affairs and, subsequently, to the Council of Heads of State and Government, for approval by consensus. When a proposal has not obtained consensus, it may only be submitted to the Council of Delegates six months after its last inclusion in the agenda.

Once a proposal is approved by the highest body of UNASUR, three or more Member States may begin to implement it, provided that the possibility of inclusion of other Member States in such a common initiative is guaranteed and periodical reports of its implementation are presented to the Council of Delegates.

Any Member State may completely or partially refrain from implementing an approved policy, be it for a period defined beforehand, or for an indefinite period, without preventing it from later joining the total or partial implementation of that policy. In the case of institutions, organisations or programmes which are created, any Member State may participate as an observer, or refrain from participating fully or partially for a definite or indefinite period.

The adoption of policies and the creation of institutions, organisations and programmes will be regulated by the Council of Ministers of Foreign Affairs, following a proposal by the Council of Delegates.

**Article 14 Political Dialogue**

The political consultation and coordination among the Member States of UNASUR will be based on harmony and mutual respect, strengthening regional stability and supporting the preservation of democratic values and the promotion of human rights.

Member States will reinforce the practice of consensus-building on the central themes on the international agenda and will promote initiatives that affirm the identity of the region as a dynamic factor in international relations.

**Article 15 Relationship with Third Parties**

UNASUR will promote initiatives for dialogue on themes of regional or international interest and will seek to strengthen cooperation mechanisms with other regional groups, States and other entities with international legal character, focusing on projects in the areas of energy, financing, infrastructure, social policies, education and others to be identified.

The Council of Delegates with the support of the Pro Tempore Presidency and the General Secretariat is responsible for overseeing the implementation of activities. For the purpose of achieving proper coordination, the Council of Delegates shall be informed of and consider the positions that UNASUR will adopt in its relationship with third parties.

**Article 16 Financing**

The Council of Delegates will propose to the Council of Ministers of Foreign Affairs, for consideration and approval, the draft Annual Ordinary Budget for the functioning of the General Secretariat.

The financing of the ordinary budget for the functioning of the General Secretariat will be based on differentiated contribution quotas of the Member States to be determined by a Resolution of the Council of Ministers of Foreign Affairs, following a proposal by the Council of Delegates, taking into account the economic capacity of the Member States, shared responsibility and the principle of equity.

**Article 17 Parliament**

The creation of a South American Parliament, whose seat shall be the city of Cochabamba, Bolivia, will be the subject of an Additional Protocol to the present Treaty.

**Article 18 Citizen Participation**

Full citizen participation in the process of South American integration and union will be promoted by means of dialogue and interaction in a broad, democratic, transparent, pluralistic, diverse and independent man-

ner with the various social actors, establishing effective channels of information, consultation and supervision in the different bodies of UNASUR.

The Member States and organs of UNASUR will promote innovative mechanisms and spaces to encourage discussion of various issues ensuring that the proposals submitted by civil society receive adequate consideration and response.

### **Article 19 Associate States**

Other Latin American and Caribbean States that request participation as Associate States of UNASUR may be admitted with the approval of the Council of Heads of State and Government.

The rights and obligations of the Associate States will be regulated by the Council of Ministers of Foreign Affairs.

### **Article 20 Accession of New Members**

After the fifth year of the entry into force of the present Treaty and taking into account the aim of strengthening Latin American and Caribbean unity, the Council of Heads of State and Government may consider requests for accession as Members States by Associate States, that have held such a status for four years, by means of a consensual recommendation by the Council of Ministers of Foreign Affairs. The respective Protocols of Accession will enter into force 30 days after the completion of the ratification process by all Members States and the acceding State.

### **Article 21 Dispute Settlement**

Any dispute that may emerge between States Parties regarding the interpretation or implementation of the provisions of this Constitutive Treaty will be settled through direct negotiations.

In the case where a solution is not reached through direct negotiation, the Member States involved will submit the dispute for the consideration of the Council of Delegates, which will formulate within 60 days, the appropriate recommendations for the settlement of the dispute.

If a solution is not reached by the Council of Delegates, the dispute will be taken to the Council of Ministers of Foreign Affairs, which will consider it at its next meeting.

### **Article 22 Privileges and Immunities**

UNASUR shall enjoy in the territory of each of its Member States, the privileges and immunities necessary for the fulfilment of its functions.

The representatives of the Member States of UNASUR and the international employees of UNASUR will therefore benefit from the privileges and immunities necessary for the independent exercise of their functions with relation to this Treaty.

UNASUR shall establish with the Republic of Ecuador the corresponding Headquarters Agreement which will establish the specific privileges and immunities.

### **Article 23 Languages**

The official languages of the Union of South American Nations will be English, Spanish, Portuguese and Dutch.

### **Article 24 Validity and Denunciation**

This treaty will have an indefinite validity. It may be denounced by any of the Member States by means of a written notification to the Depositary, which shall communicate such notification to the other Member States.

The denunciation will have effect six (6) months after the date in which the notification is received by the Depositary.

The notification of the denunciation shall not exempt the Member State of the obligation to pay outstanding ordinary contributions.

### **Article 25 Amendments**

Any Member State may propose amendments to this Constitutive Treaty. The proposed amendments will be communicated to the General Secretariat which shall notify the other Member States for its consideration by the bodies of UNASUR.

The amendments approved by the Council of Heads of State and Government will follow the procedure established in article 26 for entry into force.

### **Article 26 Entry Into Force**

The present Constitutive Treaty of the Union of South American Nations will enter into force thirty days after the date of receipt of the 9th instrument of ratification.

The instruments of ratification will be deposited before the Government of the Republic of Ecuador, which will communicate the date of deposit to the other States, as well as the date of entry into force of this Constitutive Treaty.

For the Member State which ratifies the Constitutive Treaty after the deposit of the 9th instrument of ratification, the Treaty will enter into force 30 days after the date in which that State deposits its instrument of ratification.

### **Article 27 Registration**

This Constitutive Treaty and its amendments will be registered at the United Nations Secretariat.

**Transitory Article**

The Parties agree to appoint a Special Commission, coordinated by the Council of Delegates and composed of representatives of the National, Regional and Subregional Parliaments, with the objective of preparing a draft of an Additional Protocol which will be considered in the IV Summit of Heads of State and Government. This Commission will meet in the city of Cochabamba. Such an Additional Protocol will determine the composition, attributions and functioning of the South American Parliament.

Done in the city of Brasilia, Brazil, on the 23rd day of the month of May of the year 2008, in original copies in the English, Spanish, Portuguese and Dutch languages, the four texts being equally authentic.





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