

## **South American Union of Nations Constitutive Treaty**

The 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, marked by solidarity of our multiethnic, plurilingual 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);

**AFFIRM** their determination to build a South American identity and citizenship and 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 South American integration and union are necessary to promote the sustainable development and wellbeing of our peoples and contribute to the solution of the problems, which still affect our region, such as persistent poverty, exclusion and social 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 in a world free of nuclear weapons and weapons of mass destruction;

**RATIFY** that South American integration and union are based on the guiding principles of unlimited respect for sovereignty and the territorial integrity and inviolability of States; the self-determination of peoples; solidarity; cooperation; peace; democracy, citizen participation and pluralism; universal, interdependent and indivisible human rights; the reduction of asymmetries and harmony with nature for sustainable development;

**UNDERSTAND** that South American integration should be achieved through an innovative process, which includes all the accomplishments and progress achieved so far by the MERCOSUR and CAN processes, as well as the experiences of Chile, Guyana and Suriname, going beyond the convergence among them;

**AWARE** that the process of building South American integration and union is ambitious in its strategic objectives and must be flexible and gradual in its implementation, ensuring that each State makes commitments according to its own situation;

**RATIFY** that fully effective 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 Parties to this Treaty decide to constitute the Union of South American Nations (UNASUR) as an organisation with international legal status.

## **Article 2 Objective**

The objective of the South American Union of Nations is to set up, in a participatory, agreed manner, a space for integration and union among its peoples in the cultural, social, economic and political fields, prioritising political dialogue, social policies, education, energy, infrastructure, financing and the environment, among others, with a view to eliminating socio-economic inequality, in order to achieve social inclusion and citizen participation, strengthen democracy and reduce asymmetries within the framework of bolstering the sovereignty and independence of the States.

## **Article 3 Specific Objectives**

The South American Union of Nations has the following specific objectives:

- a) The strengthening of political dialogue among Member States to guarantee a space for agreement in order to reinforce South American integration and UNASUR's participation in the international arena;
- b) Social and human development with equity and inclusion to eradicate poverty and overcome inequalities in the region;
- c) The eradication of illiteracy, universal access to quality education and the regional recognition of studies and titles;

- d) Energy integration for the integrated, sustainable use of the region's resources, in a spirit of solidarity;
- e) The development of infrastructure for the interconnection of the region and among our peoples, based on sustainable criteria of social and economic development;
- f) Financial integration through the adoption of mechanisms compatible with the economic and fiscal policies of Member States;
- g) The protection of biodiversity, water resources and ecosystems, as well as cooperation in preventing catastrophes and combating the causes and effects of climate change;
- h) The development of concrete, effective mechanisms to overcome asymmetries, thus achieving equitable integration;
- i) The consolidation of a South American identity through the progressive recognition of rights to nationals of a Member State resident in any other Member State, with the aim of establishing a South American citizenship;
- j) Universal access to social security and health services;
- k) Cooperation on issues of migration with an integrated approach, based on unrestricted respect for human and labour rights, migratory regularisation and the harmonisation of policies;
- l) Economic and commercial cooperation to achieve progress and the consolidation of an innovative, dynamic, transparent, equitable and balanced process, envisaging effective access, promoting economic growth and development to overcome asymmetries through the complementarity of the economies of South American countries, as well as the promotion of the wellbeing of all sectors of the population and the reduction of poverty;

- m) Industrial and productive integration, focusing especially on small and medium-size enterprises, cooperatives, networks and other forms of productive organisation;
- n) The definition and implementation of common or complementary policies and projects of research, innovation, technology transfer and production, aimed at raising capacity, sustainability, and the region's own scientific and technological development;
- o) The promotion of cultural diversity and expressions of the memory, knowledge and wisdom of the peoples of the region, in order to strengthen their identities;
- p) Citizen participation through mechanisms for interaction and dialogue between UNASUR and the various social actors in the making of South American integration policies;
- q) Coordination among specialised bodies of the Member States, taking into account international norms, in order to strengthen the fight against terrorism, corruption, the global drug problem, human trafficking in persons, trafficking in small and light weapons, transnational organised crime and other threats, as well as for disarmament, the non-proliferation of nuclear weapons and weapons of mass destruction, and demining;
- r) The promotion of cooperation among the judicial authorities of the Member States of UNASUR;
- s) The exchange of information and experiences in matters of defence;
- t) Cooperation for the strengthening of citizen security; and
- u) Sectoral cooperation as a mechanism for consolidating South American integration, through the exchange of information, experiences and training.

## **Article 4 Organs**

The organs 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 Development of Institutional**

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

The agreements made at the meetings of Sectoral Ministries, Councils at Ministerial level, Working Groups and other institutional bodies shall be submitted to the consideration of the competent body which summoned or created them.

The South American Energy Council, 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 duties are:

- a) To establish policy guidelines, action plans, programmes and projects for the South American integration process and decide on priorities for the implementation thereof;
- b) To summon Sectoral Ministerial Meetings and create Councils at Ministerial level;
- c) To decide on the proposals presented by the Council of Ministers of Foreign Affairs;
- d) To set political guidelines for relations with third parties.

The ordinary meetings of the Council of Heads of State and Government shall be held annually. Upon the request of a Member State, special meetings may be summoned through the Pro-Tempore Presidency, subject to the agreement of all Member States of UNASUR.

### **Article 7**

#### **The Pro-Tempore Presidency**

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

Its duties are:

- a) To prepare, summon and preside over the meetings of the organs of UNASUR;
- b) To present UNASUR's annual programme of activities to the Council of Ministers of Foreign Affairs and the Council of Delegates, with dates, venues and the agenda of the meetings of its bodies, in coordination with the General Secretariat;
- c) To represent UNASUR at international events, with the prior authorisation of the Member States;

- d) To undertake commitments and sign declarations with third parties, with the 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 duties:

- a) To make Resolutions 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 agreement on topics of regional and international interest;
- e) To oversee and evaluate the integration process as a whole;
- f) To approve UNASUR's annual Programme of Activities and annual operating budget;
- g) To approve the financing of UNASUR's common initiatives;
- h) To implement policy guidelines for relations with third parties;
- i) To approve resolutions and regulations of an institutional nature or on other topics falling within its jurisdiction;
- j) To create Working Groups based on the priorities set by the Council of Heads of State and Government.

The ordinary meetings of the Council of Ministers of Foreign Affairs shall be held every six months: special meetings may be convened by the Pro-Tempore Presidency at the request of half of the Member States.

## **Article 9**

### **The Council of Delegates**



The Council of Delegates has the following duties:

- a) To implement, through the adoption of 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 coordinate and ensure the compatibility of the initiatives of UNASUR with other regional and sub-regional integration processes in force, so as to promote the complementarity of efforts;
- e) To establish, coordinate and oversee the Working Groups;
- f) To oversee political dialogue and agreement on issues of regional and international interest;
- g) To encourage opportunities for dialogue so as to facilitate citizen participation in the South American integration process;
- h) To propose the draft of the ordinary annual operating budget to the Council of Ministers of Foreign Affairs, for its consideration and approval.

The Council of Delegates is composed of one accredited representative of each Member State. It shall meet preferably every two months, in the territory of the State holding 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 on the express delegation thereof. Its headquarters are in Quito, Ecuador.

Its duties are:

- 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 performance of their duties;
- b) To propose initiatives and oversee the implementation of the directives of the organs of UNASUR;
- c) To participate with the right to speak, and 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 the depositary of Agreements in the framework of UNASUR and arrange for their respective publication;
- f) To prepare the draft Annual Budget for the consideration of the Council of Delegates and take the necessary measures for its proper management and execution;
- g) To prepare the draft Regulations for the operating of the General Secretariat and submit them to the consideration and approval of the corresponding organs;
- h) To coordinate with other integration and cooperation entities of Latin America and the Caribbean for the implementation of the activities requested by the organs of UNASUR;
- i) To formalise, pursuant 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 on the proposal of 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 shall not request or accept instructions from any Government or any body other than UNASUR, and shall 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 staff of the General Secretariat, an equitable representation for each Member State shall be guaranteed, taking into account, as far as possible, criteria of gender, language, ethnicity and others.

## **Article 11**

### **Legal Sources**

UNASUR's legal sources are the following:

1. The Constitutive Treaty of UNASUR and other additional instruments;
2. The Agreements formalised by the Member States of UNASUR as a consequence of the instruments mentioned in the preceding point;
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 shall be adopted by agreement.

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

Decisions of the Council of Heads of State and Government, and Resolutions of the Council of Ministers of Foreign Affairs agreed without the presence of all Member States shall be forwarded by the Secretary General to the absent Member States, which shall make known their position within thirty (30) calendar days of receipt of the document in the appropriate language. In the case of the Council of Delegates, said term shall be fifteen (15) days.

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

The legislative acts emanating from the organs of UNASUR shall be binding on the Member States once they have been incorporated into each Member State's domestic legal system, pursuant to the respective internal procedures of each one.

## **Article 13**

### **Adoption of Policies and Creation of Institutions Organisations and Programmes**

One or more Member States may submit to the consideration of the Council of Delegates a proposal for the adoption of policies, creation of common institutions, organisations and programmes to be adopted in an agreed manner, on the basis of flexible, gradual criteria of implementation in line with the objectives of UNASUR and the provisions of Articles 5 and 12 hereof.

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 harmony with the objectives of this Treaty.

Proposals shall be submitted to the Council of Delegates. Once approved by agreement, they shall 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 agreement. If a proposal is not agreed on, it may only be resubmitted 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 said common initiative is guaranteed and periodical reports of its implementation are presented to the Council of Delegates.

Any Member State may fully or partially exempt itself from implementing an approved policy, for a set time or indefinitely, without this preventing said State from subsequently incorporating the policy, either fully or partially. In the case of institutions, organisations or programmes which are created, any Member State may participate as an observer, or exempt

itself from participating fully or partially for a set time or indefinitely.

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

#### **Article 14**

#### **Political Dialogue**

Political agreement among the Member States of UNASUR shall be based on harmony and mutual respect, bolstering regional stability and supporting the preservation of democratic values and the promotion of human rights.

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

#### **Article 15**

#### **Relations with Third Parties**

UNASUR shall promote initiatives for dialogue on themes of regional or international interest and shall seek to consolidate cooperation mechanisms with other regional groups, States and other entities with international legal status, prioritising projects in the areas of energy, financing, infrastructure, social policies, education and others to be confirmed.

The Council of Delegates, with the support of the Pro-Tempore Presidency and the General Secretariat, is responsible for following up on the implementation of activities. For the purpose of achieving proper coordination, the Council of Delegates shall be informed of and expressly consider the

positions that UNASUR shall take in its relations with third parties.

## **Article 16 Financing**

The Council of Delegates shall propose to the Council of Ministers of Foreign Affairs, for consideration and approval thereby, the draft annual ordinary budget for the operating of the General Secretariat.

The financing of the ordinary budget for the operating of the General Secretariat shall be based on differentiated quotas from 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, to be based in the city of Cochabamba, Bolivia, shall 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 shall be promoted by means of dialogue and broad, democratic, transparent, pluralistic, diverse and independent interaction with the various social actors, establishing effective channels of information, consultation and follow-up in the different bodies of UNASUR.

The Member States and organs of UNASUR shall promote innovative mechanisms and spaces to encourage the

discussion of various issues, ensuring that the proposals submitted by civil society are given 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 shall 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 consolidating Latin American and Caribbean unity, the Council of Heads of State and Government may examine requests for accession as Members States by Associate States that have held such status for four years, by means of a recommendation agreed by the Council of Ministers of Foreign Affairs. The respective Protocols of Accession shall enter into force 30 days after all the Members States and the Acceding State have completed the ratification process.

## **Article 21**

### **Dispute Settlement**

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



If a solution is not reached through direct negotiation, the Member States involved shall submit the dispute to the consideration of the Council of Delegates, which shall issue, within 60 days of receipt, appropriate recommendations for the settlement of the dispute.

If a solution is not reached by the Council of Delegates, the dispute shall be taken to the Council of Ministers of Foreign Affairs, for consideration 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 performance of its duties.

The representatives of UNASUR's Member States and its international staff shall likewise benefit from the privileges and immunities necessary for the independent exercise of their duties related to this Treaty.

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

## **Article 23**

### **Languages**

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

## **Article 24**

### **Validity and Termination**

This treaty shall have indefinite validity. It may be terminated by any Member State on written notice to the

Depositary, which shall inform the other Member States thereof.

Termination by the relevant party shall take effect six (6) months after the date on which the notice is received by the Depositary.

The notice of termination shall not exempt the Member State from the obligation to pay any outstanding ordinary contributions.

## **Article 25 Amendments**

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

The amendments approved by the Council of Heads of State and Government shall follow the procedure established in Article 26 for their subsequent entry into force.

## **Article 26 Entry Into Force**

The present Constitutive Treaty of the Union of South American Nations shall enter into force thirty days after the date of receipt of the ninth (9<sup>th</sup>) instrument of ratification.

The instruments of ratification shall be deposited with the Government of the Republic of Ecuador, which shall inform the other States of the date of deposit, as well as the date of entry into force of this Constitutive Treaty.

For any Member State ratifying the Constitutive Treaty after the deposit of the ninth instrument of ratification, the Treaty shall enter into force thirty days after the date on which said State deposits its instrument of ratification.

## **Article 27**

### **Registration**

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

### **Transitory Article**

The Parties agree to appoint a Special Commission, to be coordinated by the Council of Delegates and composed of representatives of the National, Regional and Sub-regional Parliaments, with the object of preparing the draft of an Additional Protocol, which shall be considered at the IV Summit of Heads of State and Government. This Commission shall meet in the city of Cochabamba. Said Additional Protocol shall determine the composition, duties and operation of the South American Parliament.

Signed in the city of Brasilia, Federative Republic of Brazil, on the twenty-third day of the month of May of the year two thousand and eight, in original copies in Portuguese, Spanish, English and Dutch, the four texts being equally authentic.