

TERMS OF REFERENCE

FOR OAS TECHNICAL ASSISTANCE

IN THE AREA OF GOVERNANCE

PREPARED JOINTLY BY:

THE OAS SPECIAL MISSION
AND
THE GOVERNMENT OF THE REPUBLIC OF HAITI

Port-au-Prince, February 28, 2003

TERMS OF REFERENCE: GOVERNANCE

I. Background and rationale

OAS resolutions 806 and 822, of January 15 and September 4, 2002, gave the OAS Special Mission the mandate to help the Government develop and reinforce its democratic institutions and, in particular, to meet the need to consolidate institutional governance.

In a letter dated October 29, 2002, the Prime Minister, Mr. Yvon Neptune, officially requested technical assistance for the Government from the OAS Special Mission in Haiti in the area of governance.

II. Objectives

A. Governance and consolidating the rule of law

- Consolidate the rule of law in Haiti.
- Promote in-depth reform of the Haitian judicial system so that it is capable of dispensing justice properly in accordance with the rule of law.
- Make Haitian justice more reliable and accessible to all, as a means of guaranteeing human rights.
- Strengthen and consolidate institutional and local governance in the field of justice administration.

B. Governance, transparency, and development

- Promote transparency and sound management of resources in state institutions.
- Promote good governance and sustained development in local institutions.

III. Actions to be taken and support of the OAS Special Mission

A. Actions

A.1. Governance and consolidating the rule of law

One of the most important actions will be to set up a commission to prepare a strategic plan for a series of actions and activities to ensure in-depth, coherent, participatory, and orderly reform of justice administration, in light of established priorities, available financial resources, the duration of the OAS Special Mission's mandate, and the assistance under way or planned by other donors.

In this context, planned actions and activities will include, but will not be limited to:

a. Administrative modernization and reinforcement

1. Hold a National Forum on Judicial Reform.
2. Create a Permanent Secretariat for compilation and coordination within the Ministry of Justice and Public Safety.
3. Strengthen the operational capacities of the Ministry of Justice and Public Safety (communication, transportation, legal tools and materials, etc.).
4. Develop technical and support tools in the two official languages (circulars, directives, legal texts and jurisprudence, etc.).
5. Revise the codes, following the specific domain of the different branches of law and of procedure applicable to implementing them, together with other international bodies.
6. Develop and adopt resources and statistical and measurement tools for developing technical and scientific capacities in the administration of justice, in particular with respect to judicial inspections, criminal investigations, and forensic medicine.
7. Issue new court fee schedules.
8. Introduce a system for increasing the pay of judicial officers.
9. Rehabilitation and creation of tribunals.

b. Reform and modernization of the Civil Registry

1. Separate the National Archives from the Civil Registry, which should be placed under the Ministry of Justice and Public Safety.
2. Supply the Civil Registry Offices with Civil Registry records and acts, in the two official languages.

c. Upgrading the level of judicial officers

1. Organize ongoing professional training programs at the EMA for judges, judicial officers, and auxiliaries (bailiffs, clerks, legal technicians, etc.)
 - i) Specialized training program in criminal investigation for judges and judicial officers, the judicial and investigative police, and medical examiners, including training courses abroad.
 - ii) Specialized training program for public officials on the CARICOM legal system and the rules of multilateral trade in general.
 - iii) Specialized training program in forensic medicine for judges, judicial officers, and the judicial and investigative police, including training courses abroad.
 - iv) Specialized training program on ethics at the EMA for people involved in the judicial system.

v) Specialized training program on techniques of mediation, conciliation, arbitration, and peaceful settlement of disputes.

vi) Public awareness campaign on issues involved in criminal investigations and the role of citizens and civil society organizations.

vii) Establish partnerships with judiciary councils in other countries.

2. Publish juridical materials and make them available to the nation's tribunals.

A.2. Governance, transparency and development

The actions set forth will be pursued with due regard to the priorities established and the financial resources available, as well as assistance under way or planned by other donors. In the spirit of fulfilling the established objectives, the following actions and activities are planned, among others:

1. Begin consultations on the topics of transparency, sound administration of resources and public funds, and development.

2. Prepare regional diagnoses and a national diagnosis of the situation.

3. Assess the strengths and weaknesses with respect to each of these topics.

4. Prepare policies, strategies, and activities to be recommended.

5. Prepare profiles and implementation timetables for priority projects.

6. Organize discussions, workshops, conferences, and seminars on transparency and development at the local level.

7. Use the results of private and public research dealing directly with the role of local institutions in enhancing transparency and the administration of public resources and finances.

B. OAS support

Working in partnership with the Haitian Government, with due regard to available resources and in coordination with other international bodies, the OAS Special Mission is in a position to:

1. Provide assistance by fielding international support personnel to help achieve the established objectives, and

2. Make available technical and material resources as needed.

IV. Follow-up

A Joint Committee is established to oversee the fulfillment of these terms of reference.

This Joint Committee consists of representatives appointed, respectively, by the President of the Republic, the Prime Minister, and the OAS Special Mission.

The Joint Committee may, as needed to facilitate its work, and in light of priorities and available resources, arrange for participation by national and international consultants, the costs of which will be paid by the OAS Special Mission.

TERMS OF REFERENCE

FOR OAS TECHNICAL ASSISTANCE

IN THE AREA OF JUSTICE

PREPARED JOINTLY BY:

THE OAS SPECIAL MISSION
AND
THE GOVERNMENT OF THE REPUBLIC OF HAITI

Port-au-Prince, February 28, 2003

TERMS OF REFERENCE: JUSTICE

I. Background and rationale

OAS resolutions 806 and 822, of January 15 and September 4, 2002, gave the OAS Special Mission the mandate to help the Government develop and reinforce its democratic institutions and, in particular, to meet the need to strengthen the independence of the judiciary and to support its efforts to end impunity.

In a letter dated October 29, 2002, the Prime Minister, Mr. Yvon Neptune, officially requested technical assistance for the Government from the OAS Special Mission in Haiti in the area of justice.

II. Objectives

- To reinforce the rule of law and consolidate the independence of the judiciary.
- In the context of resolutions 806 and 822, to strengthen efforts to end impunity by prosecuting those responsible for crimes and human rights violations.
- To strengthen the capacity of the justice system to conduct criminal investigations and to make use of scientific evidence.

III. Actions to be taken and support of the OAS Special Mission

A. Actions

The actions set forth do not constitute an exhaustive list of those that may be undertaken in pursuit of the established objectives. In all actions, due account will be taken of the priorities to be established and the funds available, as well as assistance under way or planned by other donors. In order to meet the established objectives, the following actions and activities are planned:

a) The independence of the judiciary

1. Encourage parliamentary adoption and prompt implementation of the following laws concerning the judiciary:
 - Law on the Supreme Council of the Judiciary.
 - Law on the Status of the Judiciary.
 - Organic Law on the Magistrates' School.
2. Provide support for the new Supreme Council of the Judiciary once it is installed, equipping it with the necessary legal tools¹ and technical² and scientific materials.
3. Work with the judiciary councils of other countries.

¹ Reference books, procedural charts, forms.

² Computers, information processing tools, photocopiers, databases.

4. Conduct awareness campaigns on the importance of the judiciary and the role of judges in a democratic society based on a genuine rule of law.
5. Conduct a seminar on independence of the judiciary and the separation of powers in a constitutional state.
6. Conduct specialized training seminars on ethics at the EMA, for members of the judiciary.
7. Publish case law, procedures, and acts of the Superior Courts in the country's two official languages.
8. Conduct seminars on comparative law and provide specialized training for members of the judiciary on the Caribbean Court of Justice (CCJ) and the CARICOM legal system.

b) Strengthening the prosecution system [*chaîne pénale*]

1. Conduct seminars to promote cooperative relationships between the various players in the country's prosecution system.
2. Conduct seminars to encourage the use of mediation, conciliation, arbitration, and peaceful settlement of disputes.
3. Conduct special training seminars on criminal investigation and the use of scientific evidence for judges and judicial officers, the judicial and investigative police, and medical examiners and coroners, including training courses abroad.
4. Conduct specialized training seminars in forensic medicine for members of the judiciary, judicial officers, and the judicial and investigative police, including training courses abroad.
5. Conduct seminars at the EMA on issues involved in criminal investigations and on the role of the citizenry and civil society organizations.

c) Combating impunity

1. Monitor the handling of cases associated with the acts of violence of December 17, 2001, as they relate to prosecution and reparations:
 - Evaluate all cases, make sure they are being pursued in the appropriate courts, and ensure that the recommendations of the Independent Commission of Inquiry are being fully applied.
 - Conclude each of the reparations cases in accordance with criteria established by the Advisory Council and ensure that all victims are given equal treatment, whether they are individuals or institutions.
2. Pay special attention to cases of serious human rights violations during the past decade, and set reasonable time limits for taking action against their authors, co-authors, and accomplices, with a view to:

- Holding inquiries.
- Identifying those responsible.
- Prosecuting those responsible.
- Holding fair and equitable trials.

B. OAS support

Working in partnership with the Haitian Government, with due regard to available resources and in coordination with other international bodies concerned, the OAS Special Mission is in a position to:

1. Provide assistance by fielding international support personnel to help achieve the established objectives, and
2. Make available technical and material resources as needed.

IV. Follow-up

A Joint Committee is established to oversee the fulfillment of these terms of reference.

This Joint Committee consists of representatives appointed, respectively, by the President of the Republic, the Prime Minister, and the OAS Special Mission.

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TERMS OF REFERENCE

FOR OAS TECHNICAL ASSISTANCE

IN THE AREA OF HUMAN RIGHTS

PREPARED JOINTLY BY:

THE OAS SPECIAL MISSION
AND
THE GOVERNMENT OF THE REPUBLIC OF HAITI

Port-au-Prince, February 28, 2003

TERMS OF REFERENCE: HUMAN RIGHTS

I. Background and Rationale

OAS resolutions 806 and 822, of January 15 and September 4, 2002, gave the OAS Special Mission the mandate to help the Government develop and reinforce its democratic institutions, and in particular to meet the need to strengthen the protection and promotion of human rights.

In a letter dated October 29, 2002, the Prime Minister, Mr. Yvon Neptune, officially requested assistance for the Government from the OAS Special Mission in Haiti in the area of human rights.

II. Objectives

- To help the Government of Haiti fulfill its human rights commitments pursuant to resolutions 806 and 822, and to carry out the recommendations of the OAS Independent Commission of Inquiry into the events of December 17, 2001.
- To encourage full respect for, and the promotion and guarantee of, human rights by law enforcement authorities, including efforts to combat impunity.
- To encourage and maintain an environment in which human rights are respected.

III. Actions to be taken and support of the OAS Special Mission

A. Actions

The actions set forth do not constitute an exhaustive list of the efforts that may be undertaken in pursuit of the established objectives. In all actions, due account will be taken of the priorities to be established and the funds available, as well as assistance under way or planned by other donors. In order to meet the established objectives, the following actions and activities are planned:

a) Protecting human rights

1. Encourage the adoption of immediate and concrete measures of general applicability that will promote greater protection for human rights, combat impunity, and consolidate a climate of security. Such actions will include, but are not limited to:

- Distribution of administrative circulars and/or other instruments and means to state officials and public employees, reminding them explicitly of the constitutional rules and applicable legal provisions, and the penalties for any violation of those requirements, which will be published so that the entire population is aware of them. They will deal with sensitive issues including, but not limited to, the following:
 - i) Public demonstrations and freedom of expression.

- ii) Human rights violations and other arbitrary acts, including summary execution, forced disappearance of persons, use of torture, and other cruel, inhuman, or degrading treatment, committed by agents of the state or persons condoned by the state.
- iii) Arrests and detentions and application of the constitutional rule that prisoners must be brought before a judge within 48 hours.
- iv) Restrictions on freedom of circulation through the use of barricades of any kind, and other means of obstruction, as well as acts of violence and vandalism in public thoroughfares.

2. To encourage parliamentary adoption and prompt implementation of the Organic Law on the Office of Citizen Protection [*Office de la Protection du Citoyen*].

3. Review of the provisions of resolutions 806 and 822, as well as the Recommendations of the Independent Commission of Inquiry into the events of December 17, 2001, as they relate to human rights in general and freedom of expression or of the press in particular, in order to take the necessary follow-up steps.

b) Promoting human rights

1. Provide targeted technical assistance to strengthen the capacity of government and local institutions, including the PNH and APENA, to protect, promote, and defend human rights in Haiti.

2. Pursue, throughout the country, public awareness programs and activities regarding human rights principles and standards.

3. Encourage Haiti's ratification of regional and universal instruments so as to strengthen the protection and promotion of human rights in the country.

4. Harmonize domestic law with international law applicable to Haiti in the area of human rights.

5. Develop training and education programs on human rights, of both a formal and informal nature, targeted at government institutions and at civil society.

B. OAS support

Working in partnership with the Haitian Government, with due regard to available resources and in coordination with other international bodies concerned, the OAS Special Mission is in a position to:

1. Provide assistance by fielding international support personnel to help achieve the established objectives, and

2. Make available technical and material resources as needed.

IV. Follow-up

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