UNASUR/CMRE/RESOLUTION/No. 37/2012

UNASUR ELECTORAL MISSION IN THE REPUBLIC OF ECUADOR

WHEREAS:

Article 8 of the Constitutive Treaty of UNASUR,

CONSIDERING:

That the Republic of Ecuador issued an official invitation, through the Pro Tempore Presidency, to the Union of South American Nations to participate with an Electoral Mission, within the framework of the general elections, which will take place in the territory of the Republic of Ecuador on February 17, 2013;

That the Statute of the Electoral Council of UNASUR, approved in the 3rd Meeting of the Electoral Bodies and Authorities of the Member States of UNASUR, and perfected in its 4th Meeting held in Lima, Republic of Peru, on November 12 and 13 of this year, in its Article 3, paragraph 3, states that one of its specific objectives is to organize, upon request of a Member State, a UNASUR Electoral Mission;

That it is fundamental to guarantee that the Mission that will participate in the Presidential Elections of February 17, 2013, in the Republic of Ecuador, will have the necessary conditions to act efficiently, in accordance with the independence, integrity and transparency principles;

That the document titled “Criteria and Regulations for UNASUR Electoral Missions”, in its article 5, paragraph a), establishes the process to be followed by the Member States of UNASUR to request an Electoral Mission, which has been duly met by the requesting State;

THE COUNCIL OF MINISTERS OF FOREIGN AFFAIRS OF THE UNION OF SOUTH AMERICAN NATIONS,

HEREBY RESOLVES:

Article 1.- To approve UNASUR Electoral Mission for observing and assisting the electoral process of the Republic of Ecuador during the presidential elections to be held on February 17, 2013.

Article 2.- To authorize the Pro Tempore Presidency of UNASUR to sign the relevant Agreement with the National Electoral Council of the Republic of Ecuador for the participation of UNASUR Electoral Mission in the Republic of Ecuador during the presidential elections to be held on February 17, 2013. The draft of such Agreement is attached as an Annex hereto.

Lima, November 29, 2012
ANNEX


The Parties, the Pro Tempore Presidency on behalf of the Union of South American Nations, (hereinafter, UNASUR), and the National Electoral Council on behalf of the Republic of Ecuador, constitutionally and legally represented by its President (hereinafter, CNE);

CONSIDERING that the Constitutive Treaty of the Union of South American Nations signed in the city of Brasilia, Federative Republic of Brazil, on May 23, 2008, ratifies 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;

AWARE of UNASUR commitment to the promotion, defence and protection of the democratic order, Rule of Law and its institutions, Human Rights and fundamental freedoms, as essential and indispensable conditions for the development of their integration process and a vital requirement for their participation in UNASUR;

REMEMBERING that the Electoral Council of the Union of South American Nations is a functional and technical body for consultation, cooperation, coordination, research, exchange of experiences, organization of Electoral Missions, promotion of citizen participation and democracy within the framework of UNASUR’s Constitutive Treaty;

OBSERVING that the National Electoral Council of Ecuador officially invited the Union of South American Nations to participate, through its Electoral Council, in the general elections to be held in the Republic of Ecuador on February 17, 2013, with an Electoral Mission;

CONSIDERING that the Constitution of the Republic of Ecuador, the Law on Elections and Political Organizations of Ecuador, Democracy Code, and the Regulations on Electoral Observation of the Republic of Ecuador, recognize and guarantee the exercise of the electoral observation right;

CONSIDERING that, likewise, this regulatory body sets forth the competence and authority of the National Electoral Council of Ecuador to organize, direct, supervise and guarantee, in a transparent manner, the electoral processes, as well as the jurisdiction, autonomy and legal status to sign this Agreement;

AGREEING that UNASUR Electoral Mission will abide by the International Law, the Constitutive Treaty of UNASUR, the regulations of the body of laws of the Republic of Ecuador, and the stipulations of this Agreement;

Do hereby execute this Agreement to establish a UNASUR Electoral Mission for the observation and accompaniment of the elections to take place in the Republic of Ecuador on February 17, 2013, under the following terms:

CLAUSE ONE.- OBJECTIVES

1. To ensure the institutional presence of UNASUR Electoral Council through an Electoral Mission during the general elections to be held in the Republic of Ecuador on February 17, 2013, within the framework of respect, solidarity and cooperation.

2. To contribute with the CNE in the different stages and procedures of the electoral process, promoting the exchange and generation of experiences and knowledge on the matter, in order to perform the tasks stipulated in their legislation using the best practices.

3. To contact the CNE, the political actors and other relevant parties of the electoral process, and to be aware of the regulations and electoral practices that are applied.
Moreover, to verify and analyze the different stages of the process regarding their administrative, legal and procedural aspects.

The observation will be carried out under the regulations and principles of the International Law, the Constitutive Treaty of UNASUR, the Criteria and Regulations of UNASUR Electoral Missions, the regulations of the body of laws of the Republic of Ecuador and the stipulations of this Agreement.

CLAUSE TWO.- COMMITMENTS

The parties do hereby undertake to:

National Electoral Council

1. Guarantee the safety conditions, information, transportation, cooperation and access to all stages of the electoral process, to the electoral procedures and agents, as well as to provide the necessary logistics required by the Electoral Mission to meet its objectives.
2. Ensure that the necessary immunities and privileges are granted to the members of the Electoral Mission for the performance of their functions, since their arrival into the country and for the duration of their activities.
3. Accredit and provide safe-conduct for its members.
4. Guarantee the freedom of transit and mobilization within electoral facilities and premises, freedom to communicate with political subjects and other people and bodies the members may want to contact, access to public documents before, during and after the electoral process, and other necessary guarantees.
5. Deliver all the information on regulations, procedures and candidates to be elected and other matters that the members of the Mission may consider necessary to carry out their activities in connection with the electoral process.
6. Provide a numbered ID badge to each member of the Mission, which must contain: full name, number of passport, country, institution he or she represents, position, and a photograph. The ID badge will be personal and non-transferrable and the members must show it upon request of the authorities of the Republic of Ecuador when necessary.
7. Permit the Electoral Mission to make visits in advance to the date of the election to familiarize with the facilities of the National Electoral Council, attend trainings, observe the technological systems to be used for the election, and any other activity deemed relevant by the Mission, which will be facilitated in full.
8. Other that may be required in connection to the nature of this Agreement.

UNASUR

1. Respect the Constitution of the Republic of Ecuador, its laws, regulations and other norms, as well as the provisions issued by the electoral bodies.
2. Ratify the commitment to act with impartiality, objectivity, independence, legality, non-interference and transparency, pursuant to the Criteria and Regulations that govern UNASUR Electoral Missions.
3. Exercise its functions within the framework of respect, solidarity and cooperation.
4. Record and report the disputes, irregular situations or conflicts that arise in the premises during the electoral day.
5. Submit reports both during and after the process, including all conclusions and recommendations aimed at improving the current or future development of the electoral processes in UNASUR Member States.

CLAUSE THREE.- POWERS OF THE MEMBERS OF THE ELECTORAL MISSION

The powers of the members of the Electoral Mission are the following:

1. To freely carry out interviews to electoral officials, national authorities, leaders of political parties and movements, candidates and citizens in general, in order to obtain guidance and information on the elections’ institutions and procedures.
2. To be present during the installation of ballot receiving committee and the development of the voting.
3. To review the electoral documents delivered to the ballot receiving committee.
4. To maintain dialogue with the candidates and delegates of political subjects in the electoral premises, without affecting the development of the process.
5. To obtain information in advance about the location of the electoral premises and ballot receiving committees.
6. To be present during the count and calculation of the votes in the vote receiving committees and the recording of the results in electoral premises.
7. To watch the result transmission system in the electoral bodies.
8. The members of the Mission have the right to attend the announcement of results, the allocation of seats and appointment of elected authorities.
9. To remain informed about the aspects related to electoral financing and expense control.

Any restriction or limitation to the exercise of the functions of the members of the Mission will be immediately reported, stating its reasons, to the President of the National Electoral Council by the Mission’s Special Representative, so that the relevant corrective measures are adopted.

CLAUSE FOUR.- OBLIGATIONS

The Electoral Mission undertakes:

1. Not to influence in any way whatsoever the will of the voters or the decisions adopted by the members of the ballot receiving committees or premises coordinators.
2. Not to settle conflicts or answer inquiries under any circumstance, either from the voters, political subjects or electoral authorities.
3. Not to make political propaganda of any nature, or make statements in favor of any associations with political purpose, voter groups, citizen groups or candidates.
4. Not to attribute or intend to subrogate the competences and powers of the Electoral Authorities of the Republic of Ecuador, or interfere or hinder their activities.
5. Not to interfere with or hinder the activities of the electoral authorities, or subrogate their competences and powers and/or the ordinary development of the elections
6. Not to offend or slander public institutions, organizations, electoral authorities, political organizations or candidates.
7. Not to make electoral forecasts or electoral tallies.
8. All members of the Mission will abstain from disseminating interviews, making statements or carrying out activities against the respect of the election silence established by the competent authorities.

CLAUSE FIVE.- CREATION OF THE ELECTORAL MISSION AND APPOINTMENT OF ITS MEMBERS

The Electoral Mission will consist of the following members:

1. One Special Representative appointed by the Council of Ministers of Foreign Affairs of UNASUR;
2. One General Electoral Coordinator chosen by the Council of Ministers of Foreign Affairs of UNASUR. The Coordinator will choose four assistants; and,
3. Up to four authorities or officials with wide experience in matters related to electoral processes, proposed by each Member State, for their appointment by the National Council of UNASUR;

The Mission will have the support of UNASUR’s General Secretariat.

The creation of the Electoral Mission must try to take into account the participation from a gender and intercultural perspective, in accordance with the situation of each Member State.
CLAUSE SIX.- ACCREDITATION
The Pro Tempore Presidency, through UNASUR’s General Secretariat, will communicate the full names and profiles of the members to be part of the Observation and Accompaniment Mission to the President of the National Electoral Council, for their corresponding accreditation, as well as the full name and profile of the Special Representative and the General Coordinator appointed by UNASUR’s Electoral Council.

In case of non-compliance with the commitments assumed in Clause Two, paragraph UNASUR 2 hereof, the CNE may, through duly reasoned Resolution, revoke the accreditation of the member of the Mission responsible for such non-compliance.

The National Electoral Council, through the corresponding Administrative Unit, will request the involved member to present his or her justification for the action he or she is charged with.

Within a term that will not exceed the duration of the Mission, the CNE will notify about its decision to the relevant member of the Mission; with the Special Representative and the Pro Tempore Presidency through UNASUR’s General Secretariat.

CLAUSE SEVEN.- DEPENDENCY RELATION
The members of the Electoral Mission (UNS) will have no employment dependency relation with the National Electoral Council, notwithstanding that this body will provide the facilities and means necessary for the exercise of their functions.

CLAUSE EIGHT.- COORDINATION
The Special Representative will be sole official spokesperson of the Mission and, acting as UNASUR’s representative, may make general comments on the electoral process, observing the impartiality, objectivity, independence, legality, non-interference and transparency principles, respecting the electoral silence established by the competent national authorities.

Similarly, the Special Representative will channel, through the Presidency of the National Electoral Council, all the requirements considered necessary by the Mission for complying with its activities.

The National Electoral Council, through its President or delegate, will coordinate with the Mission all the matters necessary for securing this Agreement.

CLAUSE NINE.- REPORTS
1. During the first day of electoral silence, the Mission will issue a report on the activities carried out and those to take place during the election day, with no ratings.
2. On the day after the elections, the Mission will draft a preliminary report on the general considerations of the election, to be delivered to the electoral body of Ecuador.
3. Within fifteen (15) days following the elections, and analyzing all information collected and evaluated, a final report will be drafted, containing an executive summary, the institutional and regulatory framework of the Mission, its methodology, description of the institutional environment, preliminary activities both reported and seen in person, interviews carried out, the Mission’s deployment in the country’s territory, analysis of the reports on the election day, recommendations, and annexes.

The Special Representative will deliver the Electoral Mission’s report to the President of the CNE, with a copy to the Electoral Council, the General Secretariat and UNASUR Pro Tempore Presidency.

CLAUSE TEN.- TERM
1. The Mission will be active during a term of …. days, from February …… to ……, 2013.
2. This Agreement will become effective since its execution and will conclude once the final report of the Electoral Mission is presented.

CLAUSE ELEVEN.- DISPUTE SETTLEMENT

Any doubt or dispute that may arise from the interpretation or application of this Agreement will be settled through direct negotiation between the Parties.