

# **AGREEMENT TO ESTABLISH A TRANSITION PROCESS AND CONFIDENCE BUILDING MEASURES BETWEEN BELIZE AND GUATEMALA**

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# **AGREEMENT TO ESTABLISH A TRANSITION PROCESS AND CONFIDENCE BUILDING MEASURES BETWEEN BELIZE AND GUATEMALA**

## **I. Preambular Considerations:**

Delegations from Belize and Guatemala, headed by H.E. Assad Shoman, Minister of Foreign Affairs of Belize, and by H.E. Edgar A. Gutiérrez, Minister of Foreign Affairs of Guatemala, met at OAS Headquarters in Washington D.C. on February 7, 2003, with Assistant Secretary General, in charge of the General Secretariat, Ambassador Luigi R. Einaudi to continue their discussions aimed at concluding an Agreement to Establish a Transition Process and Confidence Building Measures Between Belize and Guatemala within the framework of a just, equitable and permanent solution to the territorial differendum between the two countries.

The Delegations and the Assistant Secretary General recognized that the Panel of Facilitators of the Belize-Guatemala Facilitation Process completed its mandate with the presentation of the Facilitators' final Proposals on September 16, 2002, and that as a result, the Facilitation Process ended on September 30, 2002.

The Parties also recognized, however, that there were practical difficulties which prevented them from holding the referenda simultaneously in both countries within the timeframe recommended by the Facilitators. In light of this, the Delegations agreed to preserve the Proposals until such time as the appropriate constitutional procedures of each State have been completed.

Recognizing the need for a mechanism to manage their relations and the situation in the Adjacency Zone until the referenda are held, the Parties agreed to establish a Transition Process and Confidence Building Measures, which are described in this Agreement. The Agreement contains three sections and contains three annexes which are an integral part of the Agreement.

## **II. Purpose and Scope:**

1. In light of the conclusion of the Facilitation Process on September 30, 2002, this Agreement establishes a Transition Process, in which the Governments of Belize and Guatemala ("the Parties") agree to continue to work constructively and in good faith to manage their relationship until they reach a final just, equitable, honorable and permanent resolution of their territorial differendum.
2. The Confidence Building Measures have as their central purpose the preservation of peace in the Adjacency Zone.
3. All actions under this Agreement shall be consistent with the laws of the Parties.

4. The Parties, as signatories of the Charter of the Organization of American States are bound by the American Declaration of the Rights and Duties of Man. Annex A lists human rights which the Parties agree all persons in the Adjacency Zone enjoy.
5. Belize and Guatemala agree to call upon the General Secretariat of the Organization of American States, on the Counselors that may be appointed by the Secretary General (as described in section II, paragraph 9, below) and on the Group of Friends, (as described in section II, paragraph 10, below) to assist them during the Transition Process.
6. The Transition Process stipulated in this Agreement has a limited and temporal character and shall expire the day following the ratification, by the appropriate legislative bodies in Belize and Guatemala, of the Treaties of Settlement for a permanent solution to their territorial differendum, unless an extension is mutually agreed upon by the Parties in writing prior to that date. The constitutional processes in both countries require that, prior to ratification, the proposals be approved by referenda, which should be held simultaneously in both countries, as recommended by the Facilitators.
7. The confidence-building measures stipulated in this Agreement shall be valid for a period of one year, and shall be reviewed every six months by the General Secretariat of the OAS in consultation with the Parties to ensure they are being complied with by the Parties.
8. The General Secretariat of the OAS:
  - 8.1. The General Secretariat of the OAS shall endeavor to provide such assistance as is requested by the Governments of Belize and Guatemala in order to implement this Agreement. This assistance, shall include the following:
    - 8.1.1. To convene meetings between representatives of the two States;
    - 8.1.2. To develop and recommend specific measures, mechanisms or processes aimed at preventing or resolving specific problems or incidents which may occur between the Parties;
    - 8.1.3. To monitor the implementation and execution of the confidence-building measures established in this Agreement, and suggest alterations or revisions where necessary;
    - 8.1.4. To appoint individuals or organizations to undertake specific tasks, where expert or specialist knowledge or skill is required;

8.1.5. To conduct in situ visits in either of the two States when necessary for the verification of incidents which may have occurred in the Adjacency Zone;

8.2. The Parties agree that the General Secretariat shall establish an office in the Adjacency Zone (the Zone is defined in section III, paragraph 10, below), in a location agreed by the Parties. This Office, to be known as the Office of the General Secretariat in the Adjacency Zone, shall be an extension of both the Office of the General Secretariat in Guatemala, and the Office of the General Secretariat in Belize. The Office shall have the following functions:

8.2.1. To organize and foster community to community contacts across the Adjacency Line;

8.2.2. To develop and execute activities designed to improve relations, confidence and cooperation among the inhabitants of the Adjacency Zone;

8.2.3. At the request of either Party, and with the proper approval from the Headquarters of the General Secretariat, to verify incidents which may occur in the Adjacency Zone;

8.2.4. At the request of either Party, and with proper approval from the Headquarters of the General Secretariat, to verify any transgression by the Parties of the confidence-building measures contained in this Agreement;

8.2.5. To provide information on the Transition Process and on the confidence-building measures agreed by the Parties to the residents of the Adjacency Zone.

8.3. The Governments shall extend to General Secretariat of the OAS' Personnel and contractors assigned to the Office provided for under paragraph 8.2 (and its sub-sections) of this Agreement the same privileges and immunities conferred upon the General Secretariat of the OAS personnel under the agreements already in force on privileges and immunities between the General Secretariat of the OAS and the Governments and all other applicable laws. Similarly, the Governments will extend to that Office and its assets all of the same privileges and immunities conferred upon the Office of the General Secretariat in each of their respective territories under those agreements and laws.

## 9. The Counselors of the Secretary General

9.1. The Secretary General shall appoint Counselors and advisors that he may deem necessary on a case by case basis, and these shall have those responsibilities assigned by the Secretary General in consultation with the Parties.

9.2. Each Party shall appoint one Counselor who shall advise the Secretary General on the best ways to fulfill the duties and responsibilities described in this Agreement.

9.3. The Counselors agree to provide their services without remuneration. The Fund for Peace shall defray the travel and accommodation expenses incurred by the Counselors under this agreement.

#### 10. The Group of Friends:

10.1. The Secretary General, in consultation with the Counselors, and at the request of the Parties, shall establish a broadly representative Group of Friends of Belize-Guatemala Transition Process (the "Group of Friends"), consisting of OAS Member and Observer States, and others interested in supporting a peaceful resolution to the territorial differendum.

10.2. The Group of Friends shall be an advisory body to the Secretary General. It shall provide political and operational support for undertaking the various activities contemplated under this Agreement.

10.3. The Group of Friends shall provide assistance to the Parties for holding the referenda on the Proposals of September 16, 2002.

10.4. Members of the Group of Friends shall endeavor to provide financial assistance for the activities undertaken under the Transition Process and Confidence Building Measures, by means of contributions to the Belize-Guatemala sub-fund of the Fund for Peace.

#### **III. Confidence Building Measures:**

The Parties agree to comply in good faith with the following confidence-building measures:

1. The confidence-building measures that are proposed or accepted during the Transition Process shall not constitute a total or partial waiver of sovereignty over any territory (land, insular or maritime) claimed by either Party; nor shall any rights of either Party to such territory be prejudiced; nor shall any precedent be established for the strengthening or weakening of either Party's claims to any such territory. Each party expressly reserves its rights with respect to its claims of sovereignty over any territory (land, insular or maritime).
2. The Parties agree that neither Party will use against the other, in any forum in which this territorial differendum may be addressed in the future, the fact that either of the

Parties has accepted, agreed to, complied with or implemented any of the confidence-building measures included herein.

3. In the event that a judicial solution to the territorial differendum is sought by either Party, following a rejection of the Proposals by popular referenda in either country, the Parties agree that the confidence-building measures shall remain in effect for one year, and renewable thereafter for periods of one year, until a final ruling on the merits of the case is handed-down by the competent judicial body.
4. In carrying out these confidence-building measures both Parties shall respect the principles of international humanitarian law, as applicable to the circumstances.
5. Neither Party shall use force, or the threat of force, to pursue their positions with respect to the territorial differendum.
6. For the sole purpose of facilitating the implementation of these confidence-building measures, the Adjacency Line referred to in these confidence-building measures shall consist of a line running generally in a south-to-north direction from the reference marker at Gracias a Dios in the south to the reference marker at Garbutt's Falls and from there to the reference marker at Aguas Turbias in the north. The territory lying within one kilometer of the Adjacency Line, in either direction (that is, to the east or to the west), shall be considered the Adjacency Zone. All existing rights and claims with respect to territory located within the Adjacency Zone are expressly reserved by the Parties. The Adjacency Zone is further described in the map dated February 6, 2001 produced by the Pan-American Institute of Geography and History.
7. The use of this line as the Adjacency Line does not constitute an agreement by the Parties that such line represents the international boundary between Belize and Guatemala. All rights and claims with respect to this issue are expressly reserved by the Parties.
8. The Parties will cooperate in clearing the areas around the three reference markers mentioned in section III, paragraph 6, above.
9. The clearing of areas around the three reference markers by either Party shall not be interpreted in this or any other forum in which the Parties' territorial differendum may be addressed as a recognition, understanding or admission by Guatemala that said reference markers denote the international boundary between Guatemala and Belize.
10. The Adjacency Zone shall be subject to a special regime, as follows:
  - A. The community of Santa Rosa, including homes, farms, roads, buildings and other infrastructure established before October 1, 2000, shall remain

undisturbed during the pendency of the Confidence Building Measures and the Transition Process.

B. Any settler established inside the Adjacency Zone after October 1, 2000 and before October 1, 2002, as verified by the General Secretariat of the OAS, shall be relocated by the respective government with the assistance of the General Secretariat of the OAS. Within 90 days of the signing of this Agreement, and following consultation with the Parties, the General Secretariat shall present a project for effecting such relocation which will be implemented by the Parties with the assistance of the General Secretariat within the succeeding 90 days. All settlers shall be subject to the laws of the country of their location.

C. Those settlers who established themselves in the Adjacency Zone after October 1, 2002, shall be subject to the provisions of Annexes A and B of this Agreement.

D. Without prejudice to each Party's claims of sovereignty over any part of the Adjacency Zone, all persons residing to the west of the Adjacency Line shall be required to abide by and respect the laws, including human rights laws, and law enforcement authorities of Guatemala, and all persons residing to the east of the Adjacency Line shall be required to abide by and respect the laws, including human rights laws, and law enforcement authorities of Belize.

E. There shall be no new Guatemalan settlers joining any settlement to the East of the Adjacency Line, and no extension of any existing settlement after 1 October 2000. The Government of Guatemala will take effective measures to dissuade its citizens and/or residents from establishing new settlements, or joining existing settlements, to the east of the Adjacency Line.

F. All military and police patrols in the Adjacency Zone will be coordinated by both countries. The General Secretariat of the OAS shall be informed of the time and location of all such patrols.

11. The Parties, with the assistance of the General Secretariat of the OAS, shall promote community to community contact across the Adjacency Line to improve relations and understanding.
12. The Parties shall, by mutual agreement, establish mechanisms to facilitate transit of persons, goods and services with minimum restrictions at agreed crossing points.
13. The Parties shall meet to develop confidence-building measures to avoid conflicts or incidents in the territorial sea or exclusive economic zone of either Party, or on the high seas. The Parties may jointly request the participation of the General Secretariat of the OAS to facilitate agreement.

14. The Parties shall meet to develop plans for cooperative efforts to respond to natural disasters.
15. The Parties shall meet to develop plans for cooperative efforts to fight drug trafficking and other criminal activity including international criminal activity.
16. The Parties shall cooperate to avoid incidents on the ground conducive to tension between them. In the event of such an incident, the Parties shall immediately communicate with one another, and with the General Secretariat of the OAS, to contain it, resolve it, and prevent its recurrence.
17. The Parties, with the assistance of the General Secretariat of the OAS shall monitor the implementation of these confidence-building measures, and work together to resolve any problems or issues that might arise.
18. Any problems or issues that cannot be resolved by the Parties themselves, in the first instance, should be referred to the General Secretariat of the OAS for its assistance in helping the Parties reach agreement. The General Secretariat shall design just and equitable solutions to any problem encountered. The General Secretariat, at the request of either Party, shall appoint fact finding missions in the event of an incident or if it is considered desirable.
19. Wherever the Transition Process or the Confidence-Building Measures established under this Agreement call for cooperation between the Parties or for joint action and one of the Parties refuses or fails to cooperate or act jointly, the other Party shall be free to submit the matter to the General Secretariat who shall make a recommendation, in consultation with the Counselors, as a matter of urgency, for the carrying out of the action, and the Parties hereby agree to comply in good faith.
20. In any dispute regarding the interpretation or performance of this Agreement involving the General Secretariat of the OAS as a complainant or respondent and not as an intermediary between the Parties, the interested Parties shall resolve their differences through negotiations between them. Nothing in this Agreement constitutes a waiver of the lawful privileges and immunities of the Parties or the General Secretariat of the OAS.
21. The Parties agree to exercise caution and restraint in the treatment of all issues related to the Transition Process. To this end the Parties shall frame all public statements relating to the Transition Process in a manner that is consistent with their obligations to timely and fully inform their respective public opinions concerning the Process, conducive to the successful resolution of the territorial differendum, the facilitation of harmonious relations between Belize and Guatemala, and the maintenance of peace. The Parties further agree to abide by the guidelines for public statements attached as ANNEX C.

22. The Parties may modify this Agreement by a written instrument of modification agreed to and signed by the Parties and the General Secretariat of the OAS. That instrument may take the form of an exchange of letters or a more formal amendment document.

23. For purposes of receiving and sending the written notifications required under this Agreement, the Parties and the General Secretariat of the OAS designate the following officials:

a. For the General Secretariat of the OAS:

The Assistant Secretary General  
OAS Main Building, MB2  
17<sup>th</sup> St. and Constitution Ave., N. W.  
Washington, D.C. 20006  
FAX: 202-458- 3011  
TEL: 202-458-6046

b. For Belize:

Chief Executive Officer  
Ministry of Foreign Affairs and Cooperation  
New Administrative Building, Belmopan Belize  
FAX: 501 822 2854  
TEL: 501 822 3764

c. For Guatemala:

Executive Secretary, Belize Commission  
Ministry of Foreign Affairs  
2da.Avenida 4-17 Zona 10, Ciudad de Guatemala  
FAX: 502 332 0910  
TEL: 502 332 0900

24. Any Party may substitute its Official designated to give and receive notice under this Article with another upon prior written notice to the other Party and to the General Secretariat of the OAS.

Signed on February 7, 2003, by the duly appointed representatives of the Parties in two English originals and one Spanish original, all equally authentic, on the date and at the place indicated below:

For Belize:

For Guatemala:

\_\_\_\_\_  
H.E. Assad Shoman  
Minister of Foreign Affairs

\_\_\_\_\_  
H.E. Edgar A. Gutiérrez  
Minister of Foreign Affairs

For the General Secretariat of the OAS

\_\_\_\_\_  
César Gaviria  
Secretary General

\_\_\_\_\_  
Luigi R. Einaudi  
Assistant Secretary General

## **ANNEX A**

### **Human Rights in the Adjacency Zone**

The Governments of Belize and Guatemala agree to place special emphasis on the following human rights which are enjoyed by all persons in the Adjacency Zone. In addition, the Parties will ensure adherence to the Universal Declaration of Human Rights, the Charter of the Organization of American States, the American Declaration of the Rights and Duties of Man, and other international human rights instruments ratified by both Parties. The existence of the territorial differendum shall not affect the full exercise of all the human rights of the two countries' inhabitants.

1. All persons in the Adjacency Zone are entitled to all the rights and freedoms set forth in this Annex, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
2. All persons in the Adjacency Zone have the right to life, liberty and security of person.
3. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
4. Everyone has the right to recognition everywhere as a person before the law.
5. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Annex and against any incitement to such discrimination.
6. Everyone has the right to an effective remedy by the competent national tribunals in Belize and Guatemala for acts violating the fundamental rights granted by the respective constitutions or by laws in force on the East and West side of the Adjacency Line.
7. No one shall be subjected to arbitrary arrest, detention or exile.
8. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.
9. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the conditions necessary for his defense.

10. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.
11. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.
12. The *Procurador de Derechos Humanos* of Guatemala (Attorney General for Human Rights), the Ombudsman of Belize, and national or international human rights organizations, shall be able to observe any judicial process involving settlers from the Adjacency Zone.
13. The authorities of Belize and Guatemala shall, on their respective side of the Adjacency Line, destroy any goods or uninhabited dwellings, once these have been determined to be illicit or illegal by the competent authorities. Illegal drug cultivation shall also be destroyed.
14. Should any sort of incident occur in the Adjacency Zone that affects the physical well-being or goods or property of any settler, then Belizean or Guatemalan authorities, depending on whether the incident occurred to the east or west of the Adjacency Line, shall be obligated to:
  - (a) Immediately advise the Consulate of the other Party and the Office of the General Secretariat in the Adjacency Zone, of any judicial proceedings.
  - (b) Cause any report of an alleged criminal offense to be investigated immediately by the proper authorities and judicial proceedings to be instituted, where warranted.
  - (c) Ensure that any proceedings and actions shall be public.
  - (d) Ensure that there is free access to arrested, accused and sentenced persons, according to regulations and laws in force.
15. In extra judicial cases in which victims of human rights violations are to receive monetary indemnities, the *Procurador de Derechos Humanos* of Guatemala and the Ombudsman of Belize, at the request of the Parties shall assess and recommend the amounts of monetary indemnity to be paid.

## ANNEX B

### PROCEDURE TO DEAL WITH CERTAIN PERSONS IN THE ADJACENCY ZONE BETWEEN BELIZE AND GUATEMALA

The following protocol provides the terms for relocating certain residents of the Adjacency Zone described in section III, paragraph 10 (C) of the Agreement to Establish a Transition Process and Confidence Building Measures Between Belize and Guatemala.

Execution of activities by sequence:

**Stage I** Settlers/settlements which are discovered in the Adjacency Zone shall be reported to the relevant authorities in Belize and Guatemala and to the Office of the General Secretariat of the OAS in the Adjacency Zone.

**Stage II** The respective Ministry of Foreign Affairs shall proceed to notify the Embassy of the other State as well as the Office of the General Secretariat of the OAS in the Adjacency Zone, and shall request joint verification of the existence, location and status of the settlement.

**Stage III** On-site verification shall occur within 72 hours of the request. The verification shall be conducted by the General Secretariat of the OAS and representatives of the Governments of Belize and Guatemala will be invited to participate.

The Ombudsman of Belize and the *Procurador de Derechos Humanos* of Guatemala or their duly appointed representatives shall also be invited to participate in the joint verification exercise

The exact location and the status of the settlers, their crops and settlements will be established in a written report by the General Secretariat of the OAS following the on-site visit.

**Stage IV** Within seven days of the on-site visit, the Office of the General Secretariat of the OAS in the Adjacency Zone shall deliver the results of the verification exercise to the Parties. The settlers shall then be notified of the results of the verification exercise by the relevant Party, accompanied by a representative of the General Secretariat of the OAS and will be allowed a period of seven days to voluntarily relocate. Upon the expiration of the seven day period, the settlers shall be subject to legal proceedings by a competent tribunal.

## **ANNEX C**

### **Guidelines for Public Statements**

To reinforce the Agreement to Establish a Transition Process and Confidence Building Measures Between Belize and Guatemala, and to facilitate the negotiation process concerning the territorial differendum, the Parties reiterate their prior agreement to exercise caution and restraint in the treatment of all issues related to this negotiation process.

To this end the Parties shall frame all public statements relating to the Transition Process in a manner that is consistent with their obligations to timely and fully inform their respective public opinions concerning the progress of the negotiations. The Parties agree to apply the following guidelines for public statements in this regard.

1. The Parties shall specifically recognize that not only incidents on the ground, but statements in the media or elsewhere, can also be disruptive of confidence between the parties and inimical to the process of conflict resolution.
2. Each Government must observe a self-denying ordinance in avoiding public accusations and attribution of hostile motives to the other.
3. The self-denying ordinance shall apply to all formal diplomatic notes and correspondence between the parties, and that these should not be publicly released, unless such release is legally required or warranted by extreme circumstances. The Parties shall respect the confidentiality of official communications.
4. The Governments shall moderate the language and tone of their written communications and public pronouncements of their officials.
5. Every effort should be made within each country to secure the concurrence of political parties and interest groups in an understanding that they too would not contribute to a heightening of tensions by public statements of their own.
6. Whenever a State receives a report of an "incident" allegedly caused by the other, the State receiving the report, before it denounces the other State or publicly comments on the "incident," should immediately communicate with the allegedly offending State to determine what occurred and the explanation for it, and make every attempt to verify the facts before making the issue public.