

[TRANSLATION - TRADUCTION]

AGREEMENT BETWEEN THE UNITED NATIONS AND THE  
GOVERNMENT OF HAITI CONCERNING THE STATUS OF THE  
UNITED NATIONS OPERATION IN HAITI

I. DEFINITIONS

1. For the purposes of the present Agreement, the following definitions shall apply:

(a) "MINUSTAH" means the United Nations Stabilization Mission in Haiti, established in accordance with Security Council resolution 1542 (2004) dated 30 April 2004 with the mandate described in the above-mentioned resolution based on the recommendations contained in the Secretary-General's report of 16 April 2004 (S/2004/300);

MINUSTAH shall consist of:

- (i) The "Special Representative" appointed by the Secretary-General of the United Nations with the consent of the Security Council. Any reference to the Special Representative in this Agreement shall, except in paragraph 26, include any member of MINUSTAH to whom he or she delegates a specified function or authority;
  - (ii) A "civilian component" consisting of United Nations officials and of other persons assigned by the Secretary-General to assist the Special Representative or made available by participating States to serve as part of MINUSTAH;
  - (iii) A "military component" consisting of military and civilian personnel made available to MINUSTAH by participating States at the request of the Secretary-General;
- (b) A "member of MINUSTAH" means the Special Representative of the Secretary-General and any member of the civilian or military components;
- (c) "The Government" means the Government of Haiti;
- (d) "The territory" means the territory of Haiti;
- (e) A "participating State" means a State providing personnel, services, equipment, provisions, supplies, materials and other goods to any of the above-mentioned components of MINUSTAH;
- (f) "The Convention" means the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946, to which the Republic of Haiti is a party;
- (g) "Contractors" means persons, other than members of MINUSTAH, engaged by the United Nations, including juridical as well as natural persons and their employees and subcontractors, to perform services and/or supply equipment, provisions, supplies, materials and other goods in support of MINUSTAH activities. Such contractors shall not be considered third-party beneficiaries to this Agreement;

(h) "Vehicles" means civilian and military vehicles in use by the United Nations and operated by members of MINUSTAH and contractors in support of MINUSTAH activities;

(i) "Vessels" means civilian and military vessels in use by the United Nations and operated by members of MINUSTAH, participating States and contractors in support of MINUSTAH activities;

(j) "Aircraft" means civilian and military aircraft in use by the United Nations and operated by members of MINUSTAH, participating States and contractors in support of MINUSTAH activities.

## II. APPLICATION OF THE PRESENT AGREEMENT

2. Unless specifically provided otherwise, the provisions of the present Agreement and any obligation undertaken by the Government or any privilege, immunity, facility or concession granted to MINUSTAH or any member thereof or to contractors apply throughout the territory of Haiti.

## III. APPLICATION OF THE CONVENTION

3. MINUSTAH, its property, funds and assets, and its members, including the Special Representative, shall enjoy the privileges and immunities specified in the present Agreement as well as those provided for in the Convention.

4. Article II of the Convention, which applies to MINUSTAH, shall also apply to the property, funds and assets of participating States used in connection with MINUSTAH.

## IV. STATUS OF MINUSTAH

5. MINUSTAH and its members shall refrain from any action or activity incompatible with the impartial and international nature of their duties or inconsistent with the spirit of the present Agreement. They shall respect all local laws and regulations. The Special Representative shall take all appropriate measures to ensure the observance of those obligations.

6. Without prejudice to the mandate of MINUSTAH and its international status:

(a) The United Nations shall ensure that MINUSTAH shall conduct its operation in Haiti with full respect for the principles and rules of the international conventions applicable to the conduct of military personnel. These international conventions include the four Geneva Conventions of 12 August 1949 and their Additional Protocols of 8 June 1977 and the UNESCO Convention of 14 May 1954 for the Protection of Cultural Property in the Event of Armed Conflict;

(b) The Government undertakes to treat at all times the military personnel of MINUSTAH with full respect for the principles and rules of the international conventions applicable to the treatment of military personnel. These international conventions include the four Geneva Conventions of 12 August 1949 and their Additional Protocols of 8 June 1977.

MINUSTAH shall ensure that the members of its military personnel are fully acquainted with the principles and rules of the above-mentioned international instruments.

7. The Government undertakes to respect the exclusively international nature of MINUSTAH.

United Nations flag, markings and identification.

8. The Government recognizes the right of MINUSTAH to display within Haiti the United Nations flag on its headquarters, camps or other premises, vehicles, vessels and otherwise as decided by the Special Representative. Other flags or pennants may be displayed only in exceptional cases. In these cases, MINUSTAH shall give sympathetic consideration to observations or requests of the Government.

9. Vehicles, vessels and aircraft of MINUSTAH shall carry a distinctive United Nations identification, which shall be notified to the Government.

Communications

10. MINUSTAH shall enjoy the facilities in respect of communications provided for in article III of the Convention and shall, in coordination with the Government, use such facilities as may be required for the performance of its tasks. Issues with respect to communications which may arise and which are not specifically provided for in the present Agreement shall be dealt with pursuant to the relevant provisions of the Convention.

11. Subject to the provisions of paragraph 10:

(a) MINUSTAH shall have the right to install and operate United Nations radio stations to disseminate information relating to its mandate. It shall also have the right to install and operate radio sending and receiving stations and satellite systems to connect appropriate points within the territory with each other and with United Nations offices in other countries, and to exchange telephone, voice, facsimile and other electronic data with the United Nations global telecommunications network. The United Nations radio stations and telecommunication services shall be operated in accordance with the International Telecommunication Convention and Radio Regulations and the frequencies on which any such station may be operated shall be assigned by the Government without delay;

(b) MINUSTAH shall enjoy, within the territory of Haiti, the right to unrestricted communication by radio (including satellite, mobile and hand-held radio), telephone, electronic mail, facsimile or any other means, and of establishing the necessary facilities for maintaining such communications within and between premises of MINUSTAH, including the laying of cables and landlines and the establishment of fixed and mobile radio sending, receiving and repeater stations. The radio frequencies utilized shall be established in cooperation with the Government and shall be assigned without delay. It is understood that connections with the local system of telephone, facsimile and other electronic data may be made only after consultation and in accordance with arrangements with the Government, and that the use of that system shall be charged at the most favourable rate;

(c) MINUSTAH may make arrangements through its own facilities for the processing and transport of private mail addressed to or emanating from members of MINUSTAH. The Government shall be informed of the nature of such arrangements and shall not interfere with or apply censorship to the mail of MINUSTAH or its members. In the event that postal arrangements applying to private mail of members of MINUSTAH are extended to

transfers of currency or the transport of packages and parcels, the conditions under which such operations are conducted shall be agreed with the Government.

Travel and transport

12. MINUSTAH and its members as well as its contractors shall enjoy, together with vehicles, including vehicles of contractors used exclusively in the performance of their services for MINUSTAH, vessels, aircraft and equipment, freedom of movement without delay throughout Haiti. That freedom shall, with respect to large movements of personnel, equipment, vehicles or aircraft through airports or on railways or roads used for general traffic within Haiti, be coordinated with the Government. The Government undertakes to supply MINUSTAH, where necessary, with maps and other information, including dangers and impediments, which may be useful in facilitating its movements.

13. MINUSTAH vehicles shall not be subject to Haitian registration or licensing but shall carry third-party insurance.

14. MINUSTAH and its members as well as contractors, together with their vehicles, including vehicles of contractors used exclusively in the performance of their services for MINUSTAH, vessels and aircraft, may use roads, bridges, canals and other inland waterways, port facilities, airfields and airspace without the payment of dues, of tolls, landing fees, hangar or overflight fees or port charges, including wharfage and pilotage charges. However, MINUSTAH will not claim exemption from charges which are in fact charges for services rendered, it being understood that such charges for services rendered shall be charged at the most favourable rates.

Privileges and immunities of MINUSTAH

15. MINUSTAH, as a subsidiary organ of the United Nations, enjoys the status, privileges and immunities of the United Nations in accordance with the Convention. The provisions of article II of the Convention which apply to MINUSTAH shall also apply to the property, funds and assets of participating States used in connection with the national contingents serving in MINUSTAH, as provided for in paragraph 4 of the present Agreement. The Government recognizes the right of MINUSTAH in particular:

*but still apply Convention framework*

(a) To import, free of duty or other restrictions, equipment, provisions, supplies, fuel and other goods which are for the exclusive and official use of MINUSTAH or for resale in the commissaries provided for hereinafter;

(b) To establish, maintain and operate commissaries at its headquarters, camps and posts for the benefit of members of MINUSTAH, but not of locally recruited personnel. Such commissaries may provide goods of a consumable nature and other articles to be specified in advance. The Special Representative shall take all necessary measures to prevent abuse of the commissaries and the sale or resale of such goods to persons other than members of MINUSTAH, and he or she shall give sympathetic consideration to observations or requests of the Government concerning the operation of the commissaries;

(c) To clear ex customs and excise warehouse, free of duty or other restrictions, equipment, provisions, supplies, fuel and other goods which are for the exclusive and official use of MINUSTAH or for resale in the commissaries provided for above;

(d) To re-export or otherwise dispose of such equipment, as far as it is still usable, and all unconsumed provisions, supplies, fuel and other goods so imported or cleared ex

customs and excise warehouse which are not transferred, or otherwise disposed of, on terms and conditions to be agreed upon, to the competent local authorities of Haiti or to an entity nominated by them.

To the end that such importation, clearances, transfer or exportation may be effected with the least possible delay, a mutually satisfactory procedure, including documentation shall be agreed between MINUSTAH and the Government.

#### V. FACILITIES FOR MINUSTAH AND ITS CONTRACTORS

##### Premises required for the operational and administrative activities of MINUSTAH

16. The Government shall provide without cost to MINUSTAH and in agreement with the Special Representative such areas for headquarters, camps or other premises as may be necessary for the conduct of the operational and administrative activities of MINUSTAH. Without prejudice, all such premises shall be inviolable and subject to the exclusive control and authority of the United Nations. The Government shall guarantee unimpeded access to such premises.

17. The Government undertakes to assist MINUSTAH as far as possible in obtaining, or to make available, where applicable, water, electricity and other necessary facilities free of charge, or, where this is not possible, at the most favourable rate, and in the case of interruption or threatened interruption of service, to give as far as is within its powers the same priority to the needs of MINUSTAH as to essential government services. Where such utilities or facilities are not provided free of charge, payment shall be made by MINUSTAH on terms to be agreed with the competent authority. MINUSTAH shall be responsible for the maintenance and upkeep of facilities so provided.

18. MINUSTAH shall have the right, where necessary, to generate, within its premises, electricity for its use and to transmit and distribute such electricity.

19. The United Nations alone may consent to the entry of any government officials or of any other persons who are not members of MINUSTAH to such premises.

##### Provisions, supplies and services, and sanitary arrangements

20. The Government agrees to grant expeditiously all necessary authorizations, permits and licences required for the importation and exportation of equipment, provisions, supplies, materials and other goods exclusively used in support of MINUSTAH, including in respect of importation or exportation by contractors, free of any restrictions and without the payment of duties, charges or taxes including value-added tax on purchases.

21. The Government undertakes to assist MINUSTAH as far as possible in obtaining from local sources equipment, provisions, supplies, fuel, materials and other goods and services for its subsistence and operations. In respect of equipment, provisions, supplies, materials and other goods and services purchased locally by MINUSTAH or by contractors for the official and exclusive use of MINUSTAH, the Government shall make appropriate administrative arrangements for reimbursement of or relieve from any duty or tax included in the purchase price. The Government shall exempt MINUSTAH and its contractors from general sales taxes on all local purchases for official use. In making purchases on the local

market, MINUSTAH shall, on the basis of observations made and information provided by the Government in that respect, avoid any adverse effect on the local economy.

22. For the proper performance of the services provided by contractors, other than Haitian nationals resident in Haiti, in support of MINUSTAH, the Government agrees to provide contractors with facilities concerning their entry into and departure from Haiti as well as their repatriation in time of crisis. For this purpose, the Government shall promptly issue to contractors, free of charge and without any restrictions, all necessary visas, licences or permits. Contractors, other than Haitian nationals resident in Haiti, shall be accorded exemption from taxes on the services provided to MINUSTAH, including corporate, income, social security and other similar taxes arising directly from the provision of such services.

23. MINUSTAH and the Government shall cooperate with respect to sanitary services and shall extend to each other the fullest cooperation in matters concerning health, particularly with respect to the control of communicable diseases, in accordance with international conventions.

Recruitment of local personnel

24. MINUSTAH may recruit locally such personnel as it requires. Upon the request of the Special Representative, the Government undertakes to facilitate the recruitment of qualified local staff by MINUSTAH and to accelerate the process of such recruitment.

Currency

25. The Government undertakes to make available to MINUSTAH, against reimbursement in mutually acceptable currency, local currency required for the use of MINUSTAH, including the pay of its members, at the rate of exchange most favourable to MINUSTAH.

VI. STATUS OF THE MEMBERS OF MINUSTAH

Privileges and immunities

26. The Special Representative, the Commander of the military component of MINUSTAH and such high-ranking members of the Special Representative's staff as may be agreed upon with the Government shall have the status specified in sections 19 and 27 of the Convention, provided that the privileges and immunities therein referred to shall be those accorded to diplomatic envoys by international law.

27. Officials of the United Nations assigned to the civilian component to serve with MINUSTAH, as well as United Nations Volunteers who shall be assimilated thereto, remain officials of the United Nations entitled to the privileges and immunities of articles V and VII of the Convention.

28. Civilian police and civilian personnel other than United Nations officials whose names are for that purpose notified to the Government by the Special Representative shall be considered to be experts on mission within the meaning of article VI of the Convention.

29. Military personnel of national contingents assigned to the military component of MINUSTAH shall have the privileges and immunities specifically provided for in the present Agreement.

30. Unless otherwise specified in the present Agreement, locally recruited personnel of MINUSTAH shall enjoy the immunities concerning official acts and exemption from taxation and national service obligations provided for in sections 18 (a), (b) and (c) of the Convention.

31. Members of MINUSTAH shall be exempt from taxation on the pay and emoluments received from the United Nations or from a participating State and on any income received from outside Haiti. They shall also be exempt from all other direct taxes, except municipal rates for services enjoyed, and from all registration fees and charges.

32. Members of MINUSTAH shall have the right to import free of duty their personal effects in connection with their arrival in and their departure from Haiti. They shall be subject to the laws and regulations governing customs and foreign exchange with respect to personal property not required by them by reason of their presence in Haiti with MINUSTAH. Special facilities will be granted by the Government for the speedy processing of entry and exit formalities for all members of MINUSTAH, including the military component, upon prior written notification. On departure from Haiti, members of MINUSTAH may, notwithstanding the above-mentioned exchange regulations, take with them such funds as the Special Representative certifies were received in pay and emoluments from the United Nations or from a participating State and are a reasonable residue thereof. Special arrangements shall be made for the implementation of the present provisions in the interests of the Government and the members of MINUSTAH.

33. The Special Representative shall cooperate with the Government and shall render all assistance within his or her power in ensuring the observance of the customs and fiscal laws and regulations of Haiti by the members of MINUSTAH, in accordance with the present Agreement.

Entry, residence and departure

34. The Special Representative and members of MINUSTAH shall, whenever so required by the Special Representative, have the right to enter, reside in and depart from Haiti.

35. The Government undertakes to facilitate the entry into and departure from Haiti of the Special Representative and members of MINUSTAH and shall be kept informed of such movement. For that purpose, the Special Representative and members of MINUSTAH shall be exempt from passport and visa regulations and immigration inspection and restrictions as well as payment of any fees or charges on entering into or departing from Haiti. They shall also be exempt from any regulations governing the residence of aliens in Haiti, including registration, but shall not be considered as acquiring any right to permanent residence or domicile in Haiti.

36. For the purpose of such entry or departure, members of MINUSTAH shall only be required to have: (a) an individual or collective movement order issued by or under the authority of the Special Representative or any appropriate authority of a participating State; and (b) a personal identity card issued in accordance with paragraph 37 of the present Agreement, except in the case of first entry, when the United Nations laissez-passer, national passport or personal identity card issued by the United Nations or appropriate authorities of a participating State shall be accepted in lieu of the aforementioned identity card.

Identification

37. The Special Representative shall issue to each member of MINUSTAH before or as soon as possible after such member's first entry into Haiti, as well as to all locally recruited personnel and contractors, a numbered identity card, showing the bearer's name and photograph. Except as provided for in paragraph 36 of the present Agreement, such identity card shall be the only document required of a member of MINUSTAH.

38. Members of MINUSTAH as well as locally recruited personnel and contractors shall be required to present, but not to surrender, their MINUSTAH identity cards upon demand of an appropriate official of the Government.

Uniforms and arms

39. United Nations military personnel and civilian police of MINUSTAH shall wear, while performing official duties, the uniform of their respective countries of origin with standard United Nations accoutrements. United Nations Security Officers and Field Service Officers may wear the United Nations uniform. The wearing of civilian dress by the above-mentioned members of MINUSTAH may be authorized by the Special Representative at other times. Military personnel and civilian police of MINUSTAH and United Nations Security Officers designated by the Special Representative may possess and carry arms while on official duty in accordance with their orders. Those carrying weapons while on official duty other than those undertaking close protection duties must be in uniform at that time.

Permits and licences

40. The Government agrees to accept as valid, without tax or fee, a permit or licence issued by the Special Representative for the operation by any member of MINUSTAH, including locally recruited personnel, of any MINUSTAH vehicles and for the practice of any profession or occupation in connection with the functioning of MINUSTAH, provided that no permit to drive a vehicle shall be issued to any person who is not already in possession of an appropriate and valid licence.

41. The Government agrees to accept as valid, and where necessary to validate, free of charge and without any restrictions, licences and certificates already issued by appropriate authorities in other States in respect of aircraft and vessels, including those operated by contractors exclusively for MINUSTAH. Without prejudice to the foregoing, the Government further agrees to grant expeditiously, free of charge and without any restrictions, necessary authorizations, licences and certificates, where required, for the acquisition, use, operation and maintenance of aircraft and vessels.

42. Without prejudice to the provisions of paragraph 39, the Government further agrees to accept as valid, without tax or fee, a permit or licence issued by the Special Representative to a member of MINUSTAH for the carrying or use of firearms or ammunition in connection with the functioning of MINUSTAH.

Military police, arrest and transfer of custody, and mutual assistance

43. The Special Representative shall take all appropriate measures to ensure the maintenance of discipline and good order among members of MINUSTAH, as well as locally recruited personnel. To this end personnel designated by the Special Representative shall police the premises of MINUSTAH and such areas where its members are deployed.



Elsewhere such personnel shall be employed only subject to arrangements with the Government and in liaison with it insofar as such employment is necessary to maintain discipline and order among members of MINUSTAH.

44. The military police of MINUSTAH shall have the power of arrest over the military members of MINUSTAH. Military personnel placed under arrest outside their own contingent areas shall be transferred to their contingent Commander for appropriate disciplinary action. The personnel mentioned in paragraph 43 above may take into custody any other person on the premises of MINUSTAH. Such other persons shall be delivered immediately to the nearest appropriate official of the Government so that the offence or disturbance on such premises may be dealt with.

45. Subject to the provisions of paragraphs 26 and 28, officials of the Government may take into custody any member of MINUSTAH:

(a) When so requested by the Special Representative; or

(b) When such member of MINUSTAH is apprehended in the commission or attempted commission of a criminal offence. Such person shall be delivered immediately, together with any weapons or other items seized, to the nearest appropriate representative of MINUSTAH, whereafter the provisions of paragraph 51 shall apply *mutatis mutandis*.

46. When a person is taken into custody under paragraph 44 or paragraph 45 (b), MINUSTAH or the Government, as the case may be, may conduct a preliminary interrogation but may not delay the transfer of custody. Following such transfer, the person concerned shall, upon request to the arresting authority, be made available for further interrogation.

47. MINUSTAH and the Government shall assist each other in carrying out all necessary investigations into offences in respect of which either or both have an interest, in the production of witnesses and in the collection and production of evidence, including the seizure, and if appropriate the handing over, of items connected with an offence. The handing over of any such items may be made subject to their return on the terms specified by the authority delivering them. Each shall notify the other of the disposition of any case in the outcome of which the other may have an interest or in which there has been a transfer of custody under the provisions of paragraphs 44 to 46.

#### Safety and Security

48. The Government shall ensure that the provisions of the Convention on the Safety of United Nations and Associated Personnel are applied to and in respect of MINUSTAH, its property, assets and members. In particular:

(i) The Government shall take all appropriate measures to ensure the safety and security of members of MINUSTAH. In particular, it shall take all appropriate steps to protect members of MINUSTAH, their equipment and premises from attack or any action that prevents them from discharging their mandate. This is without prejudice to the fact that all premises of MINUSTAH are inviolable and subject to the exclusive control and authority of the United Nations;

(ii) If members of MINUSTAH are captured or detained in the course of the performance of their duties and their identity has been established, they shall not be subjected to interrogation and they shall be promptly released and returned to United Nations or other

appropriate authorities. Pending their release, such personnel shall be treated in accordance with universally recognized standards of human rights and the principles and spirit of the Geneva Conventions of 1949;

(iii) The Government shall establish the following acts as crimes under its national law and make them punishable by appropriate penalties taking into account their grave nature:

- (a) A murder, kidnapping or other attack upon the person or liberty of any member of MINUSTAH;
- (b) A violent attack upon the official premises, the private accommodation or the means of transportation of any member of MINUSTAH likely to endanger his or her person or liberty;
- (c) A threat to commit any such attack with the objective of compelling a natural or juridical person to do or to refrain from doing any act;
- (d) An attempt to commit any such attack; and
- (e) An act constituting participation as an accomplice in any such attack, or in an attempt to commit such attack, or in organizing or ordering others to commit such attack;

(iv) The Government shall establish its jurisdiction over the crimes set out in paragraph 48 (iii) above:

- (a) When the crime was committed in its territory;
- (b) When the alleged offender is one of its nationals;
- (c) When the alleged offender, other than a member of MINUSTAH, is present in its territory, unless it has extradited such person to the State on whose territory the crime was committed, or to the State of his or her nationality, or to the State of his or her habitual residence if he or she is a stateless person, or to the State of the nationality of the victim;

(v) The Government shall ensure the prosecution without exception and without delay of persons accused of acts described in paragraph 48 (iii) above who are present within its territory (if the Government does not extradite them) as well as those persons subject to its criminal jurisdiction who are accused of other acts in relation to MINUSTAH or its members which, if committed in relation to the forces of the Government or against the local civilian population, would have rendered such acts liable to prosecution.

49. Upon the request of the Special Representative, the Government shall provide any security necessary to protect MINUSTAH, its property and members during the exercise of their functions.

#### Jurisdiction

50. All members of MINUSTAH including locally recruited personnel shall be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity. Such immunity shall continue even after they cease to be members of or employed by MINUSTAH and after the expiration of the other provisions of the present Agreement.

51. Should the Government consider that any member of MINUSTAH has committed a criminal offence, it shall promptly inform the Special Representative and present to him any evidence available to it. Subject to the provisions of paragraph 26:

(a) If the accused person is a member of the civilian component or a civilian member of the military component, the Special Representative shall conduct any necessary supplementary inquiry and then agree with the Government whether or not criminal proceedings should be instituted. Failing such agreement the question shall be resolved as provided for in paragraph 57 of the present Agreement;

(b) Military members of the military component of MINUSTAH shall be subject to the exclusive jurisdiction of their respective participating States in respect of any criminal offences which may be committed by them in Haiti.

52. If any civil proceeding is instituted against a member of MINUSTAH before any court of Haiti, the Special Representative shall be notified immediately, and he or she shall certify to the court whether or not the proceeding is related to the official duties of such member:

(a) If the Special Representative certifies that the proceeding is related to official duties, such proceeding shall be discontinued and the provisions of paragraph 55 of the present Agreement shall apply;

(b) If the Special Representative certifies that the proceeding is not related to official duties, the proceeding may continue. If the Special Representative certifies that a member of MINUSTAH is unable because of official duties or authorized absence to protect his or her interests in the proceeding, the court shall at the defendant's request suspend the proceeding until the elimination of the disability, but for no more than 90 days. Property of a member of MINUSTAH that is certified by the Special Representative to be needed by the defendant for the fulfilment of his or her official duties shall be free from seizure for the satisfaction of a judgement, decision or order. The personal liberty of a member of MINUSTAH shall not be restricted in a civil proceeding, whether to enforce a judgement, decision or order, to compel an oath or for any other reason.

#### Deceased members

53. The Special Representative shall have the right to take charge of and dispose of the body of a member of MINUSTAH who dies in Haiti, as well as that member's personal property located within Haiti, in accordance with United Nations procedures.

### VII. LIMITATION OF LIABILITY OF THE UNITED NATIONS

54. Third-party claims for property loss or damage and for personal injury, illness or death arising from or directly attributed to MINUSTAH, except for those arising from operational necessity, which cannot be settled through the internal procedures of the United Nations, shall be settled by the United Nations in the manner provided for in paragraph 55 of the present Agreement, provided that the claim is submitted within six months following the occurrence of the loss, damage or injury, or, if the claimant did not know or could not have reasonably known of such loss or injury, within six months from the time he or she had discovered the loss or injury, but in any event not later than one year after the termination of the mandate of MINUSTAH. Upon determination of liability as provided for in the

present Agreement, the United Nations shall pay compensation within such financial limitations as are approved by the General Assembly in its resolution 52/247 of 26 June 1998.

#### VIII. SETTLEMENT OF DISPUTES

55. Except as provided in paragraph 57, any dispute or claim of a private-law character, not resulting from the operational necessity of MINUSTAH, to which MINUSTAH or any member thereof is a party and over which the courts of Haiti do not have jurisdiction because of any provision of the present Agreement shall be settled by a standing claims commission to be established for that purpose. One member of the commission shall be appointed by the Secretary-General of the United Nations, one member by the Government and a chairman jointly by the Secretary-General and the Government. If no agreement as to the chairman is reached by the two parties within 30 days of the appointment of the first member of the commission, the President of the International Court of Justice may, at the request of either party, appoint the chairman. Any vacancy on the commission shall be filled by the same method prescribed for the original appointment, provided that the 30-day period there prescribed shall start as soon as there is a vacancy in the chairmanship. The commission shall determine its own procedures, provided that any two members shall constitute a quorum for all purposes (except for a period of 30 days after the creation of a vacancy) and all decisions shall require the approval of any two members. The awards of the commission shall be final. The awards of the commission shall be notified to the parties and, if against a member of MINUSTAH, the Special Representative or the Secretary-General of the United Nations shall use his or her best endeavours to ensure compliance.

56. Disputes concerning the terms of employment and conditions of service of locally recruited personnel shall be settled by the administrative procedures to be established by the Special Representative.

57. Disputes between MINUSTAH and the Government concerning the interpretation or application of the present Agreement shall, unless otherwise agreed by the parties, be submitted to a tribunal of three arbitrators. The provisions relating to the establishment and procedures of the claims commission shall apply, *mutatis mutandis*, to the establishment and procedures of the tribunal. The decisions of the tribunal shall be final and binding on both parties.

58. All differences between the United Nations and the Government arising out of the interpretation or application of the present arrangements which involve a question of principle concerning the Convention shall be dealt with in accordance with the procedure set out in section 30 of the Convention.

#### IX. SUPPLEMENTAL ARRANGEMENTS

59. The Special Representative and the Government may conclude supplemental arrangements to the present Agreement.

X. LIAISON

60. The Special Representative/the Force Commander and the Government shall take appropriate measures to ensure close and reciprocal liaison at every appropriate level.

XI. MISCELLANEOUS PROVISIONS

61. Wherever the present Agreement refers to privileges, immunities and rights of MINUSTAH and to the facilities Haiti undertakes to provide to MINUSTAH, the Government shall have the ultimate responsibility for the implementation and fulfilment of such privileges, immunities, rights and facilities by the appropriate local authorities.

62. The present Agreement shall enter into force upon signature by or for the Secretary-General of the United Nations and the Government.

63. The present Agreement shall remain in force until the departure of the final element of MINUSTAH, except that:

(a) The provisions of paragraphs 50, 57 and 58 shall remain in force;

(b) The provisions of paragraphs 54 and 55 shall remain in force until all claims made in accordance with the provisions of paragraph 54 have been settled.

IN WITNESS WHEREOF, the undersigned, being duly authorized plenipotentiary of the Government and duly appointed representative of the United Nations, have on behalf of the Parties signed the present Agreement.

DONE at Port-au-Prince on 9 July 2004.

For the United Nations:

ADAMA GUINDO  
MINUSTAH

For the Government of Haiti:

GERARD LATORTUE  
Prime Minister