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Peace Agreement

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The Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional (hereinafter referred to as "the Parties"),

Reaffirming that their purpose, as set forth in the Geneva Agreement of 4 April 1990, is "to end the armed conflict by political means as speedily as possible, promote the democratization of the country, guarantee unrestricted respect for human rights and reunify Salvadorian society",

Bearing in mind the San José, Mexico and New York Agreements of 26 July 1990, 27 April 1991 and 25 September 1991 respectively, arrived at by them in the course of the negotiating process conducted with the active participation of the Secretary-General of the United Nations and of his Representative, which Agreements form a whole with the Agreement signed today,

Having concluded negotiations on all the substantive items of the Caracas Agenda of 21 May 1990 and of the New York Compressed Negotiations of 25 September 1991,

Have arrived at the set of political agreements that follow, whose implementation, together with that of the earlier Agreements mentioned above, will put a definitive end to the Salvadorian armed conflict:

Chapter I

Armed Forces

1. Doctrinal principles of the armed forces

The doctrine for the armed forces, on the basis of the constitutional reform agreed to in April 1991, as defined by law, shall conform to the principles set forth below, and henceforth their institutional regime and educational system shall be based exclusively on those principles and their operations shall be bound by strict observance of them:

- A. The mission of the armed forces is to defend the sovereignty of the State and the integrity of its territory, according to the terms of the regime defined for them by the Constitution and the laws. The performance of this mission is inseparable from democratic values and strict respect for all parts of the Constitution.
- B. As established in the Constitution, the armed forces are a permanent institution in the service of the nation. They shall be obedient, professional, apolitical and non-deliberative. Their institutional regime and operations shall also be consistent with the principles deriving from the rule of law, the primacy of the dignity of the human person and respect for human rights; respect for and defence of the sovereignty of the Salvadorian people; the concept of the armed forces as an institution free from all considerations of politics, ideology or social position or any other discrimination; and the subordination of the armed forces to the constitutional authorities.
- C. The armed forces owe respect to the political order determined by the sovereign will of the people and all political or social changes generated by that will, in accordance with democratic procedures consistent with the Constitution. Their institutional regime and operations shall be defined in terms ensuring a harmonious relationship at all times with civilian society and the normal activities of their members as part of that society.
- D. As a State institution, the armed forces play an instrumental, non-decision-making role in the political field. Consequently, only the President of the Republic and the basic organs of government may use the armed forces to implement the provisions they have adopted, within their respective constitutional areas of competence, to enforce the Constitution. Similarly, those authorities have exclusive competence to verify whether the political or social changes referred to in the preceding paragraph are consistent with the Constitution.
- E. The doctrine of the armed forces is based on a distinction between the concepts of security and defence. National defence, the responsibility of the armed forces, is intended to safeguard sovereignty and territorial integrity against outside military threat. Security, even when it includes this notion, is a broader concept based on unrestricted respect for the individual and social rights of the person. It includes, in addition to national defence, economic, political and social aspects which go beyond the constitutional sphere of competence of the armed forces and are the responsibility of other sectors of society and of the State.

- F. The maintenance of internal peace, tranquillity, order and public security lies outside the normal functions of the armed forces as an institution responsible for national defence. The armed forces play a role in this sphere only in very exceptional circumstances, where the normal means have been exhausted, on the terms established in the constitutional reform approved in April 1991.

2. Educational system of the armed forces

Reiterating fully their previous agreements, whereby the professional training of members of the armed forces shall emphasize the pre-eminence of human dignity and democratic values, respect for human rights and the subordination of such forces to the constitutional authorities, the Parties have reached the following agreements:

- A. The legal framework of the armed forces educational and training system shall be defined on the basis of the provisions of articles 212 and 213 of the constitutional reform agreed to in April 1991.
- B. The doctrinal framework of the armed forces educational system shall be defined by the doctrinal principles set forth in this chapter. Those principles shall be the doctrinal foundation of all armed forces educational and training programmes at all levels.
- C. Curricula and study programmes for the training and education of the armed forces shall include, in addition to military and technical subjects, scientific and humanistic studies in order to provide an all-round education which gives students the necessary skills to participate actively in the institutional life of the country and promotes at all times an harmonious relationship with civilian society, as well as their normal activities as members of that society.
- D. In order to attain fully the goals outlined in the preceding paragraph, members of the armed forces shall be encouraged to take professional and postgraduate courses at the country's universities.
- E. The Military College shall be run on a collegiate basis in teaching matters. Its Director shall be the President of an Academic Council which shall include members of the military and civilians from the academic world. Members of the Academic Council shall be appointed by the President of the Republic.
- F. COPAZ shall decide on the number of members of the Academic Council, which shall comprise an equal number of civilians and military personnel.
- G. Civilian members of the Academic Council shall be appointed by the President of the Republic, on the basis of criteria of political pluralism, from lists of three candidates proposed by COPAZ.
- H. The teaching staff shall be appointed by the Academic Council, which shall ensure that no political tendency predominates among that staff.
- I. The Director of the Military College shall be appointed by the President of the Republic.

- J. The admissions system shall be determined by the Academic Council, which shall ensure that it is not discriminatory.
- K. COPAZ shall oversee, in particular, the implementation of paragraphs (G), (H) and (J), under the terms laid down in the New York Agreement of 25 September 1991.

3. *Purification*

The Parties agree to a process of purification of the armed forces, within the framework of the peace process and with a view to the supreme objective of national reconciliation, based on evaluation of all members of the armed forces by an ad hoc Commission.

- A. The evaluation shall take into account the past performance of each officer, including, in particular: (1) his record of observance of the legal order, with particular emphasis on respect for human rights, both in his personal conduct and in the rigour with which he has ordered the redress and punishment of unlawful acts, excesses or human rights violations committed under his command, especially if there have been serious or systematic omissions in the latter respect; (2) his professional competence; and (3) his capacity to function in the new situation of peace, within the context of a democratic society, and to promote the democratization of the country, guarantee unrestricted respect for human rights and reunify Salvadorian society, which is the common purpose agreed upon by the Parties in the Geneva Agreement. The existence of serious deficiencies in any one of the above-mentioned areas could be sufficient grounds for the ad hoc Commission to take the decisions required under paragraph (G) of this section.
- B. The evaluation shall be carried out by a rigorously impartial ad hoc Commission composed of three Salvadorians of recognized independence of judgement and unimpeachable democratic credentials. It shall also include two officers of the armed forces with impeccable professional records, who shall have access only to the deliberations of the Commission; they shall not have access to the investigation phase to be carried out by the ad hoc Commission, nor be involved in the final phase of the investigation, but they may have access to its conclusions.

The selection of the three civilian members of the ad hoc Commission is the result of a process of consultations carried out by the Secretary-General of the United Nations, the outcome of which has already been communicated to both Parties. The President of the Republic shall issue, within five days from the signing of this Agreement, his endorsement giving legal form and force to the Commission. If necessary, the same procedure shall be used to replace any member of the Commission who is permanently unable to serve. The two officers of the armed forces who are to participate in the ad hoc Commission on the conditions indicated above shall be appointed by the President of the Republic.

- C. The Commission on the Truth established by the Mexico Agreements of 26 April 1991 (hereinafter referred to as "the Commission on the Truth") may appoint an observer to the ad hoc Commission.
- D. The ad hoc Commission shall be provided with such civilian support staff as it considers necessary.

- E. The Ministry of Defence and Public Security, ¹ as well as any public entity, shall supply the ad hoc Commission with any information it requests, including information on the service record of each officer. In any case, the ad hoc Commission may avail itself of information from any source which it considers reliable.
- F. The ad hoc Commission shall adopt and, where necessary, request the adoption of any measure which, in its view, is necessary for its own safety and to ensure the safety and physical and moral integrity of persons who, in any form or manner, cooperate with it in the fulfilment of its mission.
- G. The ad hoc Commission shall adopt its conclusions, after hearing the parties concerned, on the basis of the provisions of paragraph (A) of this section. Its conclusions may include a change of duty station and, where necessary, the discharge of the staff evaluated.
- H. The ad hoc Commission shall endeavour to adopt its decisions unanimously, but if this is not possible a vote by the majority of its members shall suffice.
- I. The evaluation shall be extended to non-commissioned officers when, in the judgement of the ad hoc Commission, there is justification for doing so.
- J. The ad hoc Commission shall conclude its evaluation within a maximum period of three months from the date of its establishment. The corresponding administrative decisions shall be taken within 30 days from the date on which the conclusions are communicated to the Government by the ad hoc Commission and shall be implemented within 60 days from that date.
- K. The results of the evaluation shall not prevent the implementation of such recommendations as the Commission on the Truth may make at the appropriate time.

4. Reduction

The new situation of peace shall include the reduction of the armed forces to a size appropriate to their doctrine and to the functions assigned to them by the Constitution within the framework of the constitutional reform resulting from the Mexico Agreements. Accordingly, pursuant to the New York Agreement, the Government has submitted to the Secretary-General of the United Nations a plan for the reduction of the armed forces, which the Secretary-General has made known to FMLN. The implementation of the plan must have the practical consequence of making reductions in the various branches of the armed forces.

A. Organization

The organization of the armed forces shall be adapted to their institutional mission in peacetime, in keeping with the functions assigned to them by the Constitution. This means:

- a. The type of units appropriate for performing the various tasks corresponding to that mission;
- b. The appropriate structure, organization and equipment for such units by branch, service, category (rank) and speciality; and

c. Staffing requirements, by unit, mission and rank.

B. *Units*

a. Reduction of units shall be based on the reorganization of the armed forces. The number and type of units shall be in keeping with the new organization;

b. In any case, the reduction covers units established as a consequence of the conflict.

C. *Personnel*

The reorganization and the reduction of units involve cutting back personnel in the various categories, branches and services or specialities of the armed forces. The number of officers shall be reduced in accordance with the reduction plan and shall be commensurate with the normal needs of an army.

D. *Matériel and equipment*

Matériel and equipment shall be in keeping with the new organization, the doctrine and constitutional mission of the armed forces.

E. *Facilities*

Reduction involves the conversion, return or disposal of facilities no longer used by the armed forces.

F. *Administrative and service structures*

All administrative and service structures shall be adapted to the new situation of peace and to the doctrine and the new constitutional mission of the armed forces.

G. *Military spending*

5. *End to impunity*

The Parties recognize the need to clarify and put an end to any indication of impunity on the part of officers of the armed forces, particularly in cases where respect for human rights is jeopardized. To that end, the Parties refer this issue to the Commission on the Truth for consideration and resolution. All of this shall be without prejudice to the principle, which the Parties also recognize, that acts of this nature, regardless of the sector to which their perpetrators belong, must be the object of exemplary action by the law courts so that the punishment prescribed by law is meted out to those found responsible.

6. *Public security forces*

A. Under the constitutional reform resulting from the Mexico Agreements, the safeguarding of peace, tranquillity, order and public security in both urban and rural areas shall be the responsibility of the National Civil Police, which shall be under the control of civilian authorities. The National Civil Police and the armed forces shall be independent and shall be placed under the authority of different ministries.

- B. According to the terms of chapter II of this Agreement, the National Civil Police shall be a new force, with a new organization, new officers, new education and training mechanisms and a new doctrine.
- C. The National Guard and the Treasury Police shall be abolished as public security forces and their members shall be incorporated into the army.

7. Intelligence services

- A. The National Intelligence Department shall be abolished and State intelligence services shall be entrusted to a new entity to be called the State Intelligence Agency, which shall be subordinated to civilian authority and come under the direct authority of the President of the Republic. During the transitional period, the Director of the State Intelligence Agency shall be a civilian appointed by the President of the Republic on the basis of his ability to attract broad acceptance. He may be dismissed by resolution of the Legislative Assembly on grounds of serious human rights violations.
- B. The legal regime, staff training, organizational lines, operational guidelines and, in general, the doctrine of the State Intelligence Agency shall accord with democratic principles; the concept of State intelligence as a State function for the common good, free from all considerations of politics, ideology or social position or any other discrimination; and strict respect for human rights.
- C. The activities of the State Intelligence Agency shall be restricted to those required for compiling and analysing information in the general interest, by the means and within the limits authorized by the legal order and, in particular, on the basis of strict respect for human rights.
- D. The activities of the State Intelligence Agency shall be supervised by the Legislative Assembly, using the oversight mechanisms established by the Constitution.
- E. Alternative employment and compensation shall be offered to staff currently attached to the National Intelligence Department who are not incorporated into the new State Intelligence Agency. International support shall be sought for that purpose.
- F. The incorporation into the State Intelligence Agency of staff of the National Intelligence Department who so request shall be permitted only after rigorous evaluation of their past performance, abilities and capacity to adapt to the new doctrine. Such evaluation shall be made by the Director of the Agency, under the authority of the President of the Republic, with the support of international advisory services and United Nations verification.
- G. The State Intelligence Agency shall be organized by its Director, under the authority of the President of the Republic.

8. Rapid deployment infantry battalions

The Parties recognize that the rapid deployment infantry battalions were created at a specific moment in the conflict and that their existence must therefore be reviewed as circumstances dictate. Consequently, they also recognize that the rapid deployment infantry battalions will not be needed in

the new situation of peace, with the result that in these circumstances it will be possible to disband them and to redeploy or discharge personnel currently assigned to them.

9. *Subordination to civilian authority*

The President of the Republic, in exercise of the power of discretion conferred on him by the Constitution, may appoint civilians to head the Ministry of Defence. In any case, appointees must be persons fully committed to observing the peace agreements.

10. *Paramilitary bodies*

- A. The Parties recognize the principle that any paramilitary force or group must be proscribed in a State governed by the rule of law.
- B. *Civil defence.* Civil defence units shall be disbanded. This process shall be gradual and shall be subject to the implementation timetable for the peace agreements.
- C. *System of armed forces reserves.* A new system of armed forces reserves shall replace the present system of territorial service, according to the following terms:
 - a. The system shall be responsible for the organization and functioning of the following aspects: (1) up-to-date registration of citizens in reserve status and citizens fit for military service; (2) updating of the military skills of reserves; (3) when necessary, calling reserves up for active duty to perform the mission entrusted to the armed forces by the Constitution.
 - b. The new system shall be under the authority of the Ministry of Defence.
 - c. Armed forces reserves may undertake missions only if assigned to active duty in the armed forces and in conformity with the Constitution, and shall not perform any function related to public security or monitoring of the population or the territory.
 - d. The laws, regulations and orders in force on this subject shall be made compatible with the terms of this Agreement.
- D. *Regulation of private security services.* The Parties recognize the need to regulate the activities of all those entities, groups or persons who provide security or protection to private individuals, corporations or State institutions, in order to guarantee the transparency of their activities and also their strict subordination to the law and to respect for human rights. To that end:
 - a. A special law shall regulate the activities of entities, groups or persons who provide security or protection to private individuals, corporations or State institutions. That law shall establish the requirements which must be met in order to offer and provide such services; a system for the public registration of the staff, weapons and offices, if any, of such groups, entities or persons; appropriate oversight mechanisms, including their supervision by the National Civil Police; and, in general, the necessary limitations and prohibitions to ensure that such security services operate exclusively within the framework of the law.

- b. The law shall also establish peremptory deadlines for fulfilling the above requirements, where relevant. Once those deadlines have expired, entities which have not fulfilled the above requirements shall be considered illegal and their members and organizers shall be subject to application of the corresponding legal penalties.
- c. To that end, the Parties express their agreement with the outline of the preliminary legislative draft included as an annex to this Agreement, which they refer to COPAZ, together with the above considerations, for it to prepare the corresponding preliminary draft.

11. *Suspension of forcible recruitment*

- A. Any form of forcible recruitment shall be suspended when the cessation of the armed conflict comes into effect, pending the entry into force of the law referred to in the next paragraph.
- B. A new law governing military service and reserve service shall be promulgated. That law shall establish as fundamental principles of military service that it shall be universal and compulsory and shall be imposed fairly and without discrimination.
- C. Pursuant to the above, the law shall establish that all Salvadorians must present themselves at the proper time at the corresponding registration centres. Recruitment shall be effected exclusively by calling up individuals through the drawing of lots, and by registering volunteers. Military service may be performed over one continuous period or over several periods of time.
- D. The above law shall envisage administrative penalties for failure to fulfil the obligations provided for therein and shall determine the grounds for temporary or permanent exemption from military service, equivalences between types of military service and other general provisions.
- E. The law shall also regulate the armed forces reserves in accordance with paragraph (C) of section 10 of this chapter.

12. *Preventive and promotional measures*

Within the context of the objectives of this Agreement, the Parties recognize the need to adopt a number of measures designed to promote enhanced respect for the rules which must govern the armed forces and to prevent infringements of those rules. These measures include the following:

- A. Supervision of armed forces operations by the Legislative Assembly.
- B. Effective functioning of the Armed Forces General Inspectorate. The Inspector General shall be a member of the armed forces with an impeccable professional record, appointed by the President of the Republic.
- C. Creation of an armed forces court of honour to try acts which, although not necessarily punishable, are contrary to military honour. This shall be without prejudice to the requirement that soldiers who have broken the law must be brought before the courts.

- D. Amendment of the law penalizing unlawful enrichment to expressly include within its jurisdiction senior commanders of military units and those performing administrative functions at the same levels.
- E. Cancellation of licences for private individuals to bear weapons that are for the exclusive use of the armed forces, and immediate recall of such weapons.
- F. Dissemination of the doctrine of the armed forces so that the whole of society is familiar with it.
- G. Adaptation of the legislation on the armed forces to the constitutional reform approved in April 1991, to the New York Agreement and to this Agreement.

13. *Redeployment and discharge*

- A. Troops belonging to units that are to be abolished or disbanded shall be redeployed within the armed forces where such redeployment is compatible with the armed forces troop strength required by the objectives of this Agreement, and with the conclusions and recommendations of the ad hoc Commission provided for in section 3 of this chapter.
- B. All troops discharged as a result of these agreements shall be given compensation equivalent to one year's pay at their wage level and the Government shall promote projects permitting the integration of such individuals into civilian life.

¹ The results of the constitutional reform will be taken into account.

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