

Draft: 26 Feb. 2012.

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE UNITED NATIONS DEVELOPMENT PROGRAMME
AND
CEMEX**

This Memorandum of Understanding (“MOU”) is entered into by the project CARMEN (Centres d’Appui pour le Renforcement de Maisons Endomagees) of United Nations Development Programme (“UNDP”), a subsidiary organ of the United Nations, an intergovernmental organization established by its Member States with its headquarters in New York, NY (USA), and the CEMEX Haiti (hereinafter “CEMEX”), headquartered in Haiti and incorporated under the law of Haiti.

are hereinafter jointly referred to as the “Parties”.

WHEREAS, UNDP, through project CARMEN (Centres d’Appui pour le Renforcement de Maisons Endomagees) represented by Ms. Jessica Faieta, is interested in enhancing its development activities in Haïti, specially Port-au-Prince, Delmas and Léogâne through, inter alia, partnering with the private sector;

WHEREAS, CEMEX has expressed its interest in cooperating with UNDP in areas of mutual interest in the same areas;

NOW, THEREFORE, the Parties agree to cooperate as follows:

**Article I
Purpose**

The purpose of this MOU is to provide a framework of cooperation and facilitate collaboration between the Parties, on a non-exclusive basis, in areas of mutual interest defined in the following lines:

- i. Serving the communities living in the areas of CARMEN intervention.
- ii. Promoting the use of good quality construction materials in the reconstruction process.
- iii. Reinforcing information about safer construction techniques
- iv. Supporting training sessions to skilled and unskilled workers, both men and women.
- v. Contributing to the build back better of Haiti after the earthquake in Jan. 2010.
- vi. Encouraging and promoting the leadership, engagement and participation of national and local authorities.
- vii. Contributing to the development of the private sector in Haiti.

Article II Areas of Cooperation

The Parties agree to cooperate in the following areas of activity:

- i) Sensibilization to the population on the importance of the use of good quality construction materials.
- ii) Make adequate information on reconstruction techniques available to communities living in the areas of the project intervention.
- iii) Supporting merchants to sell good quality construction materials and ensure sufficient stock is available.
- iv) Facilitate, to the possible extent, the purchase of good quality construction materials to vulnerable families. Measures may include reduced prices, support for transportation or soft-credit lines to suppliers and/or clients benefiting from the project.
- v) Lending cement mixing equipment to project beneficiaries with the purpose of improving the use of cement and the quality of the products to be used in reconstruction.
- vi) Collaboration in terms of visibility.
- vii) Explore other future areas for potential partnership between both institutions.

Article III

Description of Coordinated Activities

UNDP responsibilities

- a) Identification of project merchants/hardware shops that are part of the project.
- b) Information about project hardware shops to be shared with CEMEX.
- c) Identification of block makers that may benefit from the project.
- d) Information about block makers that may benefit from the project to be shared with CEMEX.
- e) Ensure adequate use and return of the mixing equipment that CEMEX may lend to block makers working in partnership with the project.
- f) Share information with CEMEX with regards to future possible collaborations within the context of CARMEN project.

CEMEX responsibilities

- a) Support to project hardware shops to ensure that good quality cement is permanently available.
- b) Provide cement at competitive prices to CARMEN project suppliers.

- c) Promote reliable information about the proper use of good quality construction materials and techniques.
- d) Lend 15 bici-mixers to UNDP that will be distributed to block makers that may be part of the project.
- e) Consider providing certain advantages to tiny and small enterprises in terms of payment, credits and loans if pertinent.
- f) Share information with UNDP with regards to future possible collaborations within the context of the reconstruction process where CARMEN could play a role.

Article IV
Consultation and Exchange of Information

- 4.1 The Parties shall, on a regular basis, keep each other informed of and consult on matters of common interest, which in their opinion are likely to lead to mutual collaboration.
- 4.2 Consultation and exchange of information and documents under this Article shall be without prejudice to arrangements, which may be required to safeguard the confidential and restricted character of certain information and documents.
- 4.3 The Parties shall at such intervals as deemed appropriate convene meetings to review the progress of activities being carried out under the present MOU and to plan future activities.
- 4.4 The Parties may invite each other to send observers to meetings or conferences convened by them or under their auspices in which, in the opinion of either party, the other may have an interest. Invitations shall be subject to the procedures applicable to such meetings or conferences.

Article V
Implementation of the MOU

- 5.1 The current agreement does not envisage any financial transaction between both organizations.
- 5.2 It is understood that all activities at the country level will be carried out on the basis of project documents agreed between UNDP and the concerned governments, in accordance with the applicable UNDP regulations, rules and procedures.
- 5.3 Neither Party shall be an agent, representative or joint partner of the other Party. Neither Party shall enter into any contract or commitment on behalf of the other Party and shall be solely responsible for making all payments to and on behalf of

its own account, as provided under this MOU and under cost-sharing agreements concluded hereunder.

Article VI Use of Name and Emblem

- 6.1 Neither Party shall use the name, emblem or trademarks of the other party, its subsidiaries, and/or affiliates, or any abbreviation thereof, in connection with its business or otherwise without the express prior written approval of the other Party in each case. In no event will authorization of the UNDP name or emblem, or any abbreviation thereof, be granted for commercial purposes, or for use in any manner that suggests an endorsement by UNDP of CEMEX products or services.
- 6.2 CEMEX acknowledges that it is familiar with UNDP's ideals and objectives and recognizes that its name and emblem may not be associated with any political or sectarian cause or otherwise used in a manner inconsistent with the status, reputation and neutrality of UNDP.
- 6.3 The Parties agree to recognize and acknowledge this partnership, as appropriate. To this end, the Parties shall consult with each other concerning the manner and form of such recognition and acknowledgement.

Article VII Duration, Termination, Modification

- 7.1 The proposed cooperation under this MOU is non-exclusive and shall have a duration of an initial period of 9 months, commencing 1st March 2012 and ending 31st December 2012, unless terminated earlier by either party upon three months notice in writing to the other party. The Parties may agree to extend this MOU for subsequent periods of 12 months should CARMEN project continues.
- 7.2 In the event of termination of the MOU, the cost-sharing agreements and project documents concluded pursuant to this MOU may also be terminated in accordance with the termination provision contained in such agreements. In such case, the Parties shall take the necessary steps to ensure that the activities carried out under the MOU, the cost-sharing agreements, and project documents are brought to a prompt and orderly conclusion.
- 7.3 This MOU may be amended by mutual agreement of the Parties reflected in writing.

Article VIII Notices and Addresses

Any notice or request required or permitted to be given or made under this MOU shall be in writing. Such notice or request shall be deemed to have been duly given or made when

it shall have been delivered by hand, mail, telex, or cable to the party to which it is required to be given or made at the address specified below or such other address as shall be hereafter notified.

For UNDP/ CARMEN: M. Darlens Hyppolite, CARMEN project director.
MINUSTAH, Log Base (Zone 5).
CARMEN office at Log Base
Blvd T. Louverture & Clercine 18
Boîte Postale 557
Haiti Port-au-Prince HT6111 – Haïti (W.I.)

For CEMEX:
Ms. Olivia Caldwell, CEMEX Haiti, Partnerships Manager
#58 Angle rue Ferand Baudiere et Villate
Local Extra Market
Petionville
Port au Prince, HAITI

Article IX Settlement of Disputes

8.1 The Parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of this MOU. Where the Parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the UNCITRAL Conciliation Rules then obtaining, or according to such other procedure as may be agreed between the Parties.

8.2 Any dispute, controversy or claim between the Parties arising out of this MOU which is not settled amicably in accordance with the foregoing paragraph shall be referred to arbitration under the UNCITRAL Arbitration Rules then in force. The arbitral tribunal shall have no authority to award punitive damages. The Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such controversy, claim or dispute.

8.3 This MOU and the related Cost Sharing Agreements comprise the complete understanding of the Parties in respect of the subject matter in this MOU and supercede all prior agreements relating to the same subject matter. Failure by either Party to enforce a provision of this MOU shall not constitute a waiver of that or any other provision of this MOU. The invalidity or unenforceability of any provision of this MOU shall not affect the validity or enforceability of any other provision of the MOU.

**Article X
Privileges and Immunities**

Nothing in or relating to this MOU shall be deemed a waiver, express, or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties affix their signatures below.

FOR UNDP:



Ms. Jessica Faieta
Senior Country Director
UNDP Haiti

29 Feb / 2012
Date

For CEMEX:



Ms. Olivia Caldwell
Partnerships Manager
CEMEX Haiti

Date Feb 28th, 2012