

## **Terms of Reference**

### **MULTINATIONAL OBSERVER GROUP FOR FIJIAN GENERAL ELECTION**

#### **INTRODUCTION**

This Terms of Reference sets out the framework and scope within which the Multinational Observer Group ('MOG'), on the invitation of the Fijian Government must work and conduct itself and which it must adhere to, as it observes the Fijian General Election.

#### **Paragraph 1: Scope of Multinational Observation**

The MOG will:

- (a) Observe and evaluate the functions and operations of the Fijian Elections Office ('FEO') with respect to the Fijian General Election;
- (b) Observe and evaluate the voter registration process and the establishment of the National Register of Voters and Polling Station Voter Lists;
- (c) Observe and evaluate the voter awareness campaign including voter information provided or authorised by FEO;
- (d) Observe and evaluate the nomination and registration of candidates and conduct of political parties as prescribed in the Fijian Electoral Act 2014 ('Act');
- (e) Observe and evaluate Pre-Poll, postal voting and election day operations and events that facilitate voting operations in compliance with the procedures established in the Act;
- (f) Observe and evaluate the vote counting process, the determination of election results and the dissemination thereof;
- (g) Observe and evaluate the resolution of disputes throughout the electoral cycle, including any mechanism established to hear and adjudicate election related disputes; and
- (h) Assess whether the voter processes of the FEO facilitated and assisted Fijian voters to exercise their right to freely vote and whether the outcome of the Fijian General Election broadly represented the will of all Fijian voters.

#### **Paragraph 2: Duration of Multinational Observation**

- (a) The MOG will be made up of both long term observers, who will arrive in Fiji prior to the election date, and short term observers, who will arrive prior to polling and stay until polling and counting have been finalised. The final number of observers and dates of arrival and departure will be mutually decided by the Fijian Government and relevant international partners.



- (b) The MOG will commence its tasks once it has been given an induction of electoral laws by the FEO, and has received the accreditation documents from the FEO, and will conclude once the MOG has submitted its report in accordance to Paragraph 3.

### **Paragraph 3: Reporting**

- (a) Based on the scope of the MOG as outlined in Paragraph 1, the co-leads will:
  - (i) Issue an interim media statement at the conclusion of the election detailing the MOG's observations, which will reflect the views of all members of the delegation and will not be attributable to any individual country or organisation; and
  - (ii) Issue to the Fijian Government, Electoral Commission ('EC') and the FEO an observation report as soon as practical after the conclusion of the election process, which will contain a determination on all the matters provided in the scope of the MOG under Paragraph 1, and where appropriate the observation report will also offer recommendations for improving the integrity and effectiveness of future electoral and related processes.
- (b) Before issuing the media statement and the observation report under this Paragraph the MOG must comply with Paragraph 7(k), and seek a response from the EC and the FEO accordingly.

### **Paragraph 4: Composition of the Multinational Observer Group**

- (a) The MOG will include a team of observers to form a single coordinated group, from countries and organisations which are approved by the Fijian Government.
- (b) The Fijian Government has invited Australia, India and Indonesia to co-chair and coordinate the MOG, and work with other accredited election observers to establish a single consolidated international observation mission. The co-chairs will be the primary contact point between the MOG and the Fijian Government.
- (c) The co-chairs will manage and coordinate the MOG overall, including the allocation of specific delegation members to observe the various aspects of the process as set out above.
- (d) The MOG will establish a Secretariat to coordinate logistical support and briefing to the delegation, for the duration of the observation mission.



#### **Paragraph 5: Commitment to Co-operate**

The Fijian Government:

- (a) Will seek the approval of the FEO, to provide unimpeded access to the MOG to all stages of the election process and all election technologies and the certification processes for voting and other technologies, without requiring the MOG to enter into confidentiality agreements concerning technologies or election processes;
- (b) Will facilitate unimpeded access to the MOG to all persons concerned with election processes, including:
  - (i) Electoral officials at all levels subject to the approval of the FEO; and
  - (ii) Members of the Fijian Government whose functions are relevant to organising genuine democratic elections;
- (c) Will ensure freedom of movement around the country for all members of the MOG;
- (d) Will ensure full, country-wide accreditation (that is, the issuing of any identification or document required to conduct election observation) for all observers who are part of the MOG as long as the MOG complies with the requirements for accreditation; and
- (e) Will ensure that no Governmental authority will interfere in the activities of the MOG, or individuals or organisations that provide information to, or support for, the MOG, in accordance with the laws of the Republic of Fiji.

#### **Paragraph 6: Accreditation and Identification of the Multinational Observer Group**

- (a) All countries/organisations who are part of the MOG must submit an application to the Fijian Government for approval which will specify:
  - (i) The name of the country/organisation;
  - (ii) The photograph, name and nationality of each observer designated by the country/organisation;
  - (iii) The intended time of stay in Fiji; and
  - (iv) A statement, duly executed by each observer, that they will abide by the laws, regulations, guidelines, this Terms of Reference and the Code of Conduct for the MOG, which is annexed to this Terms of Reference.
- (b) Upon receipt of the application for approval, along with its accompanying documentation, the Fijian Government will make a decision on the approval of each observer, and, if approved, will request the FEO to issue an official accreditation to the observer.



- (c) The FEO may (following reasonable consultation with co-leads) revoke the accreditation of any accredited member of the MOG if the organisation or accredited member:
- (i) Has failed to adhere to the laws of the Republic of Fiji;
  - (ii) Has failed to adhere to the lawful instruction, direction or order issued by the FEO;
  - (iii) Has shown a bias in the observation of the electoral process;
  - (iv) Has obstructed election officials in the conduct of their official duties; or
  - (v) Has not adhered to this Terms of Reference or the Code of Conduct for the MOG.

#### **Paragraph 7: Rights and Privileges of the Multinational Observer Group**

All accredited observers who are part of the MOG will have the following rights and privileges:

- (a) To receive a visa to enter Fiji if this is required;
- (b) To enjoy freedom of movement throughout Fiji, without prior permission or notification;
- (c) To communicate freely with the Government, political parties, coalitions of parties, independent candidates, non-government organisations, civil societies and other social and political organisations in Fiji;
- (d) To seek clarifications from all the organisations involved in the electoral process on matters connected with the activity of the observation of the elections, and to obtain answers in a useful and timely manner;
- (e) To observe voter registration activities, voter awareness activities, the vote, the count and the dissemination of election results;
- (f) To have access to information transmitted by the EC and FEO and its officers in relation to any complaints regarding the electoral process that may have been registered;
- (g) To open offices in Fiji, if so required, to ensure the successful accomplishment of this Terms of Reference;
- (h) To observe the participation, as authorised by law, of the political parties or coalitions of parties connected with the electoral process;



- (i) To have freedom of access to all polling stations and counting centres at all times, subject to the laws of the Republic of Fiji and any reasonable instruction or directions issued by the FEO;
- (j) To have freedom to examine all electoral materials including ballot boxes, ballot papers and indelible ink, which are to be used; and
- (k) To communicate according to the provisions of this Terms of Reference and based on the scope of MOG as outlined in Paragraph 1, the findings of the observation to the EC and the FEO and seek a response from the EC and the FEO before making these views public.

#### **Paragraph 8: Commitments**

Individual members of the MOG will make the following commitments:

- (a) To respect the Constitution of the Republic of Fiji;
- (b) To exercise their role with impartiality, independence and objectivity;
- (c) To identify themselves immediately, whenever necessary, and at all times to wear or otherwise prominently display the prescribed identification cards issued by the Supervisor of Elections;
- (d) To notify election officials of any action or conduct which they believe to be serious infringements of the electoral process;
- (e) Not to interfere with, or impede, the normal course of the electoral process;
- (f) Not to issue individual statements (including by or on behalf of any person or country) about the electoral process to the media; and
- (g) To abide by the annexed Code of Conduct for the MOG.

#### **Paragraph 9: Status of Diplomats**

Any Diplomat, who makes an application for approval and accreditation under Paragraph 6 shall perform the functions as set out in this Terms of Reference without prejudice to the provisions of the Vienna Convention on Diplomatic Relations of 1961.

#### **Paragraph 10: Funding**

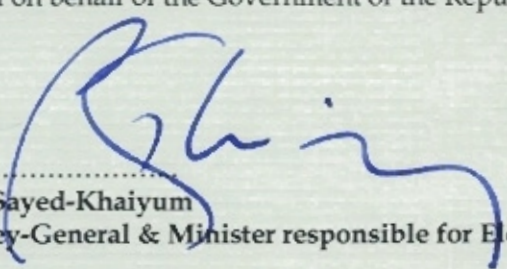
All countries/organisations, duly approved and accredited under this Terms of Reference, will be wholly responsible for all costs in their observing duties. The Fijian Government, EC and the FEO will not be responsible for any such costs.



This Terms of Reference does not create any legally binding rights or obligations under international law.


Dated and signed this 18th day of October 2022.

For and on behalf of the Government of the Republic of Fiji:



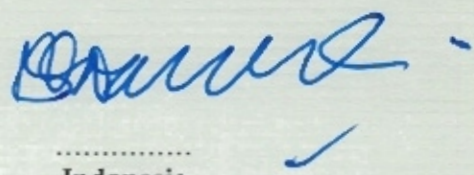
.....  
Aiyaz Sayed-Khaiyum  
Attorney-General & Minister responsible for Elections

For and on behalf of the MOG by the Co-Leads:



.....  
Australia

Saifullah Khan  
.....  
India



.....  
Indonesia



**ANNEXURE**  
**CODE OF CONDUCT FOR THE MULTINATIONAL OBSERVER GROUP**  
**FOR FIJIAN GENERAL ELECTION**

**Introduction**

All observers in the Multinational Observer Group ('MOG') observing the Fijian General Election must be familiar with and abide by this Code of Conduct.

**1. Respect for Sovereignty, Constitution and the Law**

The observer must perform his or her functions with:

- (a) Respect for the sovereignty of the Republic of Fiji;
- (b) Respect for and compliance with the Constitution of the Republic of Fiji; and
- (c) Respect for and compliance with the laws of the Republic of Fiji, including the Electoral Act 2014, and any direction or instructions issued by the Electoral Commission and the Fijian Elections Office ('FEO').

**2. Neutrality**

The Observer must:

- (a) Act in a strictly neutral and unbiased manner in relation to national authorities, including the electoral officials, political parties, candidates, voters and the media;
- (b) Avoid any conflict of interest during observation and assessment, and must immediately report to the Fijian Government of any conflict of interest;
- (c) Refrain from accepting any gifts from individuals or organisations;
- (d) Refrain from any action likely to be interpreted as indicating partisan support for any candidate, political party or organisation;
- (e) Refrain from expressing partisan views;
- (f) Exercise the highest level of personal discretion, at all times; and
- (g) Refrain from wearing or carrying party or independent candidate symbols.

**3. Accuracy and Transparency**

The Observer must:

- (a) Obtain a valid view of all aspects of the electoral process relevant to its legitimacy;



- (b) Obtain a valid view of the way the electoral process has progressed in all parts of the country;
- (c) Consult widely with relevant political organisations and members of the Fijian public;
- (d) Take all necessary steps to assure that all information gathered by them and conveyed to others as part of the observation process has a sound factual basis;
- (e) Ensure that all information is collected in a way that is systematic, clear and unambiguous; and
- (f) In respect of any allegations which reflect adversely on the FEO or on a participant in the electoral process, obtain the response of the concerned party before treating such an allegation as valid.