

BILATERAL AGREEMENT

Classification: 56-2017

Entry Date: 9/8/2017

Name of Agreement: Agreement between the Government of the Commonwealth of the Bahamas and the General Secretariat of the Organization of American States regarding the privileges and immunities of the OAS Electoral Observation Mission for the 2017 General Elections

Subject: Privileges and immunities of the OAS Electoral Observation Mission for the 2017 General Elections

Parties involved: GS/ Bahamas

Reference: Bahamas

Signature Date: May 2, 2017

Start Date:

End Date:

Place of Signature: Washington DC, USA

Unit in Charge:

Person in Charge:

Original:

Key points:

Closure of proceedings:

Additional notes:

**AGREEMENT BETWEEN
THE GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS
AND
THE GENERAL SECRETARIAT OF THE
ORGANIZATION OF AMERICAN STATES
REGARDING
THE PRIVILEGES AND IMMUNITIES OF THE OAS
ELECTORAL OBSERVATION MISSION
FOR THE 2017 GENERAL ELECTIONS**

AGREEMENT BETWEEN
THE GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS
AND
THE GENERAL SECRETARIAT OF THE
ORGANIZATION OF AMERICAN STATES
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THE PRIVILEGES AND IMMUNITIES OF THE OAS
ELECTORAL OBSERVATION MISSION
FOR THE 2017 GENERAL ELECTIONS

The Parties to this Agreement, the General Secretariat of the Organization of American States (hereinafter referred to as the “GS/OAS”) and the Government of the Commonwealth of The Bahamas (hereinafter referred to as the “Government”),

WHEREAS:

On March 7th, 2017 the Governor-General of the Commonwealth of The Bahamas (hereinafter referred to as the “Governor-General”) invited GS/OAS to observe the General Elections to be held “not later than May 2017”;

The Secretary General of the OAS, in a letter dated March 28th, 2017, informed the Governor-General that he accepted the invitation to deploy an OAS Group of International Observers to carry out an OAS Electoral Observation Mission (hereinafter referred to as the “OAS Mission” or the “Mission”) for the General Elections subject to obtaining the necessary resources to finance the establishment of the Mission;

The OAS Mission will be comprised of officials of the GS/OAS and international observers contracted at GS/OAS headquarters to participate in the OAS Mission (hereinafter referred to as the “Members of the OAS Mission” or the “Members”);

Article 133 of the OAS Charter provides that: “the Organization of American States shall enjoy in the territory of each member such legal capacity, privileges, and immunities as are necessary for the exercise of its functions and the accomplishment of its purposes”; and

The privileges and immunities enjoyed by the OAS, the GS/OAS, and its staff and property in the Commonwealth of The Bahamas are set out in the Charter of the Organization of American States, whose instrument of ratification was deposited by the Government of The Bahamas on March 3, 1982, and in the Agreement between the General Secretariat of the OAS and the Government of the Commonwealth of The Bahamas on the Functioning of the Office of the General Secretariat of the Organization of American States and Recognition of its Privileges and Immunities, signed by the Parties on May 29th, 1997;

HAVE AGREED AS FOLLOWS:

CHAPTER I
PRIVILEGES AND IMMUNITIES OF THE OAS MISSION

ARTICLE I

The privileges and immunities of the OAS group of International Observers for the General Elections to be held on May 10, 2017 in the Commonwealth of The Bahamas shall be those accorded to the OAS, to its organs, and to its staff and property, pursuant to the provisions of articles 133, 134, 135, and 136 of the OAS charter, whose instrument of ratification was deposited by the Government of the Commonwealth of The Bahamas on March 3, 1982; the Agreement between the General Secretariat of the OAS and the Government of the Commonwealth of The Bahamas on the Functioning of the Office of the General Secretariat of the Organization of American States and Recognition of its Privileges and Immunities, signed by the Parties on May 29th, 1997; and in accordance with relevant principles of international law.

ARTICLE II

The property and effects of the OAS Mission and those of the OAS Group of International Observers, located in any part of the territory of the Commonwealth of The Bahamas and in possession of any person, shall enjoy immunity against any type of judicial proceeding; save in those specific cases for which said immunity is expressly waived in writing by the Secretary General of the OAS. However, it is understood that said waiver of immunity shall not have the effect of subjecting any such property and effects to any type of measure of execution.

ARTICLE III

The premises occupied by the OAS Mission and of the OAS Group of International Observers shall be inviolable. Moreover, the property and effects of the OAS Mission and of the OAS Group of International Observers, in any part of the territory of the Commonwealth of The Bahamas and in possession of any person or entity, shall enjoy immunity against search and seizure, confiscation, expropriation, and against any form of intervention, be it executive, administrative, judicial, or legislative.

ARTICLE IV

The files of the OAS Mission and all of the documents pertaining thereto or in the possession of any person or entity shall be inviolable wherever they are located.

ARTICLE V

The OAS Mission shall be:

- a) Exempt from any internal taxation, it being understood, however, that it may not claim any type of tax exemption that is in fact remuneration for public services;
- b) Exempt from any type of customs duty, prohibition, and restriction in respect of articles and publications that it may import or export for its official use. It is understood, however, that any articles imported duty-free may be sold within the Commonwealth of The Bahamas only in accordance with conditions expressly agreed upon by the Parties; and
- c) Exempt from ordinances, regulations, or moratoria of any kind. Moreover, it may have currency of any type, carry accounts in any foreign currency, and transfer funds in foreign currency.

CHAPTER II
MEMBERS OF THE OAS GROUP OF INTERNATIONAL OBSERVERS

ARTICLE VI

The Members of the OAS Group of International Observers (hereinafter the Observers) shall be those persons who have been designated by the OAS Secretary General and accredited by the Bahamian authorities.

ARTICLE VII

For the period during which the Members of the OAS Mission exercise their functions and during their trips to and from the Commonwealth of The Bahamas, they shall enjoy the following privileges and immunities:

- a) Immunity from personal detention or arrest as well as immunity from any type of legal proceeding in respect of their actions and statements, be they oral or written, done in the performance of their functions;
- b) The inviolability of all papers and documents;
- c) The right to communicate with the GS/OAS via radio, telephone, telegraph, email, satellite, or other means, and to receive documents and correspondence through messengers or in sealed pouches, enjoying for that purpose the same privileges and immunities accorded to diplomatic mail, messages, and pouches;
- d) The right to utilize for their movements throughout the national territory, any means of transportation, be it by air, by water, or over land;

- e) Exemption in respect of their persons and that of their spouses and children, from any type of immigration restriction and registration of aliens and any type of national service in the Commonwealth of The Bahamas.
- f) The same privileges accorded to the representatives of foreign governments on official mission in respect of foreign-currency restrictions;
- g) The same immunities and privileges in respect of their personal baggage as are accorded to diplomatic envoys; and
- h) Such other privileges, immunities, and facilities as are compatible with the foregoing, and enjoyed by diplomatic envoys, with the exception that they shall not enjoy any exemption from customs duties on imported merchandise (that is not part of their personal effects) or sales taxes or consumer taxes.

ARTICLE VIII

The provisions contained in the preceding Article do not apply to nationals of the Commonwealth of The Bahamas working as local contract staff in the OAS Mission, except in respect of official acts performed or statements issued in the exercise of their functions.

ARTICLE IX

The OAS Mission may establish and operate in the territory of the Commonwealth of The Bahamas an independent radio communication system to provide an on-going communications link between the Members and the vehicles used by the Members with Mission offices and regional headquarters, such as the central office in Nassau and between the latter and the headquarters of the GS/OAS in Washington, D.C., United States of America. The Government shall provide all the technical and administrative support necessary for this to be achieved.

CHAPTER III
COOPERATION WITH THE AUTHORITIES

ARTICLE X

The OAS Mission shall cooperate with the relevant authorities of the Commonwealth of The Bahamas to prevent any occurrence of abuse in respect of the specified privileges and immunities. Similarly, the relevant authorities shall do whatever is possible to provide the cooperation requested of them by the OAS Mission.

ARTICLE XI

Without prejudice to the immunities and privileges accorded, the Members of the OAS Mission shall respect the laws and regulations existing in the Commonwealth of The Bahamas.

ARTICLE XII

The Parties shall take any measures necessary to procure an amicable arrangement in the proper settlement of:

- a) Any disputes that may arise in contracts or other questions of private law; and
- b) Any disputes to which the OAS Mission and/or any of its Observers may be parties with respect to matters in which they enjoy immunity.

CHAPTER IV
NATURE OF PRIVILEGES AND IMMUNITIES

ARTICLE XIII

The privileges and immunities are granted to the Observers of the OAS Mission in order to safeguard their independence in the exercise of their functions of observing the General Elections to be held on May 10, 2017 in the Commonwealth of The Bahamas, and not for personal gain or to perform activities of a political nature within the territory of the Commonwealth of The Bahamas.

Thus, the Secretary General of the OAS shall waive the privileges and immunities of any Observer in the event that he determines, in his sole discretion, that the exercise of those privileges and immunities may obstruct the course of justice and so long as the Secretary General determines that such waiver does not prejudice the interests of the OAS or of the GS/OAS.

CHAPTER V IDENTIFICATION

ARTICLE XIV

The Government recognizes the "Official Travel Document" issued by the GS/OAS as a valid and sufficient document for purposes of travel by the Observers.

The Government shall issue to each Observer a visa to enter the country and to remain therein until the end of the OAS Mission. The Government shall provide each of the Observers with an identity document, which shall include the person's full name, position or rank, and a photograph. The Observers will not be obligated to hand over said document but to show it whenever the authorities of the Government of the Commonwealth of The Bahamas so require.

CHAPTER VI GENERAL PROVISIONS

ARTICLE XV


This Agreement may be amended by mutual consent in writing by the duly authorized representatives of the Parties.

ARTICLE XVI

This Agreement shall enter into force on the date of its signature and shall cease to have effect once the Members of the OAS Mission have completed their work with respect to the entire electoral process, in accordance with the terms of the request made by the Government of the Commonwealth of The Bahamas.

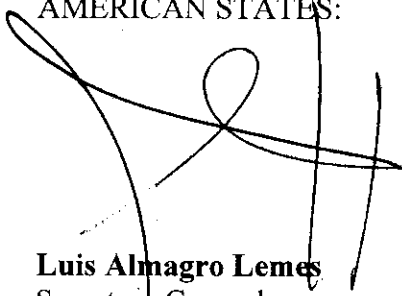
IN WITNESS WHEREOF, the undersigned, duly authorized, do hereby sign this Agreement, in duplicate, on the date and locations indicated below.

FOR THE GOVERNMENT OF
THE COMMONWEALTH OF
THE BAHAMAS


Mr. Chet Neymour
Alternate Representative
Permanent Mission of the Commonwealth
of The Bahamas to the OAS
Place: Washington DC, USA

Date: May 2, 2017

FOR THE GENERAL SECRETARIAT
OF THE ORGANIZATION OF
AMERICAN STATES:


Luis Almagro Lemes
Secretary General
General Secretariat of the
Organization of American States
Place: Washington DC, USA

Date: May 2, 2017