

ACUERDO BILATERAL

Clasificación: 111-2011

Fecha de Ingreso: 17 de febrero de 2012

Nombre del Acuerdo: Agreement between the Government of the Federation of Saint Kitts and Nevis and the General Secretariat of the Organization of American States Regarding the Privileges and Immunities of the OAS Electoral Observation Mission for the 2011 Nevis Island Assembly Elections in the Federation of Saints Kitts and Nevis

Materia: Privileges and Immunities of the OAS Electoral Observation Mission for the 2011 Nevis Island Assembly Elections in the Federation of Saints Kitts and Nevis

Partes: SG/ Government of the Federation of Saint Kitts and Nevis

Referencia: Government of the Federation of Saint Kitts and Nevis

Fecha de Firma: 5 de julio de 2011

Fecha de Inicio

Fecha de Terminación

Lugar de Firma: Washington, D.C., US

Unidad Encargada: Departamento de Cooperación y Observación Electoral

Persona Encargada:

Original

Claves

Cierres del proceso

**AGREEMENT
BETWEEN
THE GOVERNMENT OF THE FEDERATION OF SAINT KITTS AND NEVIS
AND
THE GENERAL SECRETARIAT OF THE
ORGANIZATION OF AMERICAN STATES
REGARDING
THE PRIVILEGES AND IMMUNITIES OF THE OAS ELECTORAL
OBSERVATION MISSION
FOR THE 2011 NEVIS ISLAND ASSEMBLY ELECTIONS IN THE
FEDERATION OF SAINT KITTS AND NEVIS**

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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 Federation of Saint Kitts and Nevis (hereinafter referred to as the “Government”),

WHEREAS:

On June 23, 2011 the Government of the Federation of Saint Kitts and Nevis invited the General Secretariat of the Organization of American States (hereinafter referred to as the “OAS” or the “Organization”) to observe the Nevis Island Assembly Elections to be held on July 11, 2011 in the Federation of Saint Kitts and Nevis.

The Secretary General of the OAS, informed the Government that he accepted the invitation to establish an Observer Mission (hereinafter referred to as the “OAS Observer Mission”) for the Nevis Island Assembly Elections, subject to obtaining the necessary resources to finance the establishment of the OAS Observer Mission in the Federation of Saint Kitts and Nevis (hereinafter sometimes referred to as the “Mission” or the “OAS Mission”);

The OAS Observer Mission will be comprised of officials of the GS/OAS and other persons contracted at GS/OAS headquarters, as well as any other international observers specifically under contract to the GS/OAS for the OAS Observer Mission (hereinafter sometimes referred to as the “Members of the OAS Observer Mission” or the “Members”); and

The basic privileges and immunities enjoyed by the OAS, the GS/OAS, and its staff in St. Kitts and Nevis are set out in the Charter of the Organization and in the Agreement Between the General Secretariat of the Organization of American States and the Federation of Saint Christopher and Nevis 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 November 8, 1985.

NOW, THEREFORE THE PARTIES HAVE AGREED AS FOLLOWS:

CHAPTER I

PRIVILEGES AND IMMUNITIES OF THE OAS OBSERVER MISSION

ARTICLE I

The privileges and immunities of the OAS Observer Mission shall be those accorded to the OAS, to its organs, and to its Staff.

ARTICLE II

2.1. The property and effects of the OAS Observer Mission, located in any part of the territory of the Federation of Saint Kitts and Nevis 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.

2.2. However, it is understood that said waiver of immunity by the Secretary General of the OAS shall not have the effect of subjecting any such property and effects to any type of measure of execution.

ARTICLE III

3.1. The premises occupied by the OAS Observer Mission shall be inviolable.

3.2 Moreover, the property and effects of the OAS Observer Mission, in any part of the territory of the Federation of Saint Kitts and Nevis 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 Observer 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

5.1 The OAS Observer Mission shall be:

- a) exempt from any internal taxation, it being understood, however, that they 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 they may import or export for their official use. It is understood, however, that the articles they import duty-free may be sold within the Federation of Saint Kitts and Nevis only in accordance with conditions expressly agreed upon by the Parties; and
- c) exempt from ordinances, regulations or moratoria of any kind. Moreover, they may have currency of any type, carry their accounts in any foreign currency and transfer their funds in foreign currency.

ARTICLE VI

The OAS Observer Mission may establish and operate in the territory of the Federation of Saint Kitts and Nevis 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 Gingerland 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 II MEMBERS OF THE OAS OBSERVER MISSION

ARTICLE VII

The Members of the OAS Observer Mission shall be those persons who have been designated by the GS/OAS and accredited with the authorities of the Federation of Saint Kitts and Nevis.

ARTICLE VIII

8.1 For the period during which the Members of the OAS Observer Mission exercise their functions and during their trips to and from the Federation of Saint Kitts and Nevis, 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 Federation of Saint Kitts and Nevis.
- f) The same privileges accorded to the representatives of foreign governments on official mission in respect to 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 IX

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

CHAPTER III

COOPERATION WITH THE AUTHORITIES

ARTICLE X

The OAS Observer Mission shall cooperate with the relevant authorities of the Federation of Saint Kitts and Nevis 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 Observer Mission.

ARTICLE XI

Without prejudice to the immunities and privileges accorded, the Members of the OAS Observer Mission shall respect the laws and regulations existing in the Federation of Saint Kitts and Nevis.

ARTICLE XII

12.1 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 Observer Mission and/or any of its Members may be parties with respect to matters in which they enjoy immunity.

CHAPTER IV

NATURE OF PRIVILEGES AND IMMUNITIES

ARTICLE XIII

13.1 The privileges and immunities are granted to the Members of the OAS Observer Mission in order to safeguard their independence in the exercise of their functions of observing the Nevis Island Assembly Elections of the Federation of Saint Kitts and Nevis, and not for personal gain or to perform activities of a political nature within the territory of the Federation of Saint Kitts and Nevis.

13.2 The Secretary General of the OAS may waive the privileges and immunities of any of the Members of the OAS Observer Mission 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
GENERAL PROVISIONS

ARTICLE XIV

14.1 The Government recognizes the "Official Travel Document" issued by the GS/OAS as a valid and sufficient document for purposes of travel by the Members of the OAS Observer Mission who possess this document.

14.2 The Government shall issue to each Member of the OAS Observer Mission a visa to enter the country and to remain therein until the end of the OAS Observer Mission.

ARTICLE XV

The Government agrees to extend the privileges and immunities of the present Agreement to Members of the OAS Observer Mission designated by the GS/OAS, who have been accredited by the authorities of the Federation of Saint Kitts and Nevis.

ARTICLE XVI

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

ARTICLE XVII

This Agreement shall enter into force on the date of its signature and shall cease to have effect once the Members of the OAS Observer Mission have completed their mission, in accordance with the terms of the request made by the Government.

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 FEDERATION OF ST. KITTS
AND NEVIS:



Kemoy Liburd Chow
Chargé d'Affairs
Permanent Mission of St. Kitts and Nevis
to the Organization of American States
Place: Washington, D.C., U.S.A.

Date: 07/05/2011

FOR THE GENERAL SECRETARIAT
OF THE ORGANIZATION OF
AMERICAN STATES:



Jose Miguel Insulza
Secretary General
General Secretariat of the
Organization of American States
Place: Washington, D.C., U.S.A.

Date: 07/05/2011