

AGREEMENT
BETWEEN
THE GENERAL SECRETARIAT OF THE ORGANIZATION OF AMERICAN
STATES
AND
THE GOVERNMENT OF JAMAICA
ON THE PRIVILEGES AND IMMUNITIES
OF THE 2007 GENERAL ELECTION PROCESS IN JAMAICA

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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 Jamaica, (hereinafter sometimes referred to as the "Government")

WHEREAS:

On July 5, 2007, the Electoral Commission of Jamaica, through the Permanent Mission of Jamaica to the OAS, invited the Secretary General of the Organization of American States (hereinafter referred to as the "OAS" or the "Organization") to observe the General Elections to be held in Jamaica in 2007.

The Secretary General of the OAS, in a letter dated August 15, 2007, informed the Government that he accepted the invitation to establish an Electoral Observer Mission (hereinafter referred to as the "OAS Observer Mission") for these elections, subject to obtaining the necessary resources to finance the establishment of the OAS Observer Mission in Jamaica,

The OAS Observer Mission will be comprised of officials and/or persons contracted at GS/OAS headquarters, as well as other international observers specifically under contract to the GS/OAS for the OAS Observer Mission.

The basic privileges and immunities enjoyed by the OAS, the GS/OAS, and its staff in Jamaica are set out in the Charter of the Organization and in the Agreement Between the Government of Jamaica and the General Secretariat of the Organization of American States on the Functioning in Kingston of the Office of the Secretariat in Jamaica, signed by the parties on March 12, 1971.

NOW, THEREFORE:

The GS/OAS and the Government

HAVE AGREED AS FOLLOWS:

CHAPTER I:

PRIVILEGES AND IMMUNITIES OF THE OAS OBSERVER MISSION

ARTICLE I

1.1 The privileges and immunities of the OAS Observer Mission shall be those accorded to the OAS, to the GS/OAS, to their organs, and to their staff.

ARTICLE II

2.1. The property and effects of the OAS Observer Mission, located in any part of the territory of Jamaica 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 Jamaica 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

4.1 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 Jamaica only in accordance with conditions expressly agreed upon by the GS/OAS with the Government; 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.

CHAPTER II

MEMBERS OF THE OAS OBSERVER MISSION

ARTICLE VI

6.1 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 Jamaica.

ARTICLE VII

7.1 For the period during which the members of the OAS Observer Mission exercise their functions and during their trips to and from Jamaica, 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, fax, 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; provided however that travel by air is subject to pre-clearance from the relevant authorities. Such pre-clearance is for the sole purpose of securing the safety of Mission personnel and Jamaican citizens and shall not be applied to prejudice the independence of the Mission in any way;
- 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 Jamaica;
- 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 VIII

8.1 The provisions contained in the preceding Article do not apply to nationals of Jamaica 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.

ARTICLE IX

9.1 The OAS Observer Mission may establish and operate in the territory of Jamaica an independent radio communication system to provide an on-going communications link between the observers and the vehicles used by the members of the OAS Observer Mission with Mission offices and regional headquarters, such as the central office in Kingston 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

10.1 The OAS Observer Mission shall cooperate with the relevant authorities of Jamaica to prevent any occurrence of abuse in respect of the specified privileges and immunities. Subject to financial and technical constraints as determined by the Government of Jamaica, the relevant authorities of Jamaica will cooperate fully with the OAS Observer Mission.

ARTICLE XI

11.1 Without prejudice to the immunities and privileges accorded, the members of the OAS Observer Mission shall respect the laws and regulations existing in Jamaica.

ARTICLE XII

12.1 The Government and the GS/OAS 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;
- 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 General Election Process of Jamaica and not for personal gain or to perform activities of a political nature within the territory of Jamaica.

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 where necessary 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

15.1 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 Jamaica.

15.2 Nationals of Jamaica will not enjoy the privileges and immunities contemplated in this Agreement.

ARTICLE XVI

This Agreement may be amended by mutual consent in writing by the duly authorized representatives of the Government and of the GS/OAS.

ARTICLE XVII

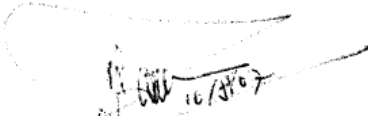
This Agreement shall enter into force on the date of its signature and shall cease to have effect once the members of the OAS Observer Mission have completed their mission, in accordance with the terms of the request made by the Government.


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

Done in English in the City of Kingston, on this 16th day of August, in the year Two Thousand and Seven.

FOR THE GENERAL SECRETARIAT
OF THE ORGANIZATION OF
AMERICAN STATES

FOR THE GOVERNMENT OF
JAMAICA


Albert Ramdin
Assistant Secretary General


G. Anthony Hylton
Minister of Foreign Affairs and
Foreign Trade