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FINAL REPORT OF THE OAS ELECTORAL OBSERVATION MISSION  
TO THE NEVIS ISLAND ASSEMBLY ELECTIONS IN  
THE FEDERATION OF SAINT KITTS AND NEVIS

July 11, 2011



17th St. & Constitution Avenue N.W.  
Washington, D.C. 20006  
United States of America

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Excellency  
Ambassador Duly Brutus  
Permanent Representative of Haiti  
to the Organization of American States  
Chair of the Permanent Council  
Washington, D.C.

Excellency:

I have the honor to address Your Excellency to request your kind assistance in distributing to the members of the Permanent Council the attached report of the OAS Electoral Observation Mission to Saint Kitts and Nevis. The report reflects the activities undertaken by the Mission during the Nevis Island Assembly Elections in the Federation of Saint Kitts and Nevis, held on July 11, 2011.

Accept, Excellency, the renewed assurances of my highest consideration.

Ambassador Albert Ramdin  
Assistant Secretary General,  
in charge of the General Secretariat

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## **EXECUTIVE SUMMARY**

On June 23, 2011, the Government of the Federation of Saint Kitts and Nevis requested that the General Secretariat of the Organization of American States (OAS) deploy an Electoral Observation Mission (EOM) to the Nevis Island Assembly Elections, which were held on July 11, 2011. This was the second time that the OAS had observed elections in St. Kitts and Nevis, the first being the General Elections of January 25, 2010. The EOM represented the first local election observed by the OAS in the Caribbean.

The OAS Observer Mission consisted of five observers from three different OAS member states (Antigua & Barbuda, Bolivia and the United States). On Election Day, observers were deployed to all five constituencies on the island of Nevis and were able to visit all of the 23 polling sites multiple times throughout the day. The EOM was present for the opening and closing of the polls in each of the constituencies and was able to observe the voting process firsthand, interviewing presiding officers, poll clerks, party agents, police officers, candidates and members of the public regarding the preparations for and the conduct of the electoral process. Following the closing of the polls, observers followed the ballot boxes to the police stations, where they observed the counting of the ballots.

At stake in the elections were all five of the elected seats in the Nevis Island Assembly. Two political parties contested the election: the incumbent Nevis Reformation Party (NRP) and the Citizens Concerned Movement (CCM). Each presented five candidates. Apart from Constituencies 3 and 5, which respectively are traditional CCM and NRP strongholds, the elections were closely contested. Final results confirmed that the NRP won three seats while the CCM took the remaining two. Joseph Parry, the leader of the NRP, won a second consecutive term as Nevis Premier.

The OAS Electoral Observation Mission wishes to thank the government of St Kitts and Nevis, the local authorities, candidates, party delegates, media, and members of civil society for the cordiality with which they received the Mission and to express its gratitude to the government of Canada for providing financial support for this mission.

## **CHAPTER I. BACKGROUND AND NATURE OF THE MISSION**

### **A. ELECTORAL OBSERVATION MISSIONS OF THE ORGANIZATION OF AMERICAN STATES (OAS/EOMS)**

OAS Electoral Observation Missions (EOMs) constitute a key instrument in the defense and promotion of democracy in the continent. They help guarantee the integrity, impartiality, and accountability of numerous electoral processes, as well as strengthen the credibility of democratic institutions in Member States.

The presence of an OAS Electoral Observation Mission (OAS/EOM) represents the solidarity and support of the Inter-American community towards the efforts undertaken by democratic institutions in states that organize and administer their own electoral processes. OAS Missions promote the recognition of political rights, particularly the right to suffrage, as the legitimate expression of every citizen's opportunity to elect and be elected in an inclusive and free manner, as well as respect for the will of the people as expressed through the polls.

Since 2007, the OAS has refined its election observation methodology, based on key documents of the Inter-American and International Systems, such as the Inter-American Democratic Charter, the Declaration of Principles for International Election Observation and the Code of Conduct for International Election Observers. The Inter-American Democratic Charter emphasizes the importance of observing the diverse phases of an electoral process, as well the need to carry out EOMs that are conducted in an "objective, impartial, and transparent manner and with the appropriate technical expertise." The Declaration of Principles emphasizes the potential of international electoral observation to "enhance the integrity level of electoral processes, by deterring and exposing irregularities and fraud and by providing recommendations for improving electoral processes."

Since 1960, the OAS has observed more than 160 electoral processes in the Hemisphere, with most of these initiatives taking place within the last 15 years. During this time period, the OAS has observed many different types of elections -- general, presidential, parliamentary, and municipal elections, referenda, signature validation and collection processes, as well as primary elections within political parties --always at the request of the Member State.

### **B. ORGANIZATION AND NATURE OF THE MISSION**

On June 23, 2011, the Government of the Federation of Saint Kitts and Nevis invited the Organization of American States to field an Electoral Observation Mission to observe the July 11, 2011 Nevis Island Assembly Elections. The General Secretariat of the OAS responded positively to this request, and named Paul Spencer (Antigua & Barbuda) as Chief of Mission and Charlotte McDowell (United States) as Deputy Chief. Prior to Election Day, the OAS Mission signed an Agreement of Privileges and Immunities with the Government of St Kitts and Nevis as well as an Electoral Access Agreement with the Electoral Office.

The EOM began its activities on July 6, 2011, with the installation of the Core Group in St. Kitts & Nevis, including experts in the areas of political analysis, legal analysis and logistics. Prior to polling day, mission members were able to observe multiple campaign events, broadcasts and print materials and to familiarize themselves with the constituencies and polling sites. The EOM met with the leadership of the St. Kitts & Nevis Electoral Commission, with representatives from the Nevis Electoral Office and from civil society, as well as with the leadership of all four political parties in the Federation to discuss their perspectives relating to the upcoming elections.

On Election Day, members of the Mission observed voting throughout the island of Nevis and were present in every constituency, visiting all 23 polling stations multiple times throughout the day. They spoke firsthand with returning officers, presiding officers, poll clerks, party agents, local NGO observers and members of the public in order to receive a comprehensive picture of the electoral process. Observers remained deployed for the close of the polls in each of the five constituencies and followed the ballot boxes to the police stations, where they observed the counting of ballots. The observers recorded their general impressions of polling and the answers to specific questions for each polling station on special forms. All information was obtained through firsthand observation and from interviews with election officials, poll workers and voters at the polling stations. Observers delivered their completed forms and a short report to the General Coordinator; they also gave a verbal account of their impressions at a debriefing session following the close of the poll. From this testimony a consistent picture emerged of the conduct of polling across Nevis. The Mission left the country following the proclamation of results on July 12, 2011. The report that follows describes the Mission's findings as well as outlines its conclusions and recommendations.

## **CHAPTER II. POLITICAL SYSTEM AND ELECTORAL ORGANIZATION**

### **A. HISTORICAL OVERVIEW**

The Federation of St. Kitts and Nevis is a two island nation located in the Eastern Caribbean, with a population of approximately 45,000 and an area of 261 square kilometers, of which Nevis covers 93 km<sup>2</sup>. Economically speaking, the federation is highly dependent on tourism. Though the islands have sought to diversify their economy by attracting cruise ships and offshore banking ventures, the economy continues to be burdened by high levels of public debt.

The Federation of St. Kitts and Nevis attained independence from the United Kingdom in September 1983. However, political parties had begun to coalesce on both islands prior to full independence. On Nevis, political opposition to the dominant St. Kitts and Nevis Labour Party (SKNLP) was expressed through the Nevis Reformation Party (NRP). Established in 1970, the NRP rose on a platform of secession from St. Kitts. Campaigning on the secession issue, the NRP won 80 percent of the Nevisian vote in the 1975 elections, winning both Nevisian seats in the nine-seat federal legislature.

The 1980 elections represented a definitive political shift in the St Kitts & Nevis, marking the end of SKNLP dominance. Though the Labour party won more votes than the opposition Political Action Movement (PAM) taking four seats to three on St. Kitts, the NRP again captured both seats on Nevis. The PAM and NRP were thus able to form a coalition government in the House of Assembly, forcing the SKNLP into opposition for the first time. The advent of a Kittitian-Nevisian coalition reduced demands for secession as the only way to overcome the limited autonomy afforded to Nevis. Instead, a deal was struck to make newly independent St. Kitts & Nevis a two-island federation in which Nevis would be granted considerable autonomy through a local assembly.

Following independence, the National Assembly was expanded to 11 seats. In the 1984 elections, the PAM increased its majority with six seats; NRP won all three seats on Nevis. Although the 1989 elections saw no changes in the political make-up on St. Kitts, a new Nevisian party, the Concerned Citizens' Movement (CCM), formed in 1987 and took one out of the three Nevisian seats. In the 1993 elections, the SKNLP and the PAM each won four seats on St. Kitts, with the CCM winning two seats on Nevis against a single seat for the NRP.

Kittitian parties have rarely campaigned on Nevis nor have they involved themselves in the local affairs of the island. On the other hand, the Nevisian vote can profoundly affect the complexion of the National Assembly. In the absence of a majority party, the Nevisian party that wins the most Federal seats has the chance to form a ruling coalition with either one of the leading Kittitian parties. In 1993, this situation led to a hung parliament in which the CCM held the balance of power (a coalition with either Kittitian party would have formed a majority) but chose to stay neutral. Following the 1995 elections, the CCM, with two seats on Nevis, became the official Opposition. The NRP retained its single seat.

Nevis has repeatedly explored the possibility of secession from the Federation. In 1996, Vance Amory, leader of the CCM and Premier of Nevis, initiated a constitutional process for secession, a motion that was defeated in a 1998 referendum. Though 62% of Nevisians voted for secession from the federation, the Constitution (Section 113) stipulates that secession requires a two-thirds majority vote.

In the 2004 general elections under the leadership of current Prime Minister Denzil Douglas, the SKNLP returned to power, winning seven of the eight seats allotted to St. Kitts in the Parliament. On Nevis, CCM won two seats and the Nevis Reformation Party NRP won one. In those elections, as was the case in previous electoral processes, the issue of constituency boundaries proved contentious. Following the 2004 elections, the Commonwealth Assessment Mission recommended “a comprehensive review of constituency boundaries by the Electoral and Boundaries Commission to reflect balance and fairness in the number of electors.” In early 2009, following the recommendations of the Commonwealth, the Constituency Boundary Commission of St. Kitts and Nevis presented a proposal for new boundaries. Although the opposition People’s Action Movement (PAM) filed an injunction, parliament approved the report. However, three months before the 2010 General Elections the courts ruled the action unconstitutional and the new boundaries null and void. PAM then contested election results in three constituencies, arguing that electoral lists were bloated to benefit the ruling party.

On Nevis, the political complexion remained unchanged following the 2010 elections. The NRP won one seat while the CCM won two, thus maintaining its position as the official opposition in the federal assembly. Despite having only one seat on the national level, the NRP has been able to strengthen its position and gain leverage through an alliance with the SKNLP, a move which allows for a Labour majority in the National Assembly.

The NRP has simultaneously worked to consolidate its majority at the local level. The last time local elections were held in Nevis, on July 10<sup>th</sup> 2006, the NRP won three out of the five seats at stake, ending fourteen consecutive years of CCM rule in Nevis. The Premiership was transferred from CCM leader Vance Amory to Joseph Parry of the NRP. Premier Parry has been in office since 2006. On June 22 2011, he dissolved the Nevis Island Assembly in order to replace the elected members who had arrived to the end of their five year term.

## **B. POLITICAL SYSTEM AND ACTORS**

The Federation of St. Christopher (otherwise known as St. Kitts) and Nevis is a constitutional parliamentary democracy that operates on the Westminster model. A member of the Commonwealth of Nations, the nominal head of state is Queen Elizabeth II of the United Kingdom, who is represented in the Federation by the Governor-General. Though the head of government is the Prime Minister, the Governor-General is formally responsible for appointing the Prime Minister, the Deputy Prime Minister, other ministers of the government, the leader of the Opposition in Parliament, and members of the Public Service and Police Service Commissions.

On the federal level, St. Kitts & Nevis operates with a unicameral parliament, known as the National Assembly. Since 1984, this body has been composed of 11 elected representatives and three appointed senators. All legislators serve five-year terms.



Federal electoral districts, known as constituencies, are drawn by the Constituencies & Boundaries Commission, set up by the Governor General in consultation with the Prime Minister and the Leader of the Opposition. The Constitution mandates a minimum of eight constituencies on St. Kitts and three on Nevis. In the delimitation of boundaries, the Commission is required to consider factors other than population, such as geographical features, existing administrative boundaries and the need to adequately represent rural areas.

### **Local Government in Nevis**

The St. Christopher and Nevis Constitution establishes that the island of St. Christopher and the Island of Nevis form a sovereign democratic federal state. As a part of the federation, the Island of Nevis is constitutionally endowed with its own Nevis Island Legislature and Nevis Island Administration, which is distinct from the federal governmental authorities. Under the Constitution, the Nevis Island Assembly sits for up to five years from the date of installation (“first sitting”) of the Assembly, unless dissolved at an earlier date. The island of Nevis thus elects three representatives to the National Assembly on St. Kitts as well as five members to the Nevis Island Assembly. This eight member body consists of five elected representatives and three appointed senators and is charged with the regulation of local affairs. The Nevis Premier, the leader of the party with the majority in the Nevis Island Assembly, is in charge of the Executive branch of the local government.

Pursuant to Article 130 of the Constitution, the Nevis Island Legislature has the power to make laws for the peace, order and good government of the Island of Nevis. If there is any inconsistency between those laws and the provisions of any law enacted by National Parliament, the provisions of the law enacted by National Parliament shall prevail. The guidelines for legislative autonomy in Nevis are contained in the “specified matters” areas of local administration for which the Nevisian legislature may amend or revoke provisions passed by the National Assembly. There are twenty-three specified matters, including agricultural regulations, the borrowing of monies or procurement of grants for use on Nevis, water conservation and supply, Nevisian economic planning and development, housing, utilities, and roads and highways.

Electoral boundaries for the Nevis local assembly differ from those applicable to the national level. While Nevis comprises three districts at the national level (9, 10 and 11), it is divided into five constituencies for local elections: Nevis 1 (St. Paul), Nevis 2 (St. John), Nevis 3 (St. George), Nevis 4 (St. James) and Nevis 5 (St. Thomas). As these constituencies are defined on a purely geographical basis, electoral districts vary in size and in demographic makeup.

### **Political Parties:**

There are four major political parties active in St. Kitts and Nevis. The SKNLP and the PAM compete for seats in St. Kitts, while the CCM and the NRP compete for seats in Nevis. As parties from one island traditionally do not campaign on the other, the two Nevisian parties were the

only entities to field candidates for the 2011 Nevis Island Assembly elections. Each presented candidates in all five constituencies.

#### **THE CONCERNED CITIZENS' MOVEMENT (CCM)**

**Party color: blue**                      **Party leader: Hon. Vance Amory**

The Concerned Citizens' Movement was founded in 1986 as an alternative party to the NRP and with the specific objective of achieving more autonomy for the island of Nevis in its local affairs. Contesting its first elections in 1988, the CCM won a majority in the Nevis Island Assembly in 1992. Under the leadership of Premier Vance Amory, the CCM maintained power continuously until 2006. At the federal level, the CCM has won two out of the three Nevisian seats in every general election since 1993. The CCM spearheaded the 1998 secession effort and has continually advocated for a constitutional reform that affords more autonomy for the Nevisian government. In the 2011 elections, the CCM presented itself as an alternative to the alleged corruption of the current administration and pledged to alleviate the increasingly high cost of living and growing crime on Nevis. Their campaign slogan was "People Matter More."

#### **THE NEVIS REFORMATION PARTY (NRP)**

**Party color: green**                      **Party leader: Hon. Joseph Parry**

Founded in 1970, the Nevis Reformation Party initially advocated secession from St. Kitts and played an instrumental role in negotiating the independence settlement that established the country as a two-island federation and guaranteed Nevis its own assembly. NRP served as the majority party in Nevis from independence until 1992, when it lost the elections to the newly-formed CCM. In the 2006 elections the NRP won three out of the five seats in the Nevis Island Assembly, ushering in party leader Joseph Parry as Premier of Nevis. The NRP manifesto, titled "Nevis Transformed – Better for All," focused on the achievements of its five year administration, namely improvements in infrastructure and increased international investment. The NRP campaign slogan was "Performance Matters."

### **C. ELECTORAL AUTHORITIES AND VOTING PROCEDURE**

#### **Electoral Law**

The Constitution provides for two key bodies responsible for the conduct of elections in the federation, including elections of the Nevis Island Legislature: the Electoral Commission and the Supervisor of Elections. The Electoral Commission consists of a Chairman appointed by the Governor-General, one member appointed on the advice of the Prime Minister, and one member appointed on the advice of the Leader of the Opposition.

According to the Constitution (article 34(4)), the Supervisor of Elections, who is appointed by the Governor-General, is responsible for enforcing the law regulating the registration of voters and the conduct of elections. The Supervisor of Elections, in turn, is supervised by the Electoral Commission. The Constitution also sets forth that the Electoral Commission is a body intended to reflect the existing national political leadership (Article 33). Thus the Electoral Commission may direct the Supervisor of Elections in his or her efforts to enforce the electoral laws, but, according to Article 34 of the Constitution, the Supervisor is not otherwise subject to the direction or control of any other person or authority.

The Mission observed that the specifics of the Commission's supervision and direction of the Supervisor of Elections (as seen in Article 34) is vaguely phrased in the Constitution, and most likely so because such specifics are often left to be defined by the legislature. However, the electoral statute fails to further define Commission's role and responsibilities as to its supervision of the Supervisor of Elections. As such, the legal framework allows for the possibility of distinct interpretations of the electoral authority reporting scheme, which in turn was reported in this election to generate friction regarding the application of registration provisions and challenges at the various levels.

The main electoral law that the Supervisor of Elections enforces is the National Assembly Elections Act (NAEA). The NAEA details the constitutional powers of the National Assembly, defines the roles and responsibilities of all levels of election workers, explains and regulates the process of voter registration, sets forth the procedures to be followed on election day and in the case of challenges to elections, and defines criminal offences relating to elections.

### **Voting Eligibility**

All Kittitian and Nevisian citizens over the age of eighteen, including non-residents, are entitled to vote. Commonwealth citizens<sup>1</sup> over the age of eighteen who have been ordinarily resident in St. Kitts and Nevis for a period of at least twelve months immediately before the date of their registration on the voters' list are also eligible. To be qualified to be registered as a voter in a particular constituency, a voter must establish residency in that constituency. By law, citizens residing abroad are entitled to be registered as voters in the constituency in which they have a domicile, or in which they had been ordinarily resident prior to leaving the country, or in which, under certain circumstances, a parent had been ordinarily resident.

The existing legislation provides for continuous registration and review of the electoral list. Every year, a list of registered voters is prepared and published by the Chief Registration Officer. Thereafter, each month an updated list is prepared and published. The law allows for claims and objections to the names that appear on the voters list. A voter whose presence on the list is challenged is entitled to an objection hearing and, if necessary, an investigation of residency by the registration officer, who relies on the voter statements and other evidence gathered to pronounce on voter eligibility.

## **D. POLITICAL FINANCING**

Political party and campaign financing in St. Kitts and Nevis is wholly private; there is no government funding for campaigns, whether direct or indirect. Political parties and candidates are expected to raise their own campaign funds, which they do both locally and internationally

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1 Antigua and Barbuda, Australia, Bahamas, Bangladesh, Barbados, Belize, Botswana, Brunei, Cameroon, Canada, Cyprus, Dominica, Gambia, Ghana, Grenada, Guyana, India, Jamaica, Kenya, Kiribati, Lesotho, Malawi, Malaysia, Maldives, Malta, Mauritius, Mozambique, Namibia, Nauru, New Zealand, Nigeria, Pakistan, Papua New Guinea, St. Lucia, Saint Christopher and Nevis, Saint Vincent and the Grenadines, Samoa, Seychelles, Sierra Leone, Singapore, Solomon Islands, South Africa, Sri Lanka, Swaziland, Tanzania, Tonga, Trinidad and Tobago, Tuvalu, Uganda, United Kingdom, Vanuatu, Zambia.

from groups, individuals, and the private sector. Amounts spent on campaigning, especially for media, have risen significantly in the past twenty years. Large-scale campaign events typically resemble concerts where local artists are invited to perform. The current regime is characterized by an absence of regulations or restrictions on the amount parties can raise or spend for electoral purposes. There are no prohibitions, for example, on anonymous or foreign donations, as is the case in much of the region.

Political parties are not required to adopt standardized accounting mechanisms or produce reports to the electoral authority. Neither the Electoral Commission nor the Supervisor of Elections has the mandate to audit campaign finances. Because political parties publish little information about the sources of their financing, citizens lack access to such information. The lack of transparency and the absence of rules or restrictions on campaign donations make it difficult to know the amounts, groups, or individuals involved in financing campaigns.

## CHAPTER III. MISSION ACTIVITIES AND OBSERVATIONS

### A. PRE-ELECTORAL PHASE

Pursuant to the NAEA and the Constitution, the Nevis Island Assembly was dissolved by proclamation of the Governor-General on June 22, 2011, and on that same day, the Governor-General issued Writs of Election to each of the five constituencies of the Island of Nevis which directed that nominations for the Assembly were to be held on the 4<sup>th</sup> of July, 2011 and elections on the 11<sup>th</sup> of July, 2011.

The Mission observed that the electoral code, the National Assembly Elections Act, suffers from an excessive level of detail. Because the law encompasses every aspect of electoral administration, including for example the exact manner in which ballot boxes must be sealed, it leaves virtually no room for administrative modifications. The rigid nature of the law, originally passed in 1981, has hampered the ability of the electoral administration to implement improved procedures. The Mission also observed the dire need for a thorough integration and codification of all the amendments to the NAEA. In recent years, the NAEA has been amended substantially in many aspects, including the crucial matter of voter registration. To analyze many topics discussed in the Act, citizens must first locate copies of the amendments, and then attempt to read the amendments in relation to not only the Act, but in relation to other amendments as well. The Mission notes that voters should be able to have access to the Act, as amended, in one comprehensive document. Therefore, Mission strongly recommends that the NAEA should be updated to include all amendments to date.

The OAS Mission witnessed the arrival, immediately prior to the election, of many charter flights full of non-resident voters. While it is not illegal for parties to assist such voters in coming back to St. Kitts and Nevis to vote, this practice raises the issue of whether parties with greater funds at their disposal are able to increase the chances of their electoral success by offering the inducement of free flights home. A member of parliament of one party openly noted to the OAS Observer Mission that the cost to parties of flying in eligible voters resident abroad was large and increasing.

The political climate ahead of the 2011 Nevis Island Assembly was tense and polarized, particularly towards the end of the campaign. Tensions between the ruling NRP and the CCM were in many ways a direct by-product of the 2006 elections, when the CCM lost control of the Nevis Island Assembly after 14 years of uninterrupted rule. The 2011 electoral process was thus of serious consequence for the future balance of power in Nevis and had implications for the potential consolidation of the NRP's incipient majority.

#### 1. Voter registration

In the context of the 2011 elections, the principal point of confrontation between the CCM and NRP stemmed from controversy over the accuracy of the voters list. The CCM claimed that 244 citizens were unfairly excluded from the electoral list, and that many of these voters were denied due process or the right to defend their case at an objection hearing. The competent electoral authorities insisted on the veracity of the voters list, maintaining that the registration officer had

followed the correct procedures and that the lack of notification in some cases was due to problems with the mail system.

For these elections, key lawsuits were brought both before and after the elections regarding issues of voter registration. Before the elections, two such lawsuits were submitted before the High Court of Justice, both challenging the removal of voters from the voters list. The week before polling day, CCM Chairman Vance Amory presented one case against the exclusion of 240 names. A separate case was submitted by five individuals who brought suit in their own names, and both cases claimed that the individuals excluded from the list received neither prior nor post hoc notice that there was a challenge to their voter registration.

Three days before the election, on July 8, 2011, the High Court ruled in favor of the five individuals who had brought suit against their exclusion from the list, and ordered that they be allowed to vote in the July 11 election. As to Mr. Amory's petition, however, the court ruled that Mr. Amory did not have standing to represent the excluded voters because he himself had not been excluded from the voters list. The court did allow for the individuals to bring suit in their own names; however, the ruling was issued some 72 hours prior to election day, thereby making it difficult for such suits to be brought to the Court. Although it was technically an interim decision, the ruling was perceived as a loss by the opposition party. The CCM accepted the ruling but did not cease criticizing the accuracy of the voter's list throughout their campaign.

During its meetings with different political parties, observers collected complaints regarding the preparation of the voter registry, and the Mission's legal expert observed the related cases presented before the High Court. The OAS EOM noted that the electoral office's procedures for objections and claims leading to the addition and removal of names and the dissemination of updated lists were the root of both the legal and political controversy. In this regard, OAS observers confirmed that in at least some cases notifications to voters whose names had been objected to were delivered after the scheduled hearing date, and that the procedure for investigation and resolution of objections lacked proper definition and transparency. In addition, the OAS Mission also noted concerns related to the decision-making process between the various levels of the electoral institutions regarding this matter.

A discussion of the lawsuit brought after the election can be found in Post-Electoral Phase of this report.

## 2. Poll worker training

The OAS EOM attended two training sessions for returning officers, presiding officers and poll clerks in the days leading up to the elections. The first session was held by the Supervisor of Elections along with the Senior Crown Counsel, who gave a presentation and answered questions regarding legal matters related to the electoral process. In the second session, electoral materials were distributed and poll workers broke off into teams led by the various returning officers.

While it is commendable that both sessions were very well-attended, the Mission noted with concern that neither the training nor the manuals delivered to poll workers were presented in a clear format that explained their responsibilities and step-by-step instructions on how to fulfill

their role during the polls. The poll workers manual, for example, was a 40 page compilation of relevant legislation with no added explanation.

### 3. Electoral campaign and rallies

Observers were able to attend several political rallies and campaign meetings held by both parties, including the close of the campaigns. That these events were entirely peaceful in spite of the tense political environment demonstrated the civility of the people of Nevis and their commitment to democratic processes.

The Mission observed that rhetoric at the rallies lacked substantive content and was instead dominated by repetitive messages criticizing the particular party's opponents and personal attacks on individual candidates. The ruling NRP cited its governing performance over the previous five years, presenting its tenure as a first stage of a more profound change. The NRP also capitalized on its alliance with the national party SKLNP to highlight its political leverage at the Federal Assembly. Despite being the incumbent party, the NRP presented itself as an agent of change in opposition to the CCM, who ruled the local assembly for 14 years.

The CCM campaign emphasized the best known figures in their party and criticized the ruling party for alleged acts of corruption. During the rallies, CCM leaders overtly questioned the credibility of the voter registry. After the High Court ruling, the CCM continued to call on voters who were in possession of a voter's card (one of the legal identification documents allowed to vote) but not registered on the list to go out to vote on Election Day, thereby contradicting the instructions of the electoral authorities.

Prior to Election Day, each member of the Mission familiarized themselves with the electoral system of St. Kitts and Nevis, the rules and norms governing Electoral Observation, as well as the districts and polling stations that they would be monitoring. Each observer was assigned to cover the polling stations in one of the five constituencies on Nevis. On Election Day observers visited all of the 31 polling sites multiple times to observe the voting process.

## **B. ELECTION DAY**

### **a) Opening of the Polls**

On the morning of Election Day, each observer arrived at a polling station between 6:00 and 6:30 a.m. to observe the opening procedures, including the inspection and sealing of the ballot box and the swearing in of election officials. Observers reported that almost all polling stations opened on time at 7 am. In general, polling stations were equipped in accordance with electoral norms: voter lists were posted outside polling stations, instructions to voters were posted inside the polling booth and in another conspicuous place within the polling station, opening procedures were correctly followed, and necessary electoral materials were present.

Presiding officers and poll clerks were present in all stations, acted professionally and appeared committed to the discharge of their duties. Party agents from the CCM and the NRP were also present in all polling stations. Police presence at all polling sites ensured that voters could exercise their rights in a peaceful and orderly manner. Domestic observers representing the Christian Council, Chamber of Commerce or Evangelical Association were also able to remain relatively visible at polling sites throughout election day.

The OAS EOM considers it important, however, to take note of the significant gender imbalance in roles related to the electoral process: while women were highly involved in the lower levels of the process, serving as 83% of the poll workers and 90% of party agents, only one female candidate, out of ten, was presented to voters.

### **b) Voting Process**

In accordance with OAS recommendations from the 2010 observation mission to distribute voters more equally, larger polling stations were divided between two ballot boxes. While this new policy eased congestion to a degree, significant discrepancies remained in terms of the quantity of voters registered per polling station. In Constituency 5, for example, one of the three polling stations handled 408 eligible voters while a station located a few minutes away operated with a list of only 165 registered voters.

Turnout was high, reaching over 81% by the end of the day, and lines were long at many polling stations throughout the morning and mid-day. Some voters complained to observers that they were forced to wait over two hours in the sun in order to cast their vote. By mid-afternoon the majority of the long lines had disappeared.

Observers noted that the overly detailed explanations given to voters at the polling booth, as well as general lack of efficient procedures carried out by poll workers contributed to the significant wait times and delays. Specifically, the tendency of poll workers to allow only one voter to be present in the polling station at any given time significantly lengthened the voting process for each elector.

Both polling officials and the general public, however, maintained exemplary patience throughout the day. All eligible voters who wished to vote were eventually able to do so. There were no reported instances of violence, intimidation, or any other serious disturbance of the polling process.

Unfortunately, the confusion and mistrust regarding the preparation of the voter list during the campaign period was seen on election day as voters had difficulty locating where they were registered to vote. As required by law, voter lists had been posted prior to the elections in the Nevis electoral office and in other conspicuous places on the island. However, none of these lists specified the name or location of polling stations. In one case, the list posted was the voter registry for federal elections, which operates with different constituencies than the Nevis assembly. On election day, OAS observers witnessed, voters who were either unable to find their correct polling station or found that their names had been removed from the voters list at their polling place. A number of voters expressed to observers that they were perplexed and angered



by the fact that their names had been removed from the list. In the vast majority of polling stations, particularly in Constituencies 1, 2 and 4, observers witnessed that some voters were prevented from voting because their names did not appear on the electoral roll. In Constituency 2, an average of 10-15 observed voters were turned away at each polling station. In Constituency 1, this number was closer to 6-10.

At several polling sites on the July 11<sup>th</sup> election day, observers noted the presence of a modified voter registration list that was dated July 9; other polling places maintained lists published on June 29 or on July 1. The Mission confirmed that names had both been added and subtracted from the updated lists, meaning that voter eligibility had been altered two days prior to the election in at least some areas. These discrepancies between the official lists used by Poll Clerks and the published lists that had previously been posted and given to both party agents and the EOM demonstrated a lack of proper procedures in place for the election. This situation exacerbated the atmosphere of confusion and mistrust related to the voter registration list, and gave credence to concerns over the legitimacy of the election.

A large number of complaints were presented to OAS observers on Election Day by voters who were in possession of valid voter identification but were not allowed to vote. Others expressed anger over voters from abroad who had allegedly registered tactically in constituencies in which they had never resided or to which they had no connection. The issue was most heated in Constituency 2 where several voters and CCM party agents signed official written complaints on forms provided by observers to protest their disenfranchisement.

### **c) Closing of the Polls**

The closing of the poll was, like the opening, generally smooth and carried out without incident. Correct procedures were followed and all voters in line at 6:00 pm were permitted to vote. Observers noted, however, that the process by which Presiding Officers packed up the election materials after the close of poll was unnecessarily laborious and time-consuming. In particular, the marking of the closed ballot box with sealing wax was seen as both an ineffective way of producing a 'tamper-proof' seal and a cause of delays amongst weary polling officials. It is important to note that some of these procedures are based on historic legal requirements based on antiquated technological standards.

The OAS EOM considers that the centralized counting of ballots in each constituency makes for a long and tedious process, particularly considering that most other countries in the region carry out preliminary counts at each polling station.

In some constituencies, the counting process lasted until the early morning of the following day. Observers were pleased to see that the count was generally conducted in a collegial spirit in the presence of party agents. In most cases agreement was reached on the criteria for rejecting a ballot as spoiled. In one constituency, however, an observer noted that ballots that reflected clear voter intent were rejected because of minor defects, as the poll workers were overly rigid in their application of the procedures. This practice caused the discounting of some observed ballots and may particularly affect voters who are either elderly or physically impaired.

A declaration of final results was delayed by the count in St. John's (Constituency 2), where the large number of registered voters and tight race ensured that the counting process lasted into the early hours of the morning after the election.

### **C. POST-ELECTORAL PHASE**

Candidates and political party representatives waited patiently for results to be announced and refrained from making pre-emptive declarations. Official results were declared around 4 a.m. on July 12 amidst an atmosphere of calm among the populace.

According to these results, the ruling Nevis Reformation Party (NRP) won a narrow majority of three out of the five contested seats in the eight-member Nevis Island Administration (NIA). The opposition party, the Concerned Citizen's Movement (CCM) obtained the two remaining seats at stake. All five of the officials elected to the Nevis Assembly in the 2011 elections were men.

The OAS Electoral Observation Mission observed a calm and peaceful atmosphere immediately after the official announcement of the results. However, shortly after the Mission had left Nevis, it became aware of news reports that a relatively large demonstration had manifested in protest of the electoral results.

In the Nevis Island Assembly election for Constituency Number 2, that of the Parish of St. John's, the election results as reported by the Returning Officer the day after election day indicated that NRP candidate Hensley Daniels had received 14 more votes than CCM candidate Mark Brantley. The Returning Officer indicated that Mr. Daniels had received 1,358 votes to Mr. Brantley's 1,344 votes, with a total of 14 spoiled or rejected ballots. Approximately two weeks after the July 11, 2011 election, on or about August 3, 2011 Mr. Brantley filed a petition challenging the election.

The main contention of Mr. Brantley's petition is that several voters who had been included on the voters list earlier in the year had been illegally excluded from the final list of voters published in July 2011. Mr. Brantley's petition further claims that several named individuals who had been illegally excluded from the voters list had manifested their intention to cast their votes in favor of Mr. Brantley. According to the petition, the number of these disenfranchised voters far exceeded the margin of 14 votes by which the Returning Officer reported the other candidate won the election for the constituency of St. John's Parish.

Mr. Brantley's petition claims that there was little or no information regarding the exclusions from the voters list until the voters list was published on July 2, 2011, at which point voters discovered they were not eligible to vote in the July 11, 2011 election. In this regard, Mr. Brantley's petition also makes reference to the legal challenges brought a week before the election by his party's chairman, Vance W. Amory, and five other individuals. Mr. Brantley's claim is that the excluded voters whose registration was left unaddressed by the High Court due to a procedural issue would have made the difference in the election results.

Mr. Brantley's petition seeks that the court rule that the Electoral Commission violated the Constitution in excluding voters from the voters list, and that therefore the results of the

election should be reversed. As of seven months after the election, the High Court had not ruled on Mr. Brantley's petition challenging the election results.

As mentioned above, the OAS Mission observed irregularities with the voter's lists that were in use at various polling stations on election day. The EOM confirmed that lists with dates other than the July 2, 2011 list were in use, and that voter names had been both added and subtracted to and from the updated lists. This is particularly significant given that the High Court did rule that the irregularities regarding the voters list merited that at least five voters should be allowed to vote in the July 11 election and that the purported hundreds of other voters' claims of disenfranchisement was not considered prior to the election due to a technical matter of standing, rather than a court finding that the individuals were properly excluded under the law.

These issues are indicative of substantial failures in the clarity of procedures relating to claims and objections and the maintenance of the voters list. It is imperative that these shortcomings are addressed ahead of future electoral processes in order to prevent repetition of such controversy.

The EOM nonetheless commends Nevisians for their adherence to established due process for the resolution of these legal challenges, and calls on all parties to continue to air their claims and objections through the appropriate channels to further strengthen confidence in the Nevisian democratic processes.

## CHAPTER IV. CONCLUSIONS

The Mission commends the high turnout and peaceful exercise of the right to vote by the people of Nevis during this election. Likewise, the Mission noted with satisfaction the dedication and commitment of the poll workers to ensure a smooth process during election day, and the improved distribution of voters through polling stations in accordance with the 2010 OAS observations. On the whole, polling stations were well prepared and fit for their purpose. The secrecy of the ballot was maintained. Poll workers and voters alike worked in an orderly fashion and appeared knowledgeable and well-informed about voting procedures.

The Mission's overall assessment of the voting process was positive. Nonetheless, as is consistent with other countries in the region, the Mission noted several areas where improvements could be made and offers the following conclusions:

### *Voter Registration*

The controversy over the claims and objections process culminating in the court decision mere days before the election raised serious unease about the veracity of the voter's list. Concerns about the massive influx of overseas voters combined with the fact that various versions of the voter registration lists were posted in distinct polling stations exacerbated the atmosphere of mistrust and confusion that prevailed over the elections. The Mission considers it imperative that the related issues of voter registration, claims and objections and the appeals process are addressed prior to the next electoral process.

### *Political Financing*

Political financing is largely unregulated in St. Kitts and Nevis. The absence of public financing for political parties combined with the complete lack of restrictions on campaign donations creates unequal conditions for electoral competition, conferring a distinct advantage to those entities and actors with the greatest fundraising abilities. As there is no requirement to disclose campaign expenditures, and the electoral authority has no mandate to audit political finances, parties lack accountability. The absence of mechanisms for citizen access to information jeopardizes the transparency of the system. Nonetheless, the issue of "leveling the playing field" among contestants by creating more regulation, transparency, and accountability in campaign financing has not been a priority in political debate. As of yet, no party has acted to create and implement legislation.

### *Election Day operations*

The Mission noted that in general the voting procedures were well organized and administered. The police successfully ensured that voters could exercise their right in a peaceful and orderly manner. Nevertheless, the detailed explanations given to voters and lack of efficient procedures contributed to excessively long wait times.

## **CHAPTER V. RECOMMENDATIONS**

With the goal of strengthening the Nevisian electoral process, and given that the Mission did not note any significant changes regarding the electoral system or its procedures since the 2010 General Elections in Saint Kitts and Nevis, the Mission reiterates the following recommendations from its previous report and highlights the following issues from the observations of the Nevis Island Assembly elections:

### **1. Improving and clarifying procedures for the conformation of the voter registration list**

The Mission reiterates its 2010 recommendation to immediately conduct a house-to-house verification process and a well defined claims and objections period in which the voters list is properly adjusted to reflect residency. Moreover, in light of the recent controversy resulting from the weaknesses of the procedure of objections and claims, the Mission recommends a serious review of the notification timeframe for future processes relating to the modification of the voter registry, as well as the clear definition and public dissemination of mechanisms that guarantee equity and due process for both objectors and objectees regarding registration claims.

### **2. Revision and update of the electoral legal framework**

While the OAS Mission observed that an important effort was conducted to improve the legal framework in 2007-2008, the complexity of the amendments and lack of mechanisms for the definition of procedural and administrative modifications has created a cumbersome and complex instrument. Therefore, the OAS EOM recommends a general and thorough review of the legal framework to consolidate and clarify electoral regulations, including further definition of the legal criteria for residency at the local and federal levels and the registration process.

Another particular area requiring legal review is the need for the National Legislature to further define the role of the Commission in its supervision of the Supervisor of Elections. Such definition should contemplate the inclusion of timelines for reporting, the sanction imposed, if any, for failure to comply with a specific direction of the Commission, and functional immunity for the Supervisor when complying with any specific direction of the Commission.

In addition, the inclusion within the legal framework of a mechanism for electoral authorities to establish clear procedures at the administrative level would allow for the continuous improvement of issues without recourse to subsequent legal reform. As an example, and to reiterate a recommendation from the 2010 mission, the closing procedures at polling stations should be simplified and the obligation to secure the ballot box with sealing wax should be removed.

### **3. Revision of electoral boundaries**

The OAS EOM also emphasizes the recommendation that a cross-party consultative process is immediately undertaken to establish new election boundaries that are agreed upon by all political parties in the federal parliament. As part of this initiative, the OAS EOM recommends that the eligibility of non-resident voters be revisited, with consideration given to all possible alternatives to reduce the potential for manipulation of their registration and residency.

#### **4. Stakeholder engagement to establish mechanisms to improve equity in the electoral process**

The OAS EOM stresses the fundamental role played by political parties in the St. Kitts and Nevis electoral structure. Engaged dialogue and coordination by the political stakeholders are key to ensuring an equitable and credible electoral competition, as well as the legitimacy of results. The EOM also reiterates its 2010 recommendation to develop a cross-party accord on political financing that would promote transparency and accountability both in St. Kitts and Nevis, as well as on the establishment of mechanisms to promote female candidacies such as a quota and training for female political leaders. The incorporation of civil society groups in these discussions would further contribute to the definition of equitable and legitimate electoral procedures and processes.

#### **5. Enhanced voter information campaign**

In order to promote transparency, instill voter confidence in the process, and reduce the amount of confusion surrounding electoral procedures, the OAS EOM recommends electoral officials develop a voter information campaign for all stages of the electoral cycle. Specifically, the Mission recommends that the electoral authorities publish a manual regarding the specific procedures, calendar, and responsibilities of all stakeholders, increases coordination with local media to ensure the accuracy of information provided to the public, and undertakes a general public sensitization campaign regarding the intricacies of the electoral calendar and procedures. In light of the atmosphere of confusion observed in the 2011 electoral process, special attention ought to be paid to the dissemination of information relating to voter registration, voter eligibility and the claims and objections process. Keeping citizens informed and involved in the process would minimize the likelihood of last-minute controversies and questioning of the electoral process such as that experienced in the 2011 elections.

#### **6. Increased Participation of Women**

The Mission reiterates its 2010 recommendation that all political parties in the Federation should actively consider and pursue mechanisms to recruit, train and finance women to be candidates for public office. In addition, consideration should be given to the development of incentive structures to parties that undertake such activities, as well as legal provisions that support the provision of equal opportunities for women and men in all phases of the electoral process. In addition, the fact that all of the highest electoral authorities are currently occupied by men should be given significant reconsideration in order to ensure gender balance in the administration of electoral processes.

## **7. Guaranteed Access to the Media**

As recommended in the OAS 2010 report, St. Kitts and Nevis' legislation does not offer any guarantees or benchmarks for access to the media. Such regulation should be considered, and special consideration should be provided to the requirement that all media outlets provide political parties opportunity to purchase prime-time advertising at the same cost, or the stipulation of a certain amount of free advertising.

## **8. Improved Voting Procedures**

The Mission recommends a general review of voting procedures, including efforts to ensure greater uniformity in the method of instructing voters with an eye towards increasing the flow of voters to avoid the long lines visible during the 2011 elections. In particular, the EOM recommends efforts to insure that both training sessions and training manuals are more didactic and written in clear and plain language. As is common practice in most of the region and in order to expedite the count and enhance security, each ballot box should be counted by the Presiding Officer at each polling station immediately following the close of the poll.

**APPENDICES**



## APPENDIX I. LETTER OF INVITATION



### SAINT CHRISTOPHER AND NEVIS

Tel: (868)466-2521  
Fax: (868)466-4826

CABINET SECRETARIAT  
GOVERNMENT HEADQUARTERS  
P O Box 186  
CHURCH STREET  
BASSETERS  
St Kitts • West Indies

June 23, 2011

HE Jose' Miguel Insulza  
Secretary General  
Organization of American States  
17<sup>th</sup> St. & Constitution Avenue N.W.  
Washington, D.C. 20006  
United States of America

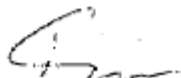
Excellency

I am pleased to convey greetings to you on behalf of the Government and people of the federation of St. Kitts and Nevis and to reiterate our appreciation for the involvement of the Caribbean Community over the years as part of the international mechanism for democracy and adherence to democratic principles.

This letter serves to advise of the upcoming Nevis Island Assembly Elections to be held on Nevis on July 11, 2011 as announced by the Premier of Nevis, the Honourable Joseph Parry. On behalf of the Government, I will like to officially request the expert assistance of your organization in sending a team of observers to witness the electoral process with a view to ensuring that the elections are free, democratic, fair and conducted in accordance to international standards.

The Government looks forward to your favourable response to our request and continued cooperation as we seek to promote and adhere to the principles that are the hallmark of good governance and democracy that we pledge to embrace wholeheartedly.

Yours respectfully

  
Mr. J. Lewellyn Edmeade  
Cabinet Secretary

## APPENDIX II. LETTER OF ACCEPTANCE



17th St. & Constitution Avenue N.W.  
Washington, D.C. 20006  
United States of America

### Organization of American States

P. 202.458.3000  
[www.oas.org](http://www.oas.org)

Antigua and Barbuda  
Argentina  
The Bahamas  
Barbados  
Belize  
Bolivia  
Brazil  
Canada  
Chile  
Colombia  
Costa Rica  
Cuba  
Dominica  
Dominican Republic  
Ecuador  
El Salvador  
Grenada  
Guatemala  
Guyana  
Haiti  
Honduras  
Jamaica  
Mexico  
Nicaragua  
Panama  
Paraguay  
Peru  
Saint Kitts and Nevis  
Saint Lucia  
Saint Vincent and the Grenadines  
Suriname  
Trinidad and Tobago  
United States of America  
Uruguay  
Venezuela

June 29<sup>th</sup>, 2011

Mr. J. Llewellyn Edmeade  
Cabinet Secretary, Government of the Federation of  
St. Kitts and Nevis  
Basseterre, St. Kitts and Nevis

Dear Cabinet Secretary Edmeade,

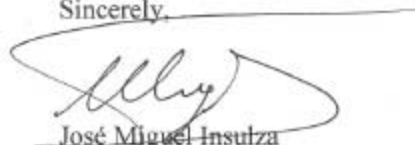
I write to acknowledge your letter dated June 23<sup>rd</sup>, 2011 in which the Government of St. Kitts and Nevis requests the Organization of American States (OAS) observe the Nevis Island Assembly Elections to be held on July 11<sup>th</sup>, 2011.

Through its observation and technical assistance efforts, the OAS remains committed to strengthening the electoral processes in the Americas and I am pleased to respond positively to this request.

I have instructed the Department for Electoral Cooperation and Observation (DECO) of the OAS Secretariat of Political Affairs to expedite the preparation of a proposal and budget that contemplates the observation of the different facets of this important exercise and maximizes coverage of the polling stations on the date of the elections. As is customary, the size and scope of this mission will ultimately depend on the voluntary contributions received from the OAS Member and Observer States.

Should you have any questions regarding the preparation of this mission, please do not hesitate to contact Ms. Charlotte McDowell, Chief of DECO's Electoral Observation Section, who has been tasked with preparation of this mission.

Sincerely,

  
José Miguel Insulza  
Secretary General

**APPENDIX III. AGREEMENT ON PRIVILEGES AND IMMUNITIES**

**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**

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:

FOR THE GENERAL SECRETARIAT  
OF THE ORGANIZATION OF  
AMERICAN STATES:



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

Date: 07/05/2011.....



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

Date: 07/05/2011.....

**APPENDIX IV. AGREEMENT ON ELECTORAL GUARANTEES**

**AGREEMENT  
BETWEEN  
THE GENERAL SECRETARIAT OF THE  
ORGANIZATION OF AMERICAN STATES  
AND  
THE ELECTORAL COMMISSION OF SAINT KITTS AND NEVIS  
ON THE ELECTORAL OBSERVATION PROCESS OF THE  
2011 NEVIS ISLAND ASSEMBLY ELECTIONS IN THE FEDERATION OF  
SAINT KITTS AND NEVIS**

**AGREEMENT  
BETWEEN  
THE GENERAL SECRETARIAT OF THE  
ORGANIZATION OF AMERICAN STATES  
AND  
THE ELECTORAL COMMISSION OF SAINT KITTS AND NEVIS  
ON THE ELECTORAL OBSERVATION PROCESS OF THE  
2011 NEVIS ISLAND ASSEMBLY ELECTIONS IN THE FEDERATION OF  
SAINT KITTS AND NEVIS**

The Parties, the Electoral Commission of Saint Kitts and Nevis (hereinafter referred to as the “Electoral Commission”) and the General Secretariat of the Organization of American States (hereinafter referred to as the “General Secretariat”);

***CONSIDERING:***

THAT on the 23<sup>rd</sup> day of June 2011, the Government of the Federation of Saint Kitts and Nevis (hereinafter referred to as “the Government”), invited the Secretary General of the Organization of American States (hereinafter referred to as the “Secretary General”) to send an Electoral Observation Mission (hereinafter referred to as “the Mission”) to the Federation of Saint Kitts and Nevis for the purpose of witnessing the Nevis Island Assembly Elections to be held on July 11<sup>th</sup>, 2011 (hereinafter referred to as the “Assembly Elections”);

THAT in Resolution AG/RES. 991 (XIX-O/89), the General Assembly of the OAS recommended to the Secretary General that “when a member state so requests in the exercise of its sovereignty, missions should be organized and sent to said state to monitor the development, if possible at all stages, of each of its electoral processes;”

THAT Article 24 of the Inter-American Democratic Charter states in pertinent part as follows:

*The electoral observation missions shall be carried out at the request of the member state concerned. To that end, the government of that state and the Secretary General shall enter into an agreement establishing the scope and coverage of the electoral observation mission in question. The member state shall guarantee conditions of security, free access to information, and full cooperation with the electoral observation mission.*

*Electoral observation missions shall be carried out in accordance with the principles and norms of the OAS. The Organization shall ensure that these missions are effective and independent and shall provide them with the necessary resources for that purpose. They shall be conducted in an objective, impartial, and transparent manner and with the appropriate technical expertise; and*

THAT the Secretary General responded affirmatively to the Government's request to send the Mission with the objective of observing the Assembly Elections of 2011;

**WHEREFORE, THE PARTIES AGREE AS FOLLOWS:**

**First: Guarantees**

a) The Electoral Commission guarantees the Mission access to all facilities for the adequate fulfillment of the observation of the elections in 2011 until conclusion of the Assembly Elections process in the Federation of Saint Kitts and Nevis, in conformity with the laws and standards of the Federation of Saint Kitts and Nevis and the terms of this Agreement.

b) The Electoral Commission, on the day of and after the day of the elections, shall guarantee the Mission access to all polling stations and other locations and facilities related to the election until the official count is tabulated nationally and the Assembly Elections process is concluded.

c) The Electoral Commission shall guarantee the Mission complete access to the locations in which the process of counting and tabulating votes will take place both before and during this process.

d) The Electoral Commission shall guarantee the Mission access to all electoral bodies responsible for vote counting and tabulation. Similarly, the Electoral

Commission shall permit the Mission to conduct any evaluations deemed necessary by the Mission of the voting system and of the communications utilized to transmit electoral results. At the same time, the Electoral Commission shall guarantee the Mission complete access to the complaints process and quality controls that occur before and after the electoral process that are of interest to the Mission.

e) The Electoral Commission further guarantees the Mission access to all polling stations and other bodies throughout territory of the Federation of Saint Kitts and Nevis. Upon request of the Mission, the Electoral Commission guarantees to make available by the end of the voting process and, before the closing of the polling stations, copies of all documents printed electronically.

**Second: Information**

a) The Electoral Commission will furnish the Mission with all information referring to the organization, direction and supervision of the electoral process. The Mission may request of the Electoral Commission such additional information as is necessary for the exercise of the Mission's functions, and the Electoral Commission shall promptly furnish all such information.

b) The Mission may inform the Electoral Commission about any irregularities and/or interference, which the Mission might observe or of which the Mission might learn. Similarly, the Mission may request that the Electoral Commission provide any information regarding the measures which the Electoral Commission will take in relation to such irregularities, and the Electoral Commission shall promptly furnish all such information.

c) The Electoral Commission shall provide the Mission with information related to the electoral list and other electoral data referring to the same. Similarly, the Electoral Commission shall provide all other information relative to the computer systems used on Election Day, and shall offer demonstrations of the systems' operation to the Mission.

**Third: General Provisions**

- a) The Secretary General will designate a Chief of Mission, to represent the Mission and its members before the Electoral Commission and before the Government.
- b) The GS/OAS will communicate to the Chair of the Electoral Commission the names of the persons who will comprise the Mission, who will be duly identified.
- c) The Mission will act impartially, objectively and independently in the fulfillment of its mandate.
- d) The General Secretariat will send to the Chair of the Electoral Commission a copy of the final report of the Electoral Observation Mission following the Nevis Island Assembly Elections.
- e) The Electoral Commission will make known and disseminate the contents of this Agreement among all electoral bodies and among all personnel involved in the electoral process.

**Fourth: Privileges and Immunities**

Nothing in this Agreement shall be construed as an express or implied waiver of the privileges and immunities of the OAS, its Organs, its personnel and its assets under the Charter of the Organization; under 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; and under the Agreement between the Government and the General Secretariat Regarding the Privileges and Immunities of the OAS Observer Mission for the 2011 Nevis Island Assembly Elections, signed by the Parties on the 5th day of July, 2011; or under international law.

**Fifth: Resolution of controversies**

The Parties shall attempt to resolve through direct negotiations any disputes arising in relation to the interpretation and/or implementation of this Agreement. If the

negotiations do not result in the resolution of the dispute, the matter shall be submitted to a dispute resolution procedure mutually agreed to by the duly authorized representatives of the Parties.

**Sixth: Amendments**

Amendments to this Agreement shall be made in writing and signed by the duly authorized representatives of the Parties and attached hereto.


**Seventh: Entry into Force and Termination**

This Agreement shall enter into force on the date and upon the signature of then duly authorized representatives of the Parties. This Agreement shall remain in force until the Mission has concluded its observation mission of the July 11<sup>th</sup>, 2011 Nevis Island Assembly Elections.

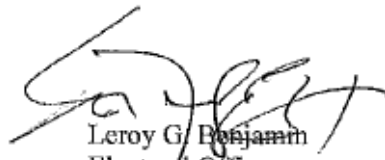
This Agreement may be terminated by either Party with or without cause. Termination must be effected by means of no less than five days' written notice to the other Party.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Agreement in duplicate on the date and locations indicated below.

FOR THE GENERAL SECRETARIAT  
OF THE ORGANIZATION OF  
AMERICAN STATES:

  
Paul Spencer  
Chief of Mission  
OAS General Secretariat  
Basseterre, St. Kitts and Nevis  
Date: *July 6, 2011*

FOR THE ELECTORAL COMMISSION OF  
THE FEDERATION OF SAINT KITTS AND  
NEVIS:

  
Leroy G. Benjamin  
Electoral Office  
Supervisor of Elections  
Basseterre, St. Kitts and Nevis  
Date: *6 July 2011*



**APPENDIX V. LIST OF OBSERVERS**



**ELECTORAL OBSERVATION MISSION**

**NEVIS ISLAND ASSEMBLY ELECTIONS**

Organization of  
American States

**ST. KITTS AND NEVIS**

**JULY 11, 2011**

<b>EOM DELEGATION</b>			
<b>CORE GROUP</b>			
	<b>Name</b>	<b>Country</b>	<b>Position</b>
<b>1</b>	Paul Spencer	Antigua and Barbuda	Chief of Mission
<b>2</b>	Charlotte McDowell	USA	Deputy Chief of Mission
<b>3</b>	Tyler Finn	USA	General Coordinator
<b>4</b>	Ruben Rudolph	USA	Legal Advisor
<b>5</b>	Micaela Martinet	Bolivia	Political Analyst

## **APPENDIX VI. PRESS RELEASES**

### **The OAS and Saint Kitts and Nevis Sign Agreement for Electoral Observation Mission**

July 5, 2011

The Secretary General of the Organization of American States (OAS), José Miguel Insulza, and the Interim Representative of Saint Kitts and Nevis to the Organization, Kemoy Liburd Chow, today signed the Agreement on Privileges and Immunities for the Electoral Observation Mission that will be present for the 2011 Nevis Island Assembly Elections on July 11.

During the signing ceremony, Liburd Chow expressed her country's appreciation for the OAS by affirming that "we commend the OAS for its continued service and efforts to promote democracy in the hemisphere."

Secretary General Insulza, who recently visited the country, explained that the observation missions "have become a very good practice at the OAS, and we are very thankful with the government for extending an invitation to observe these elections." Secretary General Insulza designated Paul Spencer as the Chief of Mission. Spencer is an Advisor to the OAS Secretary General from Antigua and Barbuda.

The OAS mission will be composed of five observers who will cover all of the constituencies and polling centers in Nevis. The group of international observers will arrive in the country on July 6th, and will meet with representatives of political parties and government officials prior to observing the polls. At the end of the mission, a report will be presented before the Organization's Permanent Council.

The agreement signed today is the first habitual step toward guaranteeing that the Electoral Observation Mission can conduct its work appropriately. The Procedural Agreement, to be signed in the near future, will define with further details the access and basic rules of the observers' visit.

## **Preliminary Statement on Nevis Island Local Assembly Election Day**

July 13, 2011

Following an invitation by the Federal authorities in St. Kitts and Nevis, the Organization of American States (OAS) deployed an Electoral Observation Mission of five experts and observers from three Member States for Nevis Island Assembly elections. This was the first time that the OAS observed a local election in the Caribbean, and the second deployment of an electoral observation mission in St. Kitts and Nevis, the first being the 2010 General Elections.

On Election Day, the OAS international observers were deployed in all five constituencies and visited all of the polling sites. Once the polls were closed, they observed the collection and counting of the ballots.

### **Observations**

The Mission wishes to congratulate the people of Nevis for their high turnout and peaceful exercise of their right to vote during this election. Likewise, the Mission notes with satisfaction the dedication and commitment of the poll workers to ensure a smooth process during election day, and the improved distribution of voters through polling stations in accordance with the OAS observations made in 2010.

### **Voter Registration**

During its meetings with different political parties, the observers collected complaints regarding the preparation of the voter registry, and the Mission's legal expert observed the related cases presented before the High Court. The Mission noted that the procedures for objections and claims leading to the addition and removal of names and the dissemination of updated lists caused controversy. In this regard, observers confirmed that in some cases, notifications to voters whose names had been objected to were delivered after the scheduled hearing date, and that the procedure for investigation and resolution of objections lacked proper definition and transparency. In addition, the Mission also noted concerns related to the decision making process between the various levels of the electoral institutions regarding this matter.

On election day, the observers detected that a modified voter registration list had been produced for several districts on July 9th, while other districts maintained lists published on June 29th and July 1st. The Mission confirmed that voter names had been both added and subtracted to form the updated lists, thereby altering the eligibility for voting in certain areas two days prior to the election. This situation contributed to the atmosphere of confusion about and mistrust of the voter registration list that was observed during the process.

Election Day operations

The Mission noted that almost all polling stations opened on time, all necessary materials were present, and the poll workers and party agents were present and committed to carrying out their role in the process. The police were observed successfully ensuring that voters could exercise their right in a peaceful and orderly manner.

Nevertheless, the detailed explanations given to voters and lack of efficient procedures contributed to significant wait times for voters, with some individuals waiting in line for over two hours to cast their vote.

The Mission considers it important to take note of the significant gender imbalance in roles related to the electoral process: while women were highly involved in the lower levels of the process, serving as 83% of the poll workers and 90% of party agents, only one female candidate, out of ten, was presented to voters.

## **Recommendations**

With the goal of strengthening the Nevisian electoral process, and given that the observers did not note any significant changes since the 2010 General Elections in Saint Kitts and Nevis regarding the electoral system or its procedures, the Mission reiterates all recommendations from its previous report and highlights the following issues from the observations of the Nevis Island Local Assembly elections:

### **1. Improving and clarifying procedures for the conformation of the voter registration list.**

Similar to the issues observed by the OAS Electoral Observation Mission in 2010, the accuracy of the voter registration list was contested by various political actors. Specifically, disputes arose regarding the residency of voters, the objections, claims and hearing procedures, and the public dissemination of the revised lists. In this regard, the Mission reiterates its 2010 recommendation to “conduct a house-to-house verification process before the next election and a claims and objections period in which the voters list is properly adjusted to reflect the current reality of voter numbers and residency.” Moreover, in light of the recent controversy resulting from the weaknesses of the procedure of objections and claims, the Mission recommends a serious review of the notification timeframe and determination of mechanisms that guarantee equity and due process for both objectors and objectees regarding registration claims.

### **2. Revision and update of the electoral legal framework.**

While the OAS Mission observed that an important effort was conducted to improve the legal framework in 2007-2008, the complexity of the amendments and lack of mechanisms for

definition of procedural and administrative modifications has created a cumbersome and complex instrument. Therefore, the Mission recommends a general review of the legal framework to consolidate and clarify the electoral regulations, including further definition of the legal criteria for residency at the local and federal levels and the registration process. In addition, the inclusion of a mechanism for electoral authorities to establish clear procedures at the administrative level would allow for the improvement of issues such as closing procedures at the polling station without recourse to subsequent legal reform.

### **3. Increased stakeholder engagement in the electoral process.**

The Mission stresses the fundamental role played by political parties in the St. Kitts and Nevis electoral structure. Engaged dialogue and coordination by the political stakeholders are key to ensuring an equitable and credible electoral competition, as well as the legitimacy of results. The Mission reiterates its 2010 recommendation to develop “a cross-party accord on political financing that would promote transparency and accountability both in St. Kitts and Nevis,” as well as on questions of the implications of Diaspora voting, the establishment of mechanisms to promote female candidacies, and the criteria for legal residency and voter registration. The incorporation of civil society groups in these discussions would further contribute to the definition of equitable and legitimate electoral procedures and processes.

### **4. Enhanced voter information campaign.**

In order to promote transparency, instill voter confidence in the process, and reduce the amount of confusion surrounding electoral procedures, the OAS Mission recommends a voter information campaign be developed for all stages of the electoral cycle. Specifically, the Mission recommends that the electoral authorities publish a manual regarding the specific procedures, calendar, and responsibilities of all stakeholders, increased coordination with local media to ensure the accuracy of information provided to the public, and a general public sensitization campaign regarding the intricacies of the electoral calendar and procedures.

In conclusion, the Mission recognizes the adherence to established due process for the resolution of challenges in the pre-electoral phase, and calls on all parties to continue to air their claims and objections through the appropriate channels to further strengthen confidence in the Nevisian democratic processes.

## APPENDIX VII. OFFICIAL RESULTS

### Nevis Island Assembly Election Results July 11, 2011

	<u>NRP</u>	<u>CCM</u>	<u>Rejected</u>	<u>Votes Cast</u>	<u>Total Voters</u>	<u>Turnout</u>
Constituency 1 (St Paul)	<b>Roberto Hector</b> 822	A. Michael Perkins 619	4	1445	1831	78.92%
Constituency 2 (St John)	<b>Hensley Daniel</b> 1358	Mark Brantley 1344	14	2716	3262	83.26%
Constituency 3 (St. George)	Patricia Hanley 246	<b>Vance Amory</b> 753	2	1001	1281	78.14%
Constituency 4 (St. James)	Patrice Nisbett 800	<b>Alexis Jeffers</b> 833	4	1637	1942	84.29%
Constituency 5 (St Thomas)	<b>Joseph Parry</b> 535	Keith Scarborough 173	2	710	944	75.21%
Total:	3761	3722	26	7509	9260	81.09%