

TO: Carmen Lomellin

Determination to Grant Waiver and Waiver of Ethics Pledge Restriction on Participating in Particular Matters Involving the Organization of American States.

Background Regarding Ethics Pledge

Executive Order 13490, "Ethics Commitments by Executive Branch Personnel," (EO) Section 1, requires all covered political appointees to abide by several commitments. One of those commitments provides that a covered appointee may not for a period of two years from the date of his or her appointment participate in any particular matter involving specific parties that is directly and substantially related to the appointee's former employer or former clients. (Obama Ethics Pledge, Paragraph 2) For purposes of applying this restriction, the term "particular matter" has been interpreted to include "meetings or other communication relating to the performance of one's official duties with a former employer or client." DO-09-011, OGE Memorandum to Designated Agency Ethics Officials, March 26, 2009.

However, a waiver of the restrictions contained in Paragraph 2 may be granted upon a certification either that the literal application of the restriction is inconsistent with the purpose of the restriction or that it is in the public interest to grant the waiver. EO, Sec. 3(b). By memorandum dated February 23, 2009, the Office of Government Ethics announced that the Designated Agency Ethics Official of each executive agency had been delegated the authority to grant such waivers, after consultation with the Counsel to the President. *See* DO-09-008, OGE Memorandum to Designated Agency Ethics officials, February 23, 2009.

Background Regarding Your Appointment

You are the Permanent Representative of the United States to the Organization of American States, with rank of Ambassador. In that capacity, you serve as the principal representative to the Permanent Council of the Organization of American States (OAS). Your interaction with OAS is constant, both in terms of the OAS Secretariat as well as representatives

and observers from other countries. Your duties additionally require you to have direct U.S. engagement with OAS commissions, such as the Inter-American Commission of Women.

Prior to assuming your position with the Department of State as Permanent Representative of the United States to the OAS, you were an employee of the OAS, serving as the Director of Outreach, a position you held since March, 2009. Prior to assuming that position, you served as the Executive Director of the Inter-American Commission of Women at OAS, a position you held for approximately ten years. You requested a waiver of Paragraph 2 of the Ethics Pledge so that you may participate in particular matters involving the OAS (including its the Inter-American Commission of Women) that directly and predictably relate to your duties as the U.S. Permanent Representative to the OAS. Your request is not limited to any specific participation, but is intended to allow you the flexibility to interact fully with the OAS and any of its bodies, offices or agencies.

After consultation with the Office of White House Counsel, I determine that first, the literal application of the restriction here is inconsistent with the purpose of the restriction, and second, it is in the public interest for you to participate in matters relating to the OAS and any of its bodies, offices or agencies.

When the former employer is an international organization, which consists of representatives of many countries, including in this case the United States, the concerns underlying the restrictions are not implicated. Further, there is little likelihood of commercial gain that can be obtained by government employees engaged in activities affecting the interests of his or her former employer when the former employer is an international organization. Accordingly, literal application of the restriction in this situation is inconsistent with the purposes of the restriction.

In addition, it is essential that the United States have an effective, credible voice in the OAS on the many important issues that arise in that forum, ranging from drug trafficking to democracy building. You have spent more than a decade working as a senior official within the OAS and as a result have developed an intimate knowledge of the organization, its management, its programs and policies and the way that it functions. The knowledge, skills and relationships you developed during your years at the OAS give you effectiveness and credibility, and will allow you to

significantly advance U.S. interests within the organization and the hemisphere. The fact that you are a known and trusted voice within the organization will particularly lend weight to your interventions and enhance your access to the Secretariat. Accordingly, as a separate and independent basis of the waiver, I determine that it is in the public interest for you to participate in matters relating to your former employer, the OAS.

Based on the above analysis, I waive the requirements of paragraph 2 of the Pledge as it pertains to your future involvement with particular matters relating to the OAS and any of its bodies, offices or agencies.

Furthermore, while a reasonable person with knowledge of the relevant facts may question your impartiality in matters relating to the OAS, I make a separate determination, pursuant to 5 C.F.R. § 2635.502, that the Government's interest in your ability to participate in these matters, given the critical responsibilities associated with your position as U.S. Permanent Representative to the OAS, with rank of Ambassador, outweighs the concern that a reasonable person may question the integrity of the Department of State's programs and operations.

12-3-09

Date



James H. Thessin

Designated Agency Ethics Official