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MINISTER OF THE ENVIRONMENT AND HOUSING

COMMUNICATION TO PARLIAMENT  
BAHAMAS PROTECTED AREAS FUND

JANUARY 8TH, 2013

MR. SPEAKER

During the Seventh Conference of the Parties (COP-7) of the Convention for Biological Diversity (CBD), held in 2004, the signatories reached a historic agreement to promote the establishment and management of national systems for protected areas. This agreement includes a series of specific activities that the signatories, including the Government of the Commonwealth of The Bahamas, are committed to implementing within clearly defined time frames. The GEF Full size project (FSP) was developed to achieve The Bahamas' 2020 Declaration goal of 20 percent conservation of the near-shore marine resources by 2020, as well as the Caribbean Challenge goal of sustainable fisheries and ecosystem-based adaption to climate change. A key component of the GEF FSP is the establishment of the Bahamas Protected Area Fund (BPAF) as a mechanism for sustainable funding for the Bahamas National Protected Area System (BNPAS). This fund was conceived as an endowment fund with the interest generated from the capital investment being utilized for protected area projects across The Bahamas.

MR. SPEAKER

To facilitate these international commitments and address the growing environmental consciousness of Bahamians, the Government of The Bahamas recently drafted a Bahamas Protected Areas Fund Bill (BPAF), 2013. The Bill describes protected areas as areas of land or sea dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, managed through legal or other effective means. The system of protected areas in The Bahamas consists of the following:

- (a) the Clifton Heritage Park managed pursuant to section 4 of the Clifton Heritage Authority Act, (*Ch. 51B*);
- (b) declared to be protected areas pursuant to an Order made under section 13 of the Fisheries Resources (Jurisdiction and Conservation) Act, (*Ch. 244*);
- (c) declared to be forest reserves, protected forests and conservation forests pursuant to an Order made under the Forestry Act (*No. 20 of 2010*);
- (d) declared to be Wild Bird protected areas pursuant to the Wild Birds Protection Act, (*Ch. 249*);

- (e) declared to be areas of, owned or managed by The Bahamas National Trust under the provisions of The Bahamas National Trust Act, (*Ch. 391*); or
- (f) declared to be protected areas under Section 2 of this Bill.

MR. SPEAKER

The overall objective of this Bill is to provide a legal framework to ensure sustainable financing into perpetuity for the management of protected areas in The Bahamas. This is inclusive of management activities, scientific and policy research and education supporting the conservation of biodiversity and the overall implementation of the Convention on Biological Diversity and the Caribbean Challenge.

MR. SPEAKER

The BPAF will be a critical source of long-term and reliable financing to support our national protected areas system which provides enormous economic benefits and serves as a linchpin of our tourism-based economy. The Fund is closely linked to a regional fund called the Caribbean Biodiversity Fund (CBF). The CBF, which was legally incorporated in late 2012, will

primarily take the form of a permanent endowment. The CBF will begin to generate annual financial resources from the endowment, and disburse annual payments to National Trust Funds, such as the BPAF, in 2014. The Bahamas Government has agreed to commit capitalize the BPAF in the amount of \$2 million dollars and the CBF has committed to disburse \$5 million once the BPAF is established and the Government funds it.

MR. SPEAKER

The objectives of the CBF are to promote for the benefit of the public the conservation, protection, management and expansion of the National Protected Areas Systems of the Participating Countries by providing a sustainable flow of funds to support, without limitation, enforcement, infrastructure, monitoring needs and other activities that contribute substantially to the conservation, protection and maintenance of biodiversity within the National Protected Areas Systems or any other area of environmental significance of the all Participating Countries, i.e. The Bahamas.

MR. SPEAKER

Already, the commitments to capitalize on the CBF endowment total \$42 million, which is being provided by the German Development Bank, The Nature Conservancy and the Global Environment Facility. At this existing level of \$42 million, the annual payments to the BPAF will be approximately \$450,000, with the aim to grow the CBF endowment substantially over time. This translates into the annual payments to the BPAF also growing substantially over time. The Bahamas will also have the added benefit of having the Regional Secretariat Office of the CBF in Nassau.

MR. SPEAKER

It is proposed that the BPAF be governed by a Board of Directors. The Board will have executive control, and will exercise and perform the functions, powers and duties of the BFAF. The Board will also appoint an Executive Director to be the chief administrative officer of the BFAF responsible for carrying out its day to day affairs. It will ensure that the economical and efficient administration of the affairs of the Fund is carried out, as set forth in the Byelaws. The Board will

periodically evaluate his or her performance as the Executive Director, and possess the right to dismiss the Executive Director if the need arises.

MR. SPEAKER

The Board will be comprised of eleven Directors from Government and civil society, including but not limited to, representatives of national, international and local non-governmental organizations, research and scientific organizations and the private sector, and composed of a majority of non-governmental individuals. All members of the Board of Directors will be required to have experience and expertise in at least one of the following fields: ecological science, biodiversity conservation, finance, law, investment management, fundraising and grant writing.

MR. SPEAKER

The Board will meet two times each year. The Board's composition will be as follows:

- (a) six members, who will be appointed by the Government;

- (b) one member from the Bahamas National Trust;
- (c) one member from the Nature Conservancy;
- (d) three members from outside of the Government of the Commonwealth of The Bahamas, and recommended by The Bahamas National Trust and The Nature Conservancy and approved by the Minister.

MR. SPEAKER

Every member appointed by the Government, from The Bahamas National Trust and The Nature Conservancy will initially serve for three years, or until their replacement by their organization, or until they resign, die or are rendered incapacitated prior to the ending of their three-year term.

For reasons of continuity and institutional memory, three of the six Directors appointed by the Government will continue to serve for a period of one year after their initial appointment and subsequently, new Directors may be appointed to replace those who have served for a term of three years or more.

Every member appointed from outside of the Government of the Commonwealth of The Bahamas, and recommended by the Bahamas National Trust and The Nature Conservancy and

approved by the Minister will serve for a period of two years and will serve a maximum of two consecutive terms, or until they resign, die or are rendered incapacitated prior to the ending of their three-year term or removal by the Board. The powers of the Board shall not be affected by any vacancy in its membership.

MR. SPEAKER

This Board of Directors will have many duties and much power. The first order of business will be to enact the Byelaws of the Fund, after consultation with the Minister. These Byelaws are consistent with this Bill and will govern the affairs of the Board and the BPAF. The Board of Directors will also elect from themselves a Chairperson, Vice-Chairperson and a Treasurer who will serve in accordance with Section 13 of this Bill. Additionally, the Board has the power to request modifications to the BPAF and to approve any activities deemed necessary to obtain those modifications. The Board can approve, periodically review, and modify as required the Byelaws and any operation manuals of the Fund. Likewise, the Board can also approve,

periodically review, and modify as required the organizational structure and personnel procedures of the Fund. A Director may be dismissed by a vote of three-fourths of the other Directors if he fails to notify the Board of a Director Interest; failed to attend three consecutive meetings of the Board (provided that the member received notification of such meetings, and the Board, within its reasonable discretion, do not accept the cause of such absence);

A Director can also be dismissed if he or she no longer fulfils the conditions of appointment as set forth in Section 12 of this Bill; and/or has acted in a way that is detrimental to the mission, the reputation or operations of the Fund.

MR. SPEAKER

The Board has the ability to review, as necessary, the hiring or termination of staff by the Executive Director. The Board also has the prerogative to periodically review, and modify as required guidelines for investment of the Fund's assets, and the appointment of the Investment Manager and periodically evaluate the performance of such Investment Manager and Fund. The review and approval of the annual budget and

financial reports of the BFAF also fall under the purview of the Board, to ensure that they are in accordance with the Byelaws.

With respect to the “Vertical Agreement” between the Fund and the Caribbean Biodiversity Fund, the Board can periodically review it, as well as, any financial arrangements for accepting and remitting funds between them; and can amend, restate or replace the Vertical Agreement. The Board, if it so desires can create representative offices of the Fund, appoint or replace the Auditors; and periodically engage in strategic planning for the BFAF in accordance with the Byelaws. The Board has the freedom to seek and accept donations for the BFAF, including acceptance of donations with restrictions on the use of such donations; and do all other things which the Board determines are necessary for the administration and operation of the Fund in order to enable the BFAF to achieve its general purposes.

The Board may, from time to time, in respect of any particular matter or class of matters, delegate to any Director, officer or to the Executive Director of the Fund, in writing, any of its functions under this Act except this power of delegation and those powers and functions set forth above.

MR. SPEAKER

Major decisions by the Board will require the affirmative vote of at least three fourths ( $\frac{3}{4}$ ) of the Directors. These include

- (a) approval and hiring of the Investment Manager(s);
- (b) approval and modification of the guidelines for investment of the Fund's assets;
- (c) any action taken in an effort to effect a merger of the Fund with another entity or to dissolve the Fund; and
- (d) adoption of, or amendment to, the Byelaws;
- (e) appointment or replacement of any representative from the Fund to the board of directors of Caribbean Biodiversity Fund;
- (f) any action taken with respect to the removal of a Director.

The Board may not, unless approved by a special majority vote, do any of the following:

- (a) authorize the Fund to take out any loan or engage in borrowing of any kind;

(b) authorize the BPAF to offer or make any guarantees on behalf of any person or any protected area; or

(c) authorize the BFAF to mortgage, pledge or otherwise hypothecate the assets of the Fund as security for any purpose.

MR. SPEAKER

The Directors will serve on a voluntary basis and shall not receive any sitting fee or other form of remuneration for serving as Directors. However, reasonable out-of-pocket travel expenses and other incidental expenses incurred for attending Board meetings or conducting other business of the Board will be reimbursed to the Director incurring the expense, subject to any cap set forth in the Byelaws.

MR. SPEAKER

The sources of revenues for the BFAF that this Bill will establish may be generated from any of the following:

(a) the Caribbean Biodiversity Fund;

(b) gifts and bequests;

(c) public and private donations from national and

international sources;

(d) budgetary allocations from the Government of The Bahamas;

(e) revenues from investments;

(f) proceeds from the sale, lease or transfer of tangible and intangible property;

(g) other fees, levies taxes and fines that are specifically allocated to the Fund;

(h) proceeds from services provided by the Fund;

(i) exceptional and miscellaneous income or gains; and

(j) any other appropriate source of revenue.

MR. SPEAKER

The assets of the BFAF will be exclusively dedicated to charitable purposes and activities of the BFAF, as outlined in this Bill. The monies of the BFAF will be deposited in any bank and invested in accordance with specific investment guidelines adopted by the Board in accordance with the Byelaws and managed by an Investment Manger(s) hired by the Board. The Investment Manager will be hired by the Board through a transparent and competitive public tender process, subject to the

approval of a special majority vote of the Board. No monies will be withdrawn from the Fund without the Board's authority. Regardless of the source of the BPAF's assets, these will be kept separate from the Consolidated Revenues of the Government. The Fund will also apply to the Central Bank of The Bahamas for the right to transfer funds in and out of The Bahamas and the right to maintain foreign currency accounts. The Board may divide the BFAF's assets into four categories namely, an endowment, sinking and revolving fund, and such other funds or special accounts as the Board may from time to time determine. At the beginning of each financial year the Board will order a budget to be prepared and approved, setting forth the total annual budget of the Fund. No more than 15% of its annual budget will be allocated for administrative expenses such as salaries and other recurring costs, except that for the first three financial years of the BFAF's existence, the Fund may use twenty five percent (25%) of its annual budget for such expenses of the Fund. The Board will ensure that full and correct accounts are kept for all monies received and expended by the BPAF. The Board, subject to the approval of the Minister, will also appoint an independent auditor of recognized standing and

competence to audit the financial accounts of the BPAF on an annual basis. The auditor's report must verify the BPAF's balance sheet and other financial accounts for each financial year and will prepare a comprehensive detailed written report to be presented to the Board no later than four months after the conclusion of the Fund's financial year. The Board will make the auditor's completed annual report available to the Public. The Board will ensure that the auditor's annual report is laid before Parliament annually.

MR. SPEAKER

Subject to the approval of the Minister, the BFAF shall be exempted from the payment of customs duties, excise and real property taxes or levies. All instruments executed by or on behalf of the Fund shall be exempt from stamp duty. It is intended that the Fund will have perpetual existence. However, the Board may make a request to Parliament that the Fund be dissolved due only to the following:

- (I). in the event of bankruptcy of the Fund
- (II). if it has become impracticable to achieve the objectives of the BFAF

(III). upon a special majority vote of the Board

(IV). if its tax exemptions under 31 are revoked.

Upon receipt of such request, the Parliament may vote to dissolve the Fund by virtue of having been approved by a resolution of each House of Parliament under the Constitution.

In the event of dissolution of the Fund, the assets of the Fund shall be distributed first, to pay all liabilities of the Fund, and second, in the discretion of the Board, to one or more organizations having charitable purposes similar to those of the BFAF, provided, that all assets of the Fund will be used exclusively for charitable, educational or scientific purposes.

MR. SPEAKER

We stand on the precipice of greatness with such a visionary and trailblazing Bill. The advantages of BPAF have been debated in environmental and conservation circles for almost a decade but have not come to fruition. I offer you the chance to change that.

I offer you the opportunity to make something materialize the likes of which have never been done in our beloved country and are long overdue. I urge my colleagues, to not only be bold but to be revolutionary in their analysis of this Bill, to be futurist by

looking out for the generations of Bahamian men and women yet to be born and most importantly to ensure, that the best and greatest places of our Bahamaland have financing to safeguard their near pristine natural conditions into perpetuity!

MR. SPEAKER, I SO MOVE!!