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GUATEMALA

A. Human Rights Information

1. Political/Legal Situation

Guatemala has been ruled by a de facto military government for almost two years. The present Head of State, General Oscar Humberto Mejia Victores, Minister of Defense under President Efrain Rios Montt, assumed power on August 8, 1983 as the result of a nearly bloodless coup. Rios Montt, who himself took office as the result of a military coup in March 1982, was removed because of general discontent with his erratic style and evangelical ideas. Guatemala's senior military commanders believed Rios Montt's departure was necessary to prevent further factionalism within the military and to preempt a possible coup by the far right. Our inability to provide politically meaningful support to the Rios Montt Government contributed indirectly to its downfall.

The Mejia Government has taken a number of positive steps to restore a constitutional, electoral process and to address the practice of extra-legal detentions: it suspended the state of alarm; abolished the controversial special courts; granted an amnesty; confirmed Constituent Assembly elections for July 1, 1984; and announced that an elected president will assume office in 1985. The government further reaffirmed its commitment to democratization by continuing the process of legalizing political parties (37 political groups are now registered) and undertaking the registration of voters.

On January 19, 1984, the government promulgated an electoral law which provides the legal framework for the July Constituent Assembly elections (the law prohibits certain officials of the deposed Lucas regime from holding office, and bans active duty military, close relatives of the head of state, and certain other individuals from being candidates). On January 27, 1984, the Guatemalan Foreign Minister invited the countries with diplomatic missions in Guatemala to send observers to the forthcoming elections, and he indicated that the Guatemalan Government is considering also inviting regional organizations to send observers. The Constituent Assembly will convene on or before August 1 to begin the task of drafting a constitution and an electoral law which will serve as the basis for the presidential and congressional elections to follow. We have no indications that the Guatemalan military is considering running "official" candidates in the upcoming election or is
favoring any specific group or party. On the contrary, the removal of General Lopez Fuentes (closely aligned with the far right National Liberation Movement) as Chief of Staff is an indication that the military wants to prevent any semblance of alignments with such groups.

Guatemala continues to face a strong Marxist-Leninist insurgency that has its roots in longstanding social, political, and economic inequities. The repression and corruption exhibited by the Lucas regime (1978-82) swelled the guerrilla ranks, and eventually lost the government the support of the young officers in the military. With the coming to power of Rios Montt in March 1982, the army implemented a plan that Lucas had rejected several years earlier -- the so-called "beans and rifles" policy. Central to that policy was the recognition that unless the government addressed the social and economic problems confronting the peasants in the highlands and provided an alternative to the repression, there was no hope in gaining the loyalty of Guatemala's Indian population. Therefore, while the army stepped up its activities against the guerrillas and developed the civil defense forces (taking the unusual action of supplying Indians with weapons to defend themselves), it also provided food, seed, and building materials to those displaced by the violence. Concurrently we saw a reduction in extra-legal violence, though some regional military commanders have exerted more effort in this regard than others.

Although the guerrilla movement is essentially Guatemalan, it has received external support in recent years. The army's shift in strategy caused the guerrillas to suffer military and political setbacks over the past two years. In turn, the guerrillas resorted to violence against elements of the Indian population. Despite government successes, the guerrillas continue to represent a serious threat. Since the August change in government, there has been an upsurge in guerrilla military and terrorist activity, both in the countryside and in the cities.

Following the March 1982 coup, the 1965 Constitution was abrogated and a Statute of government enacted on April 28, 1982. This statute closely resembles the 1965 Constitution. However, under the state of siege (July 1982 - March 1983) and the state of alarm (June - August 1983) political and civil liberties were restricted. General Mejia lifted the state of alarm and the current government, which includes civilian participation at the ministerial level, rules by decree under the framework provided by the April 1982 Statute. The real basis of support of the Mejia Government is the military commanders council.
2. Observance of Human Rights

Serious human rights problems continued in Guatemala in 1983. However, there has been a decline in the overall levels of politically related violence in 1983 compared to the situation in 1982, particularly in the countryside. Similarly, the situation with respect to civil and political rights has improved.

With the overthrow of the Lucas regime in March 1982, the Guatemalan Government undertook a campaign to aggressively pursue the guerrillas in their own sanctuaries in the highlands, and, at the same time, to better control the misuse of force by its own military. The government was much more successful at the former than the latter, though the trend since March 1982 has been positive (see Table I attached following Question 6, Section D). Though there are peaks (e.g., the summer of 1982 when the army returned to the highlands), generally there has been a progressive reduction in overall violence since 1982. This trend has been less noticeable in the reports of disappearances and kidnappings than it has in the reports of deaths.

Immediately after the August change in government there was an increase in the number of politically related civilian deaths and abductions. The average monthly number of abductions under Mejía (August-December 1983) was 32 compared to 21 under Ríos Montt during his last seven months as president (January-July 1983). For this same time period, the average monthly number of non-combat (i.e., civilian) deaths is 41 under Mejía versus 42 under Ríos Montt. Disappearances during the Mejía Government, however, after numbering 56 in September, have declined in each succeeding month, totaling 26 in December. Similarly, non-combat deaths were 54 in September and 69 in October, but declined to 33 in November and 20 in December.

We caution against excessive reliance on so-called body counts as a precise measurement of what is occurring in Guatemala, as it is impossible to record every incident that occurs. Figures collected over a period of time, using a similar collection methodology, can, however, indicate the general trends that are occurring.

There has been no resolution of the abductions and murders by Guatemalan security forces of several Guatemalans employed by a contractor for an AID financed bilingual education project. Resolution of these cases is complicated by the reluctance of the military to disclose those involved in such
offenses. However, the government of Guatemala has given us written assurances that they are willing to work with us to implement safeguards against future abuses by guaranteeing the protection of AID employees working on the bilingual education program. The Mejía Government, according to intelligence reports, has also begun to control extra-legal violence by tightening control over the Presidential Intelligence Service (AGSAEMP) to prevent human rights abuses, and by disciplining AGSAEMP personnel who have ignored the new controls. This is significant because AGSAEMP had been implicated in abductions, tortures, and assassinations. The effectiveness of such actions is called into question by recent reports implicating government security forces in the kidnapping of a patient from a hospital emergency room and the abduction of several persons with ties to individuals believed to have been murdered by government security forces.

Both the governments of Ríos Montt and Mejía have cooperated with international and non-governmental organizations who have visited Guatemala to investigate alleged violations of human rights. Lord Colville, the United Nations Human Rights Commission Special Rapporteur, visited Guatemala in June-July 1983 and issued his report in November. While acknowledging that basic rights had been violated, he noted the efforts of the Guatemalan Government to curb abuses and concluded that there has been "marked improvement" in 1983.

a. Integrity of the Person

Approximately 500 civilians were killed in Guatemala in 1983. It is impossible to assess responsibility for each of these deaths, although some were undoubtedly killed by government security forces or civil defense patrols. Other deaths were attributable to the guerrillas. In addition, there were some 1,100 military and guerrilla combat casualties.

During 1983 more than 300 persons disappeared. Again, some of these individuals were undoubtedly seized by government security forces, while others were kidnapped by guerrillas or by common criminals. Similarly, both the government and the insurgents have employed torture.

b. Civil and Political Rights

Many of the infringements on personal freedoms were removed when the state of alarm was lifted in August 1983. Public criticism of the government occurs. The government has ended the restrictions on political activity, established procedures to legalize political parties under which 37 political groups have begun the process to be recognized officially as political parties. Trade unions function. Freedom of religion is a
reality, although some tensions exist between the Catholic Church and the government and between the Catholic Church and Protestant groups.

The United Nations High Commission for Refugees (UNHCR) estimates there are 35,000 displaced Guatemalans in UNHCR camps in Mexico. The Guatemalan Government has expressed its strong desire to cooperate in the voluntary repatriation of these refugees, and to assist in their resettlement in their villages of origin.

Although reports of massacres and other atrocities continued in 1983, there was a steep decline in credible reports of government violence in the countryside as compared to 1982. Some reports of massacres were fabricated or based on inaccurate information, such as the reports of massacres in Xoraxaj and Parraxut. In each of these two cases later investigation determined no massacres had occurred.

The Department's 1983 Human Rights Report for Guatemala provides a more comprehensive account of the human rights situation in that country, and a copy of that report is attached.

B. U.S. Government Action in Human Rights Area

1. Promotion of respect for and observance of Human Rights

During the past three years, U.S. officials have stressed with their Guatemalan counterparts the importance of human rights in American foreign policy and to our relationship. For the most part, our conversations have been held in private, though, at times, we have been public about our concerns. For example:

On January 7, 1983, when announcing the approval of the sale of spare parts, the Department of State stated, "...we want to see further progress in Guatemala in promoting respect for human rights..."

On March 4, 1983, following the execution of six persons, the Department of State stated, "We're naturally disturbed by reports that those executions took place after a secret trial. We've consistently stressed our support for due process and an open judicial system...."

On March 11, 1983, following reports of the disappearance and death of Patricio Ortiz Maldonado, an AID contractor, the Department of State stated, "We fully expect that the Guatemalan Government will see that justice is done in this case. We are also seeking assurances from the Guatemalans that anyone directly or indirectly in our employ can carry out his duties safely in Guatemala."
On June 20, 1983, following Rios Montt's announcement that elections would take place during the latter half of 1984, the Department of State noted that this was "...a positive step in returning Guatemala to democratic government."

On June 30, 1983, reacting to the imposition of the state of alarm, the Department of State expressed the hope that "the decree will be temporary and applied moderately in keeping with the government's announced intention to inaugurare today the Supreme Electoral Tribunal which will be initiating planning for the Constituent Assembly elections."

In a speech to the American Chamber of Commerce of Guatemala on August 9, 1983, Ambassador Chapin told his audience that there was a direct relationship between Administration support for assistance to Guatemala and progress on human rights issues.

More recently, on January 17, 1984, the Department of State noted that "we would oppose any change of government in Guatemala other than through democratic means."

On January 20, 1984, the Department of State "noted with pleasure" the Guatemalan Government's announcement the previous day of the electoral decree convening constituent assembly elections to be held on July 1 and stated that that government "has taken an important step toward the establishment of democratic constitutional rule."

Embassy officers, as a matter of course, have emphasized the importance of respect for human rights in their contacts with Guatemalan officials. In particular, senior Embassy officers, including the Ambassador and the Deputy Chief of Mission, emphasize human rights subjects in their public and private discussions. President Reagan's special envoy for Central America, Ambassador Richard Stone, also emphasizes respect for human rights in his discussions with top-level Guatemalan authorities. During visits to the countryside, Embassy officers have taken the opportunity to meet with senior Guatemalan military officers in the area and to stress to them the importance that the United States places on respect for human rights.

Human rights is the major issue discussed by high-level officials visiting Guatemala. During the past two years these have included, former Deputy Assistant Secretary of State for Inter-American Affairs, Ambassador Bosworth (June 1982); former Deputy Assistant Secretary of State for Human Rights, Melvin
Levitsky (August 1982); Ambassador Walters (April 1983); Deputy Assistant Secretary of State for Human Rights, Gary Matthews (June 1983); Assistant Secretary of State for Inter-American Affairs, Langhorne Motley (September 1983); Under Secretary of Defense, Fred Ikle, and Assistant Secretary of State for Human Rights, Elliott Abrams, (November 1983). Bilateral discussions in which human rights have been a central topic have taken place in third countries, as did one recently (December 1983) between General Mejia and Vice President Bush during the Argentine presidential inauguration.

Recognizing that democracy is not just elections, we have supported the return of the AIFLD (American Institute for Free Labor Development) program to Guatemala to build a truly independent labor movement. Our development assistance has the purpose of strengthening Guatemala's rural population. Congressional restrictions in the FY-84 Continuing Resolution prohibit our funds from going through government agencies and thus limit our ability to help build the rural health, education and agriculture infrastructure so necessary for Guatemala's future. For example, because of these restrictions we are unable to provide funds to the Peace Corps for use in local development projects or to include Guatemala in our efforts to help improve Central American judicial systems.

During the Lucas Government (1978-1982) we were unable to have any kind of productive dialogue on human rights issues. That has not been the case with his successors, though obviously progress on some items has been greater than on others (e.g., progress toward democratic elections vs. punishment of military officers for infractions of the code of conduct). Publicly and privately we have sought to reinforce the positive steps taken by the Guatemalan Government since March 1982 -- electoral calendar, amnesty, end of the states of alarm and siege. Privately, we have told the Guatemalans that, despite this progress, actions must be taken to eliminate any involvement by members of government security forces in kidnappings and killings. If such actions are not forthcoming, we have said that the bilateral relationship will remain strained and there will be no significant amounts of economic let alone any security assistance.

2. Disassociation of U.S. Security Assistance from Violations of Human Rights

Since FY 1978 there has been no military assistance program (MAP, FMS credit or IMET) for Guatemala. The only significant action concerning defense-related items since FY 1980 has been limited to a single authorization of $6 million dollars in
helicopter and other spare parts and safety of flight equipment. Key government officials clearly understand that any resumption of a normal security relationship depends upon a substantially improved human rights performance on their part. Our recent action to proceed with that sale was due to our belief that since the human rights situation had not deteriorated since our original decision, it was important to fulfill the commitment we made to Guatemala in January 1983, in large part to encourage them to continue to make progress in the areas of human rights and democracy including especially the control of the security forces. This action in moving forward on spare parts -- at a time when only three of Guatemala's eleven helicopters that carry eight or more people are operational -- does not mean we will automatically approve other FMS cash sales or Munitions Control licenses. These cases will be addressed individually, and will hinge on continued Guatemalan progress in the areas of concern. In private conversations informing the Guatemalan government of our action, we have made this point very clear.

C. U.S. Interests Justifying a Security Assistance Program

Our principal interest in Guatemala is in promoting the development of a stable democratic society that will protect human rights. That will not come overnight. But for the first time in many years, there appears to be a government in place that is committed to hold honest elections, to lessen the role of the military in the government, and to reduce the levels of political violence that have plagued that country for years.

Our ability to influence that process is minimal at present. We have not had a close relationship with Guatemala for several years. All Guatemalans, regardless of their political viewpoints, are wary of U.S. interference in what they regard as their internal affairs. Nevertheless, the limited security program that now exists (FMS cash sales) can act as a positive sign in reinforcing the military's commitment to the democratic process. How much influence we will have is open to conjecture. But without such a tool, we will have little or none. Failure to provide some politically meaningful sign of support for the efforts being undertaken to return the country to democratic rule, and to reduce human rights violations, will only increase the chance of further political instability.

In addition, the U.S. has other strong interests in Guatemala and the region which necessitate a solid, bilateral relationship, including a positive relationship with the Guatemalan military. Guatemala has been an active participant
in the Contadora process and a supporter of a comprehensive approach to peace in the region. We need tools to encourage the GOG — and its military — to continue to support the unity of the Central American nations in this process. Also, we have an interest in encouraging the Guatemalans to continue to seek dialogue with Belize and the United Kingdom in order to reach a peaceful, negotiated solution to the century-old Belize-Guatemala territorial dispute. Moreover, our overall regional economic and security interests cannot be effectively addressed if Guatemala — Central America’s most populous and industrialized country — is kept at the margins.

The Department believes that the continuation of our economic and security programs, in a measured fashion in order to promote further human rights progress, is in the national interest. The resumption of developmental assistance programs with governmental entities and the approval of a security assistance program for Guatemala, including FMS credit, IMET, and ESF, could act as a catalyst for further improvements in the human rights situation in Guatemala. A limited security assistance program could open lines of communication with key officers who have felt isolated from the United States for years. Through IMET, younger officers, who have had little or no experience with democracy, would receive valuable exposure to the operation of the military under such a system. Properly channeled, FMS credits would allow us to work more effectively with those elements in the Guatemalan Government who share our goals of restoring democracy and addressing the nation’s social and economic needs. It would reinforce developing a positive relationship between the military and the indigenous population in Guatemala through emphasis on civic action and tighter command and control (now hindered by inadequate transport and communications facilities). ESF can play a vital role in bringing about economic stability, particularly necessary as the country enters the electoral campaign.

On the basis of the above considerations, we have determined that it is in the national interest of the United States to provide limited amounts of security assistance (as defined in Section 502 B (d) (2) of the Foreign Assistance Act) to Guatemala.