



Guatemala: Political, Security, and Socio-Economic Conditions and U.S. Relations

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Summary

Since the 1980s, Guatemala, the most populous country in Central America with a population just over 14 million, has continued its transition from a centuries-long tradition of mostly autocratic rule toward representative government. A democratic constitution was adopted in 1985, and a democratically elected government was inaugurated in 1986. A 36-year civil war that ravaged Guatemala ended in 1996.

This report provides an overview of Guatemala's current political and economic conditions, relations with the United States, and several issues likely to figure in future decisions by Congress and the Administration regarding Guatemala. With respect to continued cooperation and foreign assistance, these issues include security and governance; protection of human rights and human rights conditions on some U.S. military aid to Guatemala; support for the International Commission against Impunity in Guatemala; combating narcotics trafficking and organized crime; trade relations; and intercountry adoption.

In November 2011, Otto Pérez Molina won the second-round presidential election run-off with 53.8% of the vote. He took office, along with the 158-member Congress, on January 14, 2012. A former military commander who served during the civil war period, Pérez Molina faces concerns from some regarding his role in the human rights abuses committed during that period.

Guatemala continues to be plagued by security issues related to narcotics trafficking and the rise of organized crime, social inequality, and poverty. Upon taking office Pérez Molina announced a controversial position to decriminalize drugs as one policy initiative to address Guatemala's many problems. Pérez Molina's proposal has failed to garner the support of other Central American leaders, but he seems willing to continue pushing the debate forward. In his view, decriminalization has to be gradual and strongly regulated, and it has to take place in the whole region, including producer and consumer countries. In the meantime, Pérez Molina vows to continue prosecuting and jailing drug-traffickers.

Economic growth fell in 2009, to 0.5%, as export demand from U.S. and other Central American markets declined and foreign investment slowed amid the global recession. The economy gradually recovered, up to 2.8% in 2010, and 3.8% in 2011, though this is expected to taper off slightly in 2012. Agriculture contributes 13% of GDP and accounts for 26% of exports from Guatemala. According to the World Bank, Guatemala has one of the most unequal income distributions in the hemisphere. Guatemala is part of the U.S.-Central America-Dominican Republic Free Trade Agreement (CAFTA-DR).

Relations between Guatemala and the United States have traditionally been close, but they have been strained at times by human rights and civil-military issues, long of interest to the U.S. Congress. U.S. policy objectives in Guatemala include strengthening democratic institutions; encouraging respect for human rights and the rule of law; supporting broad-based economic growth, sustainable development, and mutually beneficial trade relations; combating drug trafficking; and supporting continued Central American integration.

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Political Situation

Guatemalan national elections for president, Congress, and local officials were held on September 11, 2011. Former army general Otto Pérez Molina of the rightist Patriot Party (*Partido Patriota*, PP) was inaugurated as president of Guatemala on January 14, 2012. He succeeded President Álvaro Colom of the center-left National Unity of Hope (*Unidad Nacional de Esperanza*, UNE) coalition. Pérez Molina is a controversial figure. He commanded army troops during the violent counterinsurgency campaign of the 1980s, was director of military intelligence during the 1990s, and has been linked by international human rights groups, the press, and others to human rights violations, including death squads and major political assassinations.¹ Pérez Molina is also known as a military moderate who opposed then-President Jorge Serrano's *autogolpe* (self-coup) in 1993, and was the military's negotiator for the Peace Accords that ended Guatemala's 36-year civil war in 1996. As a member of the Guatemalan Congress, he has advocated for legal and security reform, but has also been accused by the banking regulatory commission of involvement in the siphoning of state funds.² In March 2011, U.S. citizen Jennifer Harbury filed the first step to trigger an investigation of Pérez Molina for his alleged role in the disappearance and murder of her husband, guerrilla leader Efraim Bámaca, in 1992. Pérez Molina responded at the time that the case had gone nowhere before, and that the new effort had to be politically motivated.³ During his campaign, Pérez Molina pledged to combat crime with a "mano dura," or iron fist, generally interpreted in Latin America to mean the use of repressive tactics. The party he created, the second-largest bloc in the previous legislature, generally opposed reforms proposed by the government under former President Colom, such as laws on rural development and the Law against the Illegal Accumulation of Wealth and Budget Expansion.⁴

Since taking office, Pérez Molina has taken several actions that, as one analyst put it, show "surprisingly liberal inclinations,"⁵ in their support of judicial, social, and fiscal reform. Pérez Molina has pledged to support the ongoing efforts of Attorney General Claudia Paz y Paz, who began to pursue aggressively cases against former military officials while she served the Colom Administration. On January 26, 2012—shortly after Pérez Molina took office—a Guatemalan judge ordered Efraim Rios Montt, dictator from the most violent civil war period from 1982 to 1983, to stand trial on charges of genocide and crimes against humanity. On March 12, a former Kaibil special forces officer was sentenced to over 6,000 years in prison for participating in the 1982 Dos Erres massacre of 201 men, women, and children. The Kaibiles, an elite special forces unit of the army, allegedly committed extensive human rights violations during Guatemala's civil

¹ See for example, Manuel Roig-Franzia, "Choosing a Future From Tainted Pasts: Both Presidential Candidates in Today's Vote in Guatemala Have Links to Some of the Nation's Most Painful Wounds," *Washington Post*, November 4, 2007, p. A18; Susan C. Peacock, Adriana Beltrán, *Hidden Powers in Post-Conflict Guatemala: Illegal Armed Groups and the Forces Behind Them*, Washington Office on Latin America, 2003, pp.19-20; Francisco Goldman, *The Art of Political Murder: Who Killed the Bishop?*, Grove Press, 2007, p. 385; and Tim Weiner, "Guatemalans Covered up Killing of an American, U.S. Aides Say," *New York Times*, March 24, 1996, p.1.

² Kate Joynes, "Accused Guatemalan Congress Chief Sidelined; Fiscal Reform Delayed," *Global Insight Daily Analysis*, June 18, 2008.

³ "Jennifer Harbury Acciona Contra Pérez Molina," *Prensa Libre.com*, March 23, 2011, translation by author.

⁴ International Crisis Group, *Guatemala's Elections: Clean Polls, Dirty Politics*, Policy Briefing, Latin America Briefing No. 24, Bogota/Brussels, June 16, 2011, p. 4.

⁵ Robert Munks, "Further Civil War Abuse Trial Opens in Guatemala," *IHS Global Insight Daily Analysis*, March 14, 2012.

war. On March 14 the government opened the trial of four former members of the Civil Self-Defense Patrols and a military commissioner, on charges of involvement in another 1982 massacre that killed 256 Mayan Guatemalans.⁶ While human rights groups and other observers applaud such efforts, they remain wary that efforts to prosecute former military officials for human rights abuses might founder under President Pérez Molina, who has repeatedly denied that the army committed genocide.⁷

Figure I. Map of Guatemala



Source: Perry-Castaneda Library Map Collection

Pérez Molina quickly created a Ministry of Social Development to implement social policy. The ministry will oversee conditional cash transfer programs such as the “My Family Progresses” (*Mi Familia Progresas*) program created in 2008 as the cornerstone of former President Colom’s antipoverty agenda. It includes food pantries and cash payments of \$40 per month for nearly 815,000 poor families to ensure children are in school and receive vaccines regularly.⁸ Although those programs were popular, they were criticized for not being transparent enough; the establishment of a ministry is meant to address that issue.

In March 2012, U.S. Secretary of State Hillary Rodham Clinton praised “the quick work that President Pérez Molina in Guatemala has shown in creating a tax system aimed at beginning to collect taxes from the elites in that country.”⁹ Guatemala has one of the lowest tax collection rates

⁶ Robert Munks, op. cit.

⁷ A truth commission supported by the United Nations determined that state security forces were responsible for most of the 200,000 deaths during the civil war, and that violence targeted at the indigenous Mayan population amounted to genocide because the entire population was targeted.

⁸ Ezra Fieser, “Guatemala’s Presidential Divorce of Convenience,” *Christian Science Monitor*, June 17, 2011.

⁹ Federal Information & News Dispatch, Inc., *Remarks at the Transparency International-USA’s Annual Integrity* (continued...)

in Latin America (11.2% of of gross domestic product (GDP) in 2011, according to the Department of State), and the private sector has fiercely resisted fiscal reform initiatives designed to provide the government with more resources to strengthen institutions and fight corruption. The two bills proposed by President Pérez Molina and passed by the legislature in February are expected to provide 1.1% to 1.3% of GDP in additional revenue for social programs and improvements in security.¹⁰

Perhaps most surprisingly for a politician who promotes an “iron fist” policy toward crime, President Pérez Molina said in February that the region needs to consider legalizing the use and transport of drugs. Arguing that the United States has failed to curb illegal drug consumption, Pérez Molina has stated that his country has no choice but to seek alternatives to the current “war on drugs,” in order to stem violence related to drug trafficking in Guatemala and in neighboring countries. U.S. officials oppose the idea, stating that drug legalization would not stop organized criminal elements from trafficking weapons and people.¹¹

Land use will likely continue to be a contentious issue during the new administration. On March 27, thousands of indigenous people marched over 120 miles to the capital to meet with President Pérez Molina and to demand the government settle land conflicts. The group that organized the march, the Committee for Peasant Unity, said its principal demands included “an end to the evictions and criminal prosecution of Indians, a pardon for farm debts of more than ... (\$38.96 million) affecting more than 100,000 families, access to land and the end of mining in the region.” Mining issues are especially contentious, and often violent, throughout the region. Governments often see mines as a potential source of revenue for poverty reduction and social programs. Yet indigenous populations, which might be the beneficiaries of such programs, often object to mining under current conditions because they see it as violating their ancestral land rights, removing them from and/or damaging their source of livelihood, and/or excluding them from the decision making process as to how profits from mines in their communities should be spent.

Security Conditions

The focus of security issues in Guatemala has shifted from the violence of civil conflict to high levels of crime over the past quarter century. Weak institutions, remote areas with little effective state presence, and the country’s geographic position between the drug producing nations of South America and consumers in the United States have made Guatemala a prime target for drug traffickers and other organized criminal groups. Crime and violence have been extremely high in recent years and officials estimate that up to 60% of Guatemalan territory may now be under the effective control of drug traffickers.¹² The Guatemalan government has made some progress in addressing crime and impunity, with the help of the U.N.-supported Commission Against Impunity in Guatemala (CICIG). The country’s fragmented political system, inconsistent political

(...continued)

Award, State Dept. Press Releases and Documents, Remarks, Hillary Rodham Clinton, Secretary of State, March 23, 2012.

¹⁰ "Country Report: Guatemala," *Economist Intelligence Unit*, March 2012, pp. 3-5.

¹¹ Romina Ruiz-Goiriena, “Guatemala President Weighs Drug Legalization, Blames US For Not Reducing Consumption,” *Associated Press*, February 14, 2012.

¹² “Drug Traffickers Have Stranglehold on Guatemala Says Top Prosecutor,” *El País*, February 23, 2011.

will, and weak judicial and security institutions remain serious obstacles to addressing the problem adequately.

In addition, Guatemala's widespread poverty and high levels of inequality and unemployment make much of its population especially vulnerable to crime. Almost one in four (23.3%) Guatemalan respondents in a 2010 survey reported being the victim of a crime in the previous year, ranking Guatemala only behind El Salvador among the Central American nations. The rate of homicides in Guatemala in 2010 was about 41 per 100,000 inhabitants, placing Guatemala in the middle of the region, at fourth of seven. Though still relatively high, the 2010 homicide rate was the lowest it had been since 2005.¹³

Some crime is attributed to youth gangs, ranging from localized groups to national groups with international ties, including to gangs in the United States. The regions within Guatemala evidencing the highest murder rates, however, tend to be those where organized criminal groups and drug traffickers, not gangs, are most active.¹⁴

In response to the high level of violence, a number of municipalities have asked for military troops to augment their ineffective police forces; the Guatemalan government, as under the previous four administrations, is using a constitutional clause to have the army "temporarily" support the police in combating rising crime. The day following his inauguration, the new president stated, "Today, publicly, I want to lay out for the army an important goal of collaborating, coordinating and cooperating with other security institutions, and that is to put an end to the external threats and contribute to neutralizing illegal armed groups by means of military power."¹⁵

Many observers believe the executive branch has exhibited effective control over the military. Nonetheless, there remains concern among human rights advocates and other analysts because of the country's ongoing dependence on the military to provide internal security, despite the peace accords' call for the army to focus solely on external threats, "the government's failure to investigate and punish unlawful killings committed by members of the security forces,"¹⁶ and now, Pérez Molina's high rank in the military during the civil war.

Despite efforts to develop a comprehensive, whole-of-government approach to security, the government's actions have often been reactive and dependent on the military. For example, former President Colom declared a "state of siege" in the northern departments of Alta Verapaz and Petén, the latter after an alleged massacre by the Mexican gang Los Zetas in 2011. The

¹³ Crime victimization rates from Americas Barometer survey data from 2010 by the Latin American Public Opinion Project of Vanderbilt University; homicide rates from U.N. Office on Drugs and Crime; for tables and further information, see CRS Report R41731, *Central America Regional Security Initiative: Background and Policy Issues for Congress*, by Peter J. Meyer and Clare Ribando Seelke (data on pp. 4-5).

¹⁴ Reports by Washington Office on Latin America and Instituto Tecnológico Autónomo de México, and UNODC, as cited in CRS Report RL34112, *Gangs in Central America*, by Clare Ribando Seelke, p. 5.

¹⁵ CNN Wire Staff, "Guatemala's President Calls on Troops to 'Neutralize' Organized Crime," *CNN.com*, January 16, 2012.

¹⁶ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *2010 Human Rights Reports: Guatemala*, 2010 Country Reports on Human Rights Practices, April 8, 2011, p. 1, <http://www.state.gov/j/drl/rls/hrrpt/2010/wha/154507.htm>.

decrees effectively put the army in control, allowing security forces to perform warrantless searches, break up public meetings, and arrest suspects.¹⁷

Nonetheless, Guatemalan efforts to reduce impunity of security forces have seen enough success to inspire cautious optimism among some analysts, including some human rights advocates. Guatemalan judicial officials work with CICIG (see section on “International Commission against Impunity in Guatemala” below) to investigate and prosecute illegal groups and clandestine structures, including some through which many former and current military officers allegedly engage in human rights violations, drug trafficking, and organized crime.

For over four years, [CICIG] has spurred a series of criminal investigations compromising some of the country’s most powerful figures – despite occasional setbacks. A new head of the national prosecution service has managed to shape an extraordinary turnaround, ordering the arrest of several ‘untouchable’ druglords, as well as a former president and general accused of atrocities during the civil war. Drug interdictions have soared; the murder rate has fallen, albeit slightly; even impunity rates for serious crimes are down.

This progress cannot hide the dilapidation of the country’s security and justice institutions, ... nor the acute fear of crime that is felt by many Guatemalans. But in combination with the Central American region’s determination to address its vulnerabilities to transnational crime, it does offer some reason to believe that the crisis may be contained.¹⁸

Others acknowledge the accomplishments to date, but express serious reservations. CICIG’s director, Francisco Dall’Anese, noted that CICIG can “build up the state, and create the legal conditions for the thing to function. Everything else depends on the willingness of the Guatemalans... if you end up with the best system in Latin America and it is not used properly or is used for other purposes, there has been no progress.”¹⁹ Dall’Anese, a former attorney general of Costa Rica, also noted the limited resources of Guatemala and the other Central American nations: “Very often the budget of a country in Central America ... is less than the petty cash fund of a criminal organization.”²⁰ One way to address the inequity of resources, he suggested, might be to create regional courts, to share resources and capacity. These and other ideas are being explored by Guatemala and its neighbors.

Guatemala is part of Central America’s “Northern Triangle” region, along with El Salvador and Honduras. These countries have all felt the impact of the Mexican government’s campaign against drug-trafficking organizations, as some of those organizations move their operations into their territory and operate across borders. In response, the Northern Triangle countries have generally adopted aggressive tactics, supplanting their weak police forces with military forces. The Central American nations are also seeking to improve regional efforts. They have various organizations through which they address security, such as the Central American Integration System (known by its Spanish acronym, SICA) and the Central American Armed Forces Conference (CFAC, to which only El Salvador, Guatemala, Honduras, and Nicaragua, plus the

¹⁷ “Country Report: Guatemala,” *Economist Intelligence Unit*, June 2011.

¹⁸ Ivan Briscoe and Marlies Stappers, *Breaking the Wave: Critical Steps in the Fight against Crime in Guatemala*, Clingendael Institute, Impunity Watch, January 2012, p. 3.

¹⁹ Daniel Pacheco, *Guatemala Must Fight Impunity from Within: CICIG Director*, In Sight: Organized Crime in the Americas, June 1, 2012, <http://www.insightcrime.org/insight-latest-news/item/2711-guatemala-must-fight-impunity-from-within-cicig-director>.

²⁰ *Ibid.*

Dominican Republic, belong, but not Belize, Costa Rica, or Panama). Translating theoretical agreement on the need to cooperate on security matters into an operational institutional framework has proved difficult, however, in the face of differing priorities and approaches, and border and other types of disputes within the region.²¹

Economic and Social Conditions

With a 2010 gross national income of \$39.4 billion and a per capita income of \$2,740, Guatemala is considered a lower middle income developing economy by the World Bank.²² The agriculture sector's relative share of the economy has fallen as manufacturing and other sectors have grown. Guatemala's top exports now include products from the manufacturing sector, including processed foods and knit and woven apparel, in addition to the traditional agricultural products of coffee, sugar, and bananas.²³ The country has maintained generally sound macroeconomic policies, and enjoyed annual GDP growth rates of over 5% before the economy slowed as a result of the onset of the global financial crisis and U.S. recession. Significant declines in exports, remittances, and foreign direct investment slowed growth to 3.3% in 2008 and 0.5% in 2009 (from 6.3% in 2007). The Guatemalan economy began to recover in 2010, with growth of 2.8%, reaching an estimated 3.8% growth in 2011. Economic analysts expect growth to decelerate to 3.2% in 2012 along with slower growth world-wide.²⁴

Improvements in political and macroeconomic stability in Guatemala have done little to improve levels of poverty and inequality, which are among the highest in the region. Although a World Bank study found that Guatemala reduced poverty by five points between 2000 and 2006, from 56% to 51%, extreme poverty remained roughly unchanged at 15%.²⁵ Moreover, the U.N. World Food Program asserts that poverty and extreme poverty rates began to increase again in 2007 as a result of high food prices, rising to 54% and 20%, respectively. This trend likely continued in the aftermath of the global financial crisis. Guatemala's income distribution is one of the most unequal in the hemisphere: the wealthiest 10% consume over 47% of Guatemala's total income, while the poorest 10% account for just 1%.²⁶

Guatemala's social development indicators often fall below those of countries with lower per capita incomes.²⁷ Illiteracy is at 30%, the infant mortality rate is 25 per 1,000, and chronic child malnutrition is at about 50%, the fourth-highest rate in the world.²⁸ This economic and social marginalization disproportionately affects Guatemala's indigenous population—child

²¹ Latin American Newsletters, "Central America: Prospects for a New US-backed Regional Scheme," *Latin American Security & Strategic Review*, no. SSR-11-02 (February 2011).

²² World Bank data online, at <http://data.worldbank.org/country/guatemala>, accessed March 29, 2012.

²³ Guatemalan National Statistics Institute data, as presented by *Global Trade Atlas*, June 2011.

²⁴ Economist Intelligence Unit, March 2012, op.cit., pp. 3,16.

²⁵ World Bank, "Guatemala: Country Brief," October 8, 2010.

²⁶ U.N. Economic Commission for Latin America and the Caribbean, *Statistical Yearbook for Latin America and the Caribbean, 2011*, December 2011, p. 68.

²⁷ U.S. Department of State, "Background Note: Guatemala," March 22, 2010.

²⁸ World Bank, *Guatemala Poverty Assessment*, Report No. 43920-GT, Washington, DC, March 18, 2009; and World Food Programme, *Guatemala Overview* at <http://www.wfp.org/countries/Guatemala/Overview>, accessed Oct. 6, 2011.

malnutrition among the indigenous is almost 70%.²⁹ Indigenous peoples comprise 24 different ethnolinguistic groups and account for roughly half of Guatemala's 14.7 million people.

U.S. Relations With and Aid to Guatemala

Relations between the United States and Guatemala traditionally have been close, but there has been friction at times over human rights and civil/military issues. Addressing security and governance challenges are top bilateral issues. Related programs assist Guatemala in combating narcotics trafficking, preventing transnational crime, stabilizing and reforming the security sector, confronting the challenges of growing crime and gang violence, and building the capacity of both the government and civil society.³⁰

Noting that “[i]nadequate health and education services, high levels of inequality and poverty, chronic malnutrition and food insecurity, and a lack of economic opportunities provide fertile ground for criminal organizations,” the Obama Administration allotted the largest portion of its FY2012 foreign assistance request for Guatemala to education, health, and economic growth programs. These priorities remain the same in the overall distribution of FY2013 funding, although education and health programs were cut by about \$11 million.

Table 1. U.S. Assistance to Guatemala by Account and Fiscal Year

(\$ in thousands)	Fiscal Year			Increase / Decrease (2012 Est. to 2013 Req.)
	2011 Actual	2012 Estimate	2013 Request	
TOTAL	110,161	95,185	93,570	-1,615
Development Assistance	49,325	46,325	56,000	9,675
Food for Peace Title II	38,085	25,000	17,000	-8,000
Foreign Military Financing	499	500	750	250
Global Health Programs - USAID	18,068	17,600	17,100	-500
International Military Education and Training	192	760	720	-40
International Narcotics Control and Law Enforcement	3,992	5,000	2,000	-3,000

Source: Congressional Budget Justification, Foreign Operations, Fiscal Year 2013

The requested total for FY2013 is \$93.6 million, and includes \$56 million for Development Assistance; \$17 million in Food for Peace title II programs; \$750,000 for Foreign Military Financing; \$17.1 million for USAID Global Health Programs; \$720,000 for International Military Education and Training; and \$2 million for International Narcotics Control and Law Enforcement (see **Table 1**). This represents an overall decrease of \$1.6 million from FY2012 funding.

²⁹ World Food Programme, op. cit.

³⁰ U.S. Department of State, *Congressional Budget Justification: Foreign Operations, Fiscal Year 2012*, Annex: Regional Perspectives, 2012, <http://www.state.gov/documents/organization/158268.pdf>.

Congressional Concerns

Protection of Human Rights and Conditions on U.S. Military Aid

During most of Guatemala's 36-year civil war, the Guatemalan military was in power and engaged in violent repression against civil society organizations, and in gross violations of the human rights of its citizens, especially its majority indigenous population. Although Guatemala established a civilian democratic government in 1986, it took another 10 years to end the violence, during which time the military continued to engage in repression and violations of human rights. Civilians have governed Guatemala for almost 26 years now, making notable gains, such as carrying out significant military and police reforms and generally exerting effective control over the security forces. Nonetheless, democratic institutions remain fragile, and security forces continue to enjoy widespread impunity for human rights and other crimes.

According to the U.S. State Department's most recent Human Rights report on Guatemala,

Human rights abuses included the following: the government's failure to investigate and punish unlawful killings committed by members of the security forces; widespread societal violence, including numerous killings; corruption and substantial inadequacies in the police and judicial sectors; police involvement in serious crimes, including unlawful killings, drug trafficking, and extortion; impunity for criminal activity; harsh and dangerous prison conditions; arbitrary arrest and detention; failure of the judicial system to ensure full and timely investigations and fair trials; failure to protect judicial sector officials, witnesses, and civil society representatives from intimidation; threats and intimidation against, and killings of, journalists and trade unionists; discrimination and violence against women; trafficking in persons; discrimination against indigenous communities; discrimination on the basis of sexual orientation and gender identity; and ineffective enforcement of labor laws and child labor provisions.³¹

The Guatemalan government and the international community are continuing to combat military impunity for human rights violations and other crime through support of CICIG, rule of law, judicial and police reform, and other types of democracy-strengthening programs.

The U.N. High Commissioner for Human Rights visited Guatemala in mid-March. Commissioner Navi Pillay commended Guatemala for the direction it is taking to address "staggering impunity," including, in the past two years, the first successful prosecution of cases for past human rights violations, and the ratification of the Rome Statute, the treaty establishing the International Criminal Court.³² She also stated that the government must operate within the framework of the Peace Accords, the rule of law, and respect for the human rights of all Guatemalans as it attacks the country's high levels of insecurity, crime, and violence. Although indigenous people constitute the majority of the population, she said, they continue to be subject to social and economic exclusion and denial of their human rights. The U.N. official expressed particular concern over the negative impact of economic investment projects on the rights of indigenous peoples.

³¹ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *2010 Human Rights Reports: Guatemala*, 2010 Country Reports on Human Rights Practices, April 8, 2011, p. 1, <http://www.state.gov/j/drl/rls/hrrpt/2010/wha/154507.htm>.

³² "Guatemala Must Address Rule Of Law Challenges: UN," *India Blooms News Service*, March 17, 2012.

In August 2011, a Guatemalan court sentenced four former soldiers to over 6,000 years each in prison for a 1982 massacre of hundreds of civilians and crimes against humanity during the country's civil war.³³ This was only the second time a trial was held in Guatemala relating to a civil war massacre. In June 2011, the Colom Administration arrested two high level security figures for their alleged roles in civil war crimes. Guatemala's office of public prosecutions has accused retired General Hector Mario Lopez Fuentes, the former chief of the armed forces under dictator Rios Montt, of being the intellectual author behind the murder of over 300 indigenous Mayan civilians in the Ixil region during that period.³⁴ As mentioned above, the Pérez Molina Administration has already begun to prosecute several former members of the military, including Rios Montt, for human rights crimes committed during the civil war.

Conditions on U.S. Military Aid to Guatemala

In 1980, President George H. W. Bush suspended overt military aid to Guatemala because of concerns over human rights abuses allegedly committed by Guatemalan security forces. In 2005, the United States began to allow Foreign Military Sales to Guatemala in recognition of progress the Guatemalan government had made in reforming the military.³⁵ Since 2008, Congress has allowed Foreign Military Financing (FMF) and International Military Education and Training (IMET) to Guatemala, but only to certain components of the armed forces, and with human rights conditions attached in the foreign assistance appropriations acts.

Current conditions allow expanded IMET, for civilian personnel to be trained in defense matters such as oversight and management. Regular IMET, for military personnel, and FMF are only allowed for the Guatemalan Air Force, Navy, and the Army Corps of Engineers, and only for training to improve disaster response capabilities and to participate in international peacekeeping operations. Before IMET and FMF funds can be released to Guatemala, the Secretary of State must certify that the Air Force, Navy, and the Army Corps of Engineers are respecting internationally recognized human rights and cooperating with civilian judicial investigations and prosecutions of current and retired military personnel who have been credibly alleged to have committed violations of such rights and with CICIG.

The Pérez Molina administration, like previous Guatemalan governments, has been pressing the United States to drop those conditions and provide increased military aid to the army. The Obama Administration's request for foreign aid for FY2013 does not include proposed funding for the Guatemalan army, except for the Army Corps of Engineering as allowed in previous years.

The Senate report accompanying the FY2013 foreign operations appropriations bill (S.Rept. 112-172, to accompany S. 3241) supports assistance for the Guatemalan coast guard, navy, and air force to enhance regional naval cooperation, maritime, and border security. It says the Appropriations Committee will consider a future budget request for assistance to the Guatemalan military if the army

³³ Ken Ellingwood, "Rights Groups Praise Troops' Trials; Guatemala Convicts Four Ex-Soldiers in a 1982 Massacre during the Brutal Civil War," *Los Angeles Times*, August 4, 2011.

³⁴ "Guatemala: Ex-Armed Forces Chief Lopez Fuentes Arrested," *BBC News*, June 18, 2011.

³⁵ *Ibid*; John Hendren, "Guatemala Gets U.S. Military Aid; A 15-Year Freeze on the Funds because of Human Rights Abuses is Lifted in Recognition of Reforms," *Los Angeles Times*, March 25, 2005.

has a narrowly defined mission focused on border security and external threats, and a timetable for ending the army's involvement in internal law enforcement; is cooperating fully with civilian investigations and prosecutions of human rights cases involving current and retired military officers of whatever rank, with the Inter-American Court on Human Rights, and with CICIG, including providing timely access for investigators to witnesses, documents, forensic evidence, and other relevant information; and is publicly disclosing all military archival documents relating to the internal armed conflict in a timely manner in response to requests by civilian judicial authorities.

The Senate committee would require the Secretary of State to submit a report within 180 days of the bill's enactment, assessing the army's progress in meeting the stated requirements, detailing any additional steps the army should take, and identifying the quantitative and qualitative indicators used to measure progress. The report should also include the number of human rights cases in which military personnel have been prosecuted and appropriately punished, and the extent of the army's cooperation in such cases; the extent of military archival documents publicly disclosed by the army; and the extent of the army's involvement in internal law enforcement.

The House report (H.Rept. 112-494, to accompany H.R. 5857) states support for the FY2013 budget request for Guatemala, noting that no funds are requested for the Army except for the Army Corps of Engineers and for IMET courses. The Appropriations Committee states that if any request for new types of military aid is requested, the Administration must submit a notification with a detailed justification describing steps made to address development of a narrowly defined mission for the army focused on border security and external threats; implementation of a reform strategy that has broad support within Guatemalan society; demonstration of respect for human rights; cooperation with civilian investigations and prosecutions of cases involving current and retired officers and with the CICIG; and public disclosure of all military archives pertaining to the internal armed conflict.

The Department of Defense provides military assistance, mostly for counternarcotics programs, some of which is not subject to the human rights conditions described above, as it is authorized through the defense appropriations, rather than through the foreign assistance appropriations acts. DOD military assistance to Guatemala is subject to requirements for vetting participants to exclude those with records of human rights violations. These are known as Leahy conditions, after the Senator who incorporated them into legislation. In FY2009-2010, the Department of Defense spent \$3.5 million on counternarcotics operations centers in Guatemala, including \$754,000 for a base for the Guatemalan army's Kaibil special forces.³⁶ As mentioned above, the Kaibiles are alleged to have committed extensive human rights violations during Guatemala's civil war. Four former Kaibiles were sentenced in 2011, another in March 2012, and another 12 remain fugitives from justice, for their roles in the 1982 Dos Erres massacre. In addition, many ex-Kaibiles are reported to be members of the Mexican Los Zetas criminal organization.

International Commission against Impunity in Guatemala

The United States and other donors support the International Commission against Impunity in Guatemala (CICIG), which was created in 2007 under the auspices of the United Nations. The

³⁶ Michael Vickers, Asst. Sec. of Defense, *FY2009 Section 1022(a) Report*, Department of Defense, Letter to Hon. Ike Skelton, Chairman, Committee on Armed Services, February 17, 2010, p. 25, and Michele Flournoy, Under Sec. of Defense, *Fiscal Year 2010 DoD Foreign Counterdrug Activity Report*, Department of Defense, Letter to Hon. Carl Levin, Chairman, Committee on Armed Services, April 4, 2011, p. 7.

commission's mandate is to help Guatemala dismantle illegal groups and clandestine structures responsible for organized crime, human rights violations, and other crimes through investigations and prosecutions. After its first year of operation, CICIG noted that the Guatemalan government faced enormous challenges, but had begun to clean up the security forces and strengthen civil institutions.³⁷ Since then, CICIG has helped Guatemala investigate and prosecute important cases; a number of former high-level officials have been charged with corruption and are facing trials.³⁸ The Guatemalan National Civil Police (PNC) and CICIG officials arrested one of the PNC's former directors and five other serving or retired police officers in 2010. They are charged with involvement in extrajudicial killings in 2009. CICIG has helped prevent a number of individuals with significant ties to corruption and/or organized crime from being appointed to senior positions in the Guatemalan state, and the Guatemalan government has approved CICIG-recommended legislative reforms.³⁹

Nonetheless, CICIG and reform-minded elements of the government reportedly continue to be thwarted regularly by vested interests such as corrupt law enforcement and other public officials with alleged ties to criminal organizations. CICIG helped the Guatemalan judicial system to extradite, investigate, and prosecute former President Alfonso Portillo (2000-2004) for allegedly embezzling \$15 million in government funds, only to have a panel of judges dismiss the charges this past May with reasoning that CICIG said was "neither valid nor logical."⁴⁰ Cases such as this demonstrate both the progress that has been made with CICIG's assistance, and the obstacles to reform still remaining. CICIG's term is currently set to expire in September 2013; President Pérez Molina has proposed CICIG's term be extended by two additional years beyond that.

Congress recommended the Obama Administration allocate \$5 million in International Narcotics Control and Law Enforcement funds for CICIG in FY2012.⁴¹

Illicit Narcotics Trafficking and Other Organized Crime⁴²

In recent years Congress has become increasingly concerned over the increase in drug trafficking-related violence across Central America. It first appropriated higher levels of assistance for these countries to combat organized crime and drug trafficking through the Mérida Initiative, created mostly to help Mexico, then, beginning in FY2010, through the Central America Regional Security Initiative (CARSI).

³⁷ International Commission against Impunity in Guatemala, *One Year Later*, September 2008, Guatemala, available at <http://www.cicig.org/Publications.html>.

³⁸ Frank Bajak and Juan Carlos Llorca, "U.N.-backed Investigators Shake up Guatemala," *Associated Press*, November 14, 2010.

³⁹ Comisión Internacional Contra la Impunidad en Guatemala (CICIG), *Tercer Año de Labores*, September 2010.

⁴⁰ CICIG, "Apela Sentencia Absolutoria del ex Presidente Portillo y Dos ex Ministros," press release no. 041, May 30, 2011, translation by author; and "Impunity in Guatemala: Two Steps Forward, One Step Back," *Economist*, June 8, 2011.

⁴¹ Joint Explanatory Statement for Consolidated Appropriations Act of 2012, P.L. 112-74, http://rules.house.gov/Media/file/PDF_112_1/legislativetext/HR2055crSOM/psConference%20Div%20I%20-%20SOM%20OCR.pdf

⁴² Information in this section drawn from U.S. Department of State: *International Narcotics Control Strategy Report: Guatemala*, volume II, Money Laundering and Financial Crimes, March 2011, and *Money Laundering and Financial Crimes Country Database: Guatemala*, May 2011.

The end of Guatemala's civil war roughly coincided with the spread of drug trafficking rings throughout Central America. Many former combatants shifted into drug trafficking and other organized crime. A weak judicial system, with inadequate enforcement of laws and widespread impunity, has fostered the growth of widespread corruption and high levels of criminal activities in Guatemala. Partly as a consequence of having one of the lowest tax collection rates in Latin America, and a private sector that resists fiscal reform, the Guatemalan government has been unable to dedicate adequate resources to strengthening judicial institutions and fighting corruption. Furthermore, in part because of the human rights violations the armed forces committed during the civil war, the military was removed from remote areas such as Quiche and Izabal at the war's end. Since that time, drug traffickers have taken advantage of the lack of a law enforcement presence in those areas to conduct their operations. Additionally, as Mexico increases its counter-narcotics efforts against them, Mexican drug cartels have expanded into Guatemala.

Guatemala is a transshipment point for cocaine and heroin trafficked from South America to the United States, an activity increasingly linked to arms trafficking, according to the U.S. Department of State. Money from narcotics trafficking and other illicit activities is laundered in Guatemala. Guatemala is a minor producer of opium poppy exported to Mexico, and of marijuana produced for domestic consumption.

President Pérez Molina invited the other Central American presidents to discuss a major revision of counternarcotics policies and laws. Pérez Molina said he hoped to have a unified regional approach at the Summit of the Americas in April. But the presidents of El Salvador, Nicaragua, and Honduras apparently cancelled their attendance at the last minute without explanation, and then issued a statement on March 30 saying they oppose legalization of drugs and continue to support regional efforts to combat narcotics trafficking.⁴³ The three leaders present at the March 25 meeting, Ricardo Martinelli of Panama and Laura Chincilla of Costa Rica, along with Pérez Molina, did not issue a policy declaration, but agreed to discuss several proposals further at a meeting of the Central American Integration System (SICA). The proposals include the decriminalization of drugs under certain conditions; creation of a regional penal court to handle drug trafficking cases; and compensation from drug-consuming nations—mainly the United States—for each shipment of drugs seized in Central America, and for the destruction of poppy and marijuana crops.

Pérez Molina has stated his government's position as fostering a global intergovernmental dialogue based on global regulations, "which means that consumption and production should be legalized but within certain limits and conditions." He also said that drug abuse, like alcoholism and tobacco use, "should be treated as public health problems, not criminal justice issues."⁴⁴

Colombian President Juan Manuel Santos had already put drug legalization and decriminalization on the agenda of the Summit of the Americas, which President Obama and a majority of other heads of state from the Americas attended in April 2012. Some of the other leaders criticized U.S. counternarcotics policy and urged a reconsideration of the so-called war on drugs. While President Obama listened to the arguments, he said he did not agree that decriminalization was a

⁴³ "Update:APNewsNow," *AP*, March 31, 2012.

⁴⁴ Otto Pérez Molina, "We Have to Find New Solutions to Latin America's Drugs Nightmare; Narcotics Should be Legally Available - in a Highly Regulated Market, Argues the President of Guatemala," *The Guardian*, April 7, 2012.

solution to the problem, and the summit ended without any joint declaration.⁴⁵ Presidents Obama and Pérez Molina met briefly at the summit.

Trade

Guatemala and the United States have significant trade relations. Since the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) began to be implemented in 2006, bilateral trade has expanded by 56%—mostly on the U.S. side. Total U.S.-Guatemalan trade in 2011 was \$10.3 billion. U.S. exports to Guatemala amounted to about \$6.2 billion, an increase of over 38% from 2010. Oil, machinery, plastics, cereals, paper products, and automobiles and parts accounted for the majority of U.S. exports. U.S. imports from Guatemala amounted to about \$4.1 billion, with knit and woven apparel, coffee, fruit, precious metals, and sugar accounting for the majority. The United States is Guatemala's top trading partner and Guatemala is the United States 49th-largest trading partner.⁴⁶ Supporters of CAFTA-DR point to reforms it spurred in transparency, customs administration, intellectual property rights, and government regulation. Critics note that the commercial balance between the two countries previously favored Guatemala, and the balance has shifted in favor of the United States, with Guatemala registering its first trade deficit in a decade after CAFTA-DR was signed. According to U.S. Trade Representative (USTR) data, U.S. exports to Guatemala increased by 56.9% from 2005 (pre-CAFTA-DR) to 2010, while during the same period, Guatemalan exports to the United States increased by only 2.5%.⁴⁷ This is largely because Guatemalan exports to the United States received unilateral trade preferences before CAFTA-DR was implemented.

The United States filed a case against Guatemala under CAFTA-DR in 2010, “the first labor case the United States has ever brought against a trade agreement partner,” according to the office of the USTR.⁴⁸ In response to submissions filed by six Guatemalan unions and the AFL-CIO in 2008, the USTR conducted an investigation and found that “it appears that the Government of Guatemala is failing to meet its obligations under [CAFTA-DR] with respect to effective enforcement of Guatemalan labor laws related to the right of association, the right to organize and bargain collectively, and acceptable conditions of work.” The USTR also expressed “grave” U.S. concerns regarding labor-related violence in Guatemala, “which is serious and apparently deteriorating.” After informal discussions and formal consultations with the Guatemalan government and the Free Trade Commission failed to produce an adequate enforcement plan, the United States requested the establishment of an arbitral panel in August 2011.⁴⁹ As of April 2012, the panel had yet to be established.

⁴⁵ Frank Bajak and Vivian Sequera, “Cuba Split Leaves Summit Without Declaration,” *The Miami Herald*, April 14, 2012.

⁴⁶ Preceding data in this paragraph from: U.S. Department of Commerce data, as presented by *Global Trade Atlas*, April 2012. For further information, see CRS Report R42468, *The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA DR): Developments in Trade and Investment*, by J. F. Hornbeck.

⁴⁷ Office of the U.S. Trade Representative, *Guatemala: U.S.-Guatemala Trade Facts*, <http://www.ustr.gov/countries-regions/americas/guatemala>, accessed April 26, 2012.

⁴⁸ Quotes in this paragraph from: Office of the U.S. Trade Representative, *USTR Kirk Announces Labor Rights Trade Enforcement Case Against Guatemala*, Press release, Washington, PA, July 2010.

⁴⁹ Letter from Ron Kirk, U.S. Trade Representative, to Hon. Luis Velasquez, Minister of Economy, Guatemala, August 9, 2011, http://www.ustr.gov/webfm_send/3042.

Intercountry Adoption⁵⁰

U.S. laws and policies concerning intercountry adoption are designed to protect children. They are intended to make sure that all of the children put up for adoption are truly orphans, and have not been bought; kidnapped; or subjected to human trafficking, smuggling, or other illegal activities. Currently, the only cases of adoptions by U.S. citizens of Guatemalan children that are permitted are those that were already in-process in Guatemala on December 31, 2007.⁵¹ There are approximately 460 cases still pending. The U.S. and Guatemalan governments are working together, meeting almost daily, to determine the status of these cases and to resolve the pending cases.⁵²

The United States is a signatory of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (referred to hereafter as the Convention). The goal of the Convention is to eliminate confusion and delays caused by differences among the laws and practices of different countries, and to ensure transparency in adoptions to prevent human trafficking, child stealing, or child selling.⁵³ As of March 19, 2012, the Convention has entered into force in 82 countries. Notably, countries can sign and ratify the Convention, but until the country has the laws and procedures in place to implement the Convention, the Convention cannot enter into force in the country.

The Convention entered into force in the United States on April 1, 2008, and governs intercountry adoptions between the United States and other Convention countries.⁵⁴ Guatemala is party to the Convention,⁵⁵ but has not established regulations and procedures that meet Convention standards. As a result, the U.S. government is only processing petitions to allow an adopted child to immigrate to the United States for adoptions that were initiated in Guatemala prior to December 31, 2007,⁵⁶ because such adoptions can be completed under the non-Convention system. The

⁵⁰ This section prepared by Alison Siskin, Specialist in Immigration Policy, Domestic Social Policy Division.

⁵¹ In FY2007, U.S. citizens adopted 4,728 children from Guatemala, more than from any other country except China (5,453). In FY2011, U.S. citizens adopted 32 children from Guatemala. Department of State, *Immigrant Visas Issued to Orphans Coming to U.S.*, FY2007-FY2011, http://adoption.state.gov/about_us/statistics.php.

⁵² Not all these cases are still active. Some have been closed and some may be cases where the prospective parents have abandoned their applications. Telephone conversation with U.S. Citizenship and Immigration Services, Office of Congressional Affairs, March 30, 2012.

⁵³ The Convention requires that: certain determinations, such as adoptability of the child, eligibility to immigrate, parent suitability and counseling be made before the adoption can proceed; every country establish a national government-level central authority to carry out certain functions that include cooperating with other central authorities, overseeing local implementation of the Convention, and providing access to information on adoption laws; a child's welfare be protected throughout the adoption process; certified adoptions be recognized in all other countries that are party to the Convention; and every country party to the Convention establish a national government-level process for uniform screening and authorization of adoption service providers.

⁵⁴ The Hague Conference on Private International Law maintains an updated list of participatory countries on its website at http://www.hcch.net/index_en.php?act=conventions.status&cid=69. Other information about the Convention is also available on this website. Adoptions from countries not party to the Convention are processed under the rules and regulations that governed all intercountry adoptions prior to the implementation of the Convention. Also, adoptions initiated prior to April 1, 2008 are processed under the non-Convention system. For an overview of that process, see CRS Report RL31769, *Immigration: International Child Adoption*, by Alison Siskin.

⁵⁵ Although the Guatemalan Constitutional Court ruled in 2004 that the country's signing of the Convention was unconstitutional, under international law, Guatemala is still party to the Convention and has been since March 1, 2003. Department of State, *Frequently Asked Questions: Intercountry Adoptions and the Hague Convention: Guatemala*, Oct. 12, 2008.

⁵⁶ Adoptions initiated in Guatemala prior to Dec. 31, 2007 are processed by the United States under non-Convention (continued...)

United States will not approve new adoptions from Guatemala until Guatemala's adoption process complies with Convention standards, and there is no estimate of when that will be.⁵⁷

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procedures. Since Guatemala refused to allow adoption from U.S. citizens between Dec. 31, 2007 and Apr. 1, 2008, all cases being processed were initiated in Guatemala prior to Dec. 31, 2007. Department of State, *Warning: Adoptions Initiated In Guatemala on or after April 1, 2008*, Apr. 1, 2008.

⁵⁷ Telephone conversation with U.S. Citizenship and Immigration Services, Office of Congressional Affairs, March 30, 2012.