

MONITORING THE IMPLEMENTATION  
OF SMALL ARMS CONTROLS (MISAC)

Small Arms Control in  
**Guatemala**

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## Guatemala

### Introduction

At the end of the country's civil war in 1996, the United Nations Observer Mission in Guatemala (MINUGUA) oversaw the disarmament of guerilla units, which resulted in the surrender of approximately 1,500 weapons.<sup>1</sup> Since then no significant disarmament efforts have taken place beyond regular confiscations carried out by the National Civilian Police (PNC). In April 2002, the government authorities reported 181,051 legally registered firearms circulating in Guatemala and MINUGUA estimates that there are at least 1.5 million if the illegal circulation is included.

For several decades, Industrias Militares de Guatemala (IMG), a dependency of the defence ministry, produced Galil rifles under license from Israel. At present there is no evidence that IMG continues to manufacture anything beyond 5.56 mm ammunition for military and police use. However, bullet casings from a series of armed assaults were traced back to IMG, demonstrating that at minimum there has been theft from state arsenals.

Homicide rates have risen since the end of the country's civil war, especially in urban centres. As in neighbouring countries, private security companies have emerged as response to growing levels of crime and insecurity. Since the Peace Accords there are now more private security guards than state police.

The section of the Peace Accords dealing with the Strengthening of Civilian Power and the Role of the Armed Forces in a Democratic Society called for the transfer of power over the control of arms and ammunition from the Ministry of Defence to the Ministry of Interior. As of March 2005 this transfer had not been implemented.

### Participation in International SALW Control Mechanisms

Guatemala ratified CIFTA in 2003, but has not formally established a central contact authority before the Convention's Consultative Committee. The Ministry of Foreign Affairs' Directorate for Multilateral Policy serves as the point of contact for the UN PoA and in 2004 the Government of Guatemala acceded to the UN Firearms Protocol.

Guatemala is a ratifying party to the Framework Agreement on Democratic Security in Central America and an active participant in the Central American Integration System's efforts to develop a sub-regional approach through the Central American Security Commission. As described below there is a functioning national commission for SALW in Guatemala, but as of yet it has not been specifically mandated to interface with the UN, OAS or sub-regional mechanisms.

### SALW Control

Guatemala is the only Central American country whose constitution guarantees its citizens rights to bear arms. The Department for Control of Arms and Munitions (DECAM), a MoD dependency, is the government entity charged with SALW control with the exception of the National Civilian Police in regards to law enforcement on the streets. In rural areas, the Military Reserve Outposts take the place of DECAM for arms registration. The 1996 Peace Accords call for the following reforms to the arms law:

- Increased restrictions on the ability of civilians to own and carry firearms in public; and
- The transfer of the national arms registry and other firearms control responsibilities to a new civilian entity under Interior ministry control, to be called the General Office for Arms Control.

With the election of former Guatemala City mayor Oscar Berger to the presidency in 2004 a renewed effort to push these reforms began that was also seen as a response to rising armed crime and violence. The first step in this effort was the establishment of a National Disarmament Commission presided by the Presidential Secretariat for Security Affairs and including: the Ministries of Defence, Interior, Foreign Affairs, the Police, Attorney General, Supreme Court, congressional commissions on security and governance, the Human Rights Ombudsman and the NGO IEPADES (a founding member of the International Action Network on Small Arms). The Commission has begun planning a variety of activities from public awareness raising to weapons collection and destruction. Although it is in the initial stages it has obtained the infrastructure and support of the UNDP for its implementation.

Because of the urgency required in dealing with SALW related violence in Guatemala and the slow pace of project formulation and legal reform the President emitted an executive decree in early 2005 that a) suspended for a period of six months all offensive firearms public carrying licenses (offensive weapons under Guatemala law refers to weapons of the following calibers 5.56, 7.62, .222", .223", .243", .308", .30", 30-06 and 5.7X28); b) all private citizens and private security companies had thirty days to surrender these weapons to DECAM for verification, reclassification and registry updating; c) those persons or entities not complying with the decree will lose the respective licenses for these weapons. What is not clear in the law is whether or not the weapons will be returned to their owners after re-registration and if so under what conditions, but is clearly an attempt to gain control over high-powered weaponry legally in circulation.

### SALW Import/Export Legislation

While SALW production is legal in Guatemala with DECAM authorisation though a private license has never been issued the government does produce ammunition for internal consumption.

In relation to imports each shipment requires a specific authorisation from DECAM. There are two types of permits for private use or for re-sale. Non-military style weapons for personal defence and sporting are permitted. To request a license for import the importing party has to indicate the quantity, make, model, calibre, barrel length, country of origin, manufacturer, shipping method, port of entry and it must arrive with the proper consular documents.

Arms and ammunition produced by the MoD are regulated. Re-exports are not contemplated. Exporting parties must remit list of weapons including quantity, make and final user to DECAM. Owners can temporarily export weapons for repair or sporting purposes as long as the time of return is stipulated. Brokering and transit is not specifically dealt with in the Guatemalan law though DECAM is responsible for the physical transfer from customs to merchant.

## Domestic SALW Control Legislation

Individuals and legal entities that purchase firearms in Guatemala must first obtain authorisation from DECAM before purchasing a weapon at a private dealership. The new firearms owner then has three days to register the weapons and provide DECAM with two bullets for ballistics records. Each individual licensee may obtain three licenses each of which can, in turn, register three weapons permitting up to nine weapons per individual. This limit does not, however, apply to private security companies. The license for concealed carrying is valid for one year, but after three years of use without any infractions, new licenses are extended for three years. DECAM can also license individuals and companies to own and carry automatic, military-style weaponry though the temporary decree mentioned above limits this for the moment. While ammunition purchases must correspond to the type of weapons licensed, there is no limit to the quantity that may be purchased. Dealers must be authorised by DECAM and are required to maintain an inventory log book presented to the authorities during on site inspections.

As of January 2002, there were 93 legally registered firearms vendors in Guatemala, 11 firing ranges and 13 firearms repair shops. Within Guatemala the following infractions are penalised by law:

- Illegal importation, exportation, sale, transfer and transport;
- Possession or storage of illegal and prohibited weapons and ammunition; and
- Illegal and unauthorised operation of firing ranges and repair shops.

Penalties range from one to three years in prison, although illegal arms trafficking can bring a sentence of up to six years. The most severe cases of trafficking or possession of illegal military-style weapons can bring up to twelve years prison. Weapons and ammunition are confiscated in all cases and can be re-sold by public auction or returned to the original owner depending on the specific case.

In regards to stockpile management DECAM registers all civilian and private security weapons, including ballistics tests. In recent years, the DECAM issued regulations for the management of private security stockpiles containing ten weapons or more though the courts ruled these regulations unconstitutional.

## Civil Society

The International Action Network on Small Arms (IANSA) lists eight Guatemalan organisations among its participants, although only one, the Instituto de Enseñanza para el Desarrollo Sostenible (IEPADES), is demonstrably active in terms of participation. IEPADES was a founding member of IANSA and currently part of the National Disarmament Commission which has resulted in the development of a national action plan and the government's ratification of several international instruments.

IEPADES has also developed activities for raising awareness about the dangers of arms and violence among school children through a campaign translated to English 'Gun Free Hands, Free of Violence'. A national drawing competition was held and the best drawings

of pictures and messages against guns and violence were published in a calendar distributed nationwide. Through its activities on the National Disarmament Commission IEPADES will be collaborating with the UNDP and other agencies in the implementation of national disarmament plan in 2005 and 2006.

## Recommendations

The leadership of the current Guatemalan president has made way for several substantive steps towards greater SALW control though it has not yet changed the permanent legal structure. Internal divisions in congress, the executive branch and society in general make profound changes a challenge in the short term. With this in mind IA makes the following recommendations:

1. The UN and other actors that were involved in MINUGUA (including the current UNDP presence in the country) need to find an appropriate political, financial and technical strategy to help support and promote the adoption of the reforms on SALW control in the context of all of the pending reforms called for in the peace accords and move beyond the status quo;
2. The Government of Guatemala should consider incorporating into new legal reform proposals the type of brokering legislation recently adopted in Nicaragua;
3. Because of the quantity of private security companies in the country further control and regulations is required in order to prevent leakages of weapons in the illegal market as well as their misuse by agents on and off duty.

## Endnotes

1. Much of the information in this report comes from MINUGUA.  
2002. *Armas y municiones en Guatemala: Estudio sobre su control y regulación jurídica*. Guatemala City: MINUGUA; and Arias Foundation for Peace and Human Progress. 2001. *Análisis Comparativo de Legislaciones Centroamericanas en Materia de Tenencia y Portación de Armas de Fuego*. San José: Arias Foundation.