

Larsen, Jill K

RELEASED IN PART B1,1.4(D)

From: Boswell, Scott D  
Sent: Wednesday, October 27, 2004 8:38 AM  
To: Larsen, Jill K; Coburn, Anna Mary  
Subject: Guatemala 2682

FYI -- the latest and greatest on adoptions in Guatemala. SDB

Cable Text: Classified by DAS, A/GIS, DoS on :11/9/12 ~ Class: Confidential ~ Reason:1.4(d) ~  
Declassify on: 10/26/2029

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ACTION OCS-00

INFO LOG-00 NP-00 AID-00 AMAD-00 CA-00 CIAE-00 INL-00  
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P 261517Z OCT 04  
FM AMEMBASSY GUATEMALA  
TO SECSTATE WASHDC PRIORITY 4632  
INFO AMEMBASSY MEXICO PRIORITY

UNCLAS GUATEMALA 002682

STATE FOR CA/OCS/CI AND WHA/CEN  
ALSO FOR CA/P AND CA/VO/F/P

MEXICO FOR DHS

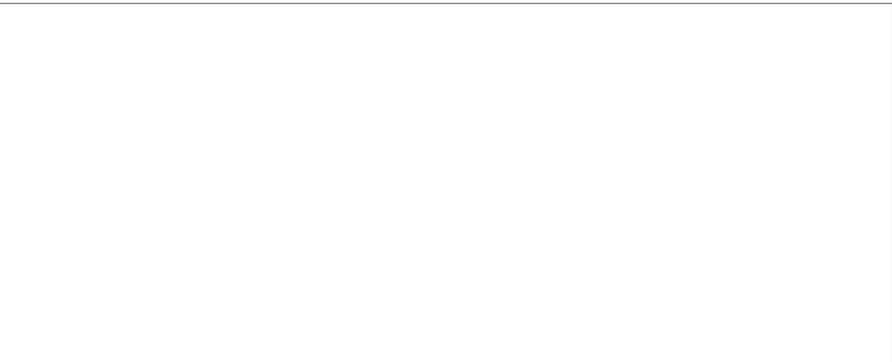
SENSITIVE

E.O. 12958: N/A  
TAGS: KOCI, CVIS, CASC, CMGT, PGOV, PHUM, GT  
SUBJECT: GUATEMALAN ADOPTIONS: ALL THREE BRANCHES OF  
GOG UNITE ON NEED FOR REFORM; FIRST LADY LEADS EFFORT

REF: Guatemala 1805 and previous

SUMMARY

REVIEW AUTHORITY: Robert Strand, Senior Reviewer



Meanwhile,

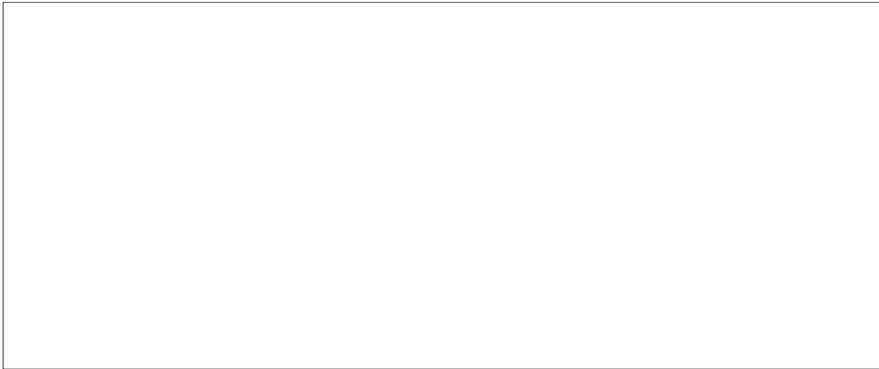
1.4(D)  
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we expect to process about 1,000 adoption cases to conclusion during the November-December holiday season. End summary.



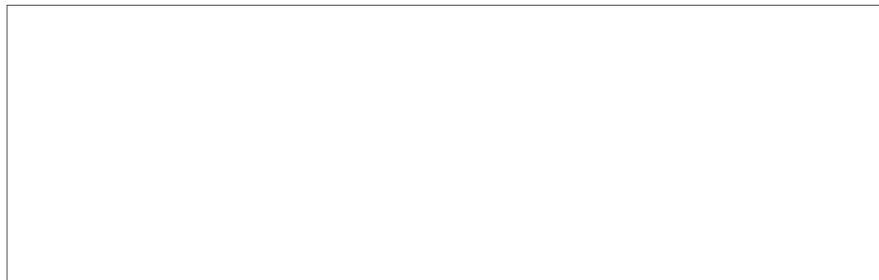
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B1

2. (SBU) On September 8, the Ambassador, conoffs and DHS officers called on Mrs. Berger to learn more about her recent decision to take up the cause of adoption reform. Accompanied by representatives of UNICEF, the MFA, the Solicitor General's office (PGN), the Human Rights Ombudsman (PDH), the Attorney General's office (MP), the Catholic and Evangelical churches, the national medical and bar associations, and some NGOs, Mrs. Berger discussed her support for a new bill drafted by UNICEF and about to be introduced in Congress.



1.4(D)  
B1

4. (SBU) The Ambassador agreed that the interests of the child, natural mother and adopting parents should all be protected, and that abuses need to be prevented. Pointing out the U.S. will soon implement the Hague Adoption Convention, he urged that any adoption reform be consistent with the Convention yet flexible, i.e., there should be a grandfather clause for pending cases to ensure fairness for anyone caught in the transition. The Ambassador commented that the U.S. Congressional Coalition on Adoptions, which includes about one-third of the members, also supports a workable and transparent system that protects all parties from abuse. Finally, he offered to have Department legal experts review the new bill.



1.4(D)  
B1

GOG STANDS UNITED ON ADOPTION REFORM

6. (U) On October 14, President Berger, president of

Congress Rolando Morales (UNE party) and president of the Supreme Court Rodolfo de Leon opened a UNICEF-sponsored conference on the adoption issue by publicly committing to adoption reform. (Note: CG attended the opening sessions.) In this notable display of unity by the heads of the three branches of government, each called for a separate body of law to regulate adoptions, thus signaling their disapproval of another bill currently in congressional committee that aims to amend the civil code, a bill denounced by many as a thinly-veiled attempt to prolong the current notarial

adoption system.

7. (U) Morales said the current system started as a noble effort to find homes for children orphaned by the civil conflict, but that it has now become an "abused and distorted 115 million dollar-a-year business." President Berger stated "adoption provides a good home for needy children," but the current system has become too much like "a commercial market" which has caused "several Hague countries to suspend adoptions, and with the U.S. set to implement the convention soon, it is important that we have proper controls so adoptions can continue." Berger ended his speech by calling on all sectors of society to come together and pass reform legislation.

#### SUSPENSION OF ADOPTIONS VERY UNLIKELY

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8. (U) Later in the conference, Rep. Jorge Luis Ortega, the only representative in Congress of the small DIA party and chairman of the congressional Committee on Children and the Family, one of two committees studying adoption legislation, complained he was about to report the civil code amendment bill out of committee when Berger's GANA party asked for time to review the new UNICEF bill. Vega threatened to call for a suspension of adoptions if he could not move "his" bill into the full Congress.

9. (U) In another conference session, a visiting representative of UNICEF's Committee for the Rights of the Child, Rosa Maria Ortiz, attacked the current system as "the worst adoption system in the world," describing it as a money-driven "baby market" designed to satisfy primarily adopting parents and adoption attorneys. She also called for a suspension of adoptions; her comments made headlines in several of Guatemala's daily newspapers.

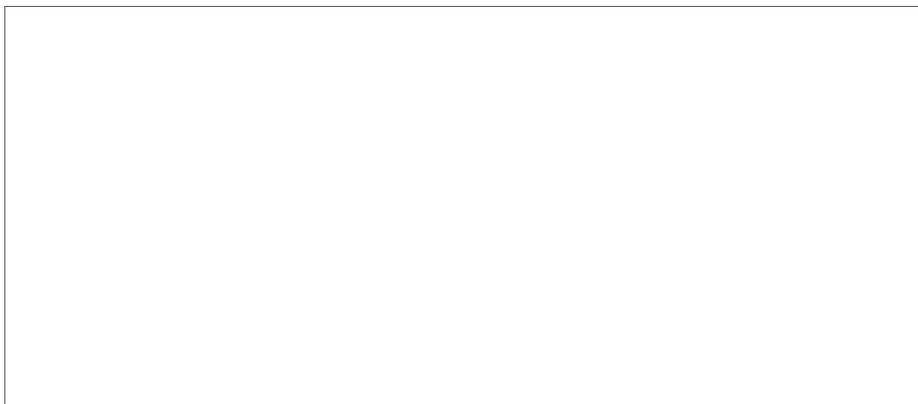
#### USG AND CONGRESSIONAL COMMITTEE CHAIRMAN IN AGREEMENT

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10. (SBU) On October 19, acting Pol Chief and CG called on Rep. Eduardo Zachrisson, a member of President Berger's GANA party and chairman of the

congressional Committee on Legislation and Constitutional Points, the other committee that is reviewing the adoption reform bills. Zachrisson said he had asked for two months to study the new UNICEF bill; he dismissed his colleague's threat to lobby for a suspension of adoptions as "just Ortega's opinion."

11. (SBU) Zachrisson said he was eager to hear the USG's view on the current adoption situation. CG observed that in 1993 at The Hague, members of the world community had finally settled the most sensitive adoption issues and agreed on basic legal concepts; noted the U.S. would soon implement the Convention; and urged that adoption reform legislation in Guatemala be consistent with the convention as well as flexible, as the world community believes the convention to be the best way to process adoption cases and prevent abuses.



1.4(D)  
B1

13. (SBU) Zachrisson questioned whether adoptions would really continue under a Hague Convention-based regime. CG conceded that case volume would go down initially as controls were established, but pointed out that numbers are high to begin with as more adopting families turn to Guatemala now that other countries in the region have reformed their adoption laws. CG gave as examples of well-regulated yet thriving adoption countries the PRC, Russia and South

Korea. Finally Zachrisson, one of thirteen lawyers on his 19-member committee, said he preferred the Supreme Court as a central authority, in the belief that the courts could better supervise the adoption process and prevent abuses.

ANOTHER RECORD YEAR  
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14. (U) During the November-December holiday season, based on pre-approval statistics compiled by our DHS colleagues, we expect to process about 1,000 adoption cases to conclusion. During all of FY2004, we issued 3,262 immigrant visas for children adopted by Amcit parents, an increase of 40 percent over the 2,326 visas we issued in FY2003.

COMMENT

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15. (U) Our review of the new UNICEF bill suggests that it contains many basic Convention concepts. For example, the bill: is a separate body of law that puts the interest of the child first; establishes a central authority (National Adoption Council) composed of reps from the MFA, PGN, Social Welfare and the National Children's Commission to qualify children as orphans, receive applications from prospective adopting parents, and maintain case registers; removes the private attorneys from the child intake and care process while authorizing the Bureau of Social Welfare to license and supervise private foster homes; and requires final approval of cases by a court. The bill is also flexible: there is a grandfather clause for pending cases, and a similar transition is envisioned for private foster homes to state supervision.

16. (U) We are forwarding a copy of the new UNICEF bill to the Department (CA/OCS/CI) for translation and legal review. End comment.

HAMILTON

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