

Agreement on the Basis for the Legal Integration of the Unidad Revolucionaria Nacional Guatemalteca

Whereas the internal armed conflict that Guatemala has experienced for over three decades resulted from the closing of political opportunities for democratic expression and participation and from the adoption of measures of political repression against individuals and organizations linked or identified with the Government overthrown in 1954,

Whereas, given a situation where there is social and economic injustice, including discriminatory practices against indigenous peoples, and the systematic denial of individual and collective rights and safeguards, the peoples concerned have the right to seek the necessary democratic change,

Whereas the package of peace agreements signed by the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG) constitute a new and promising framework for the democratic life of the country, based on new forms of political participation and a new institutional framework,

Whereas building a democratic, multi-ethnic, multicultural and multilingual nation, with social justice, calls for equitable participation by all citizens, both men and women, on the basis of complete political and ideological pluralism,

Recognizing that Guatemalan society needs to develop conditions conducive to reconciliation and lasting governability,

Whereas completion of the negotiating process with a view to finding a political solution to the internal armed conflict calls for the establishment of a set of measures to integrate URNG as a lawful body,

Recognizing the determination of URNG to convert its political-military forces into a duly authorized political party that will operate within the Guatemalan legal system,

Recognizing that the legal integration of members of URNG, in full exercise of their constitutional rights and duties and in security and dignity, will contribute to the democratic process and its consolidation, the restoration of the social fabric in Guatemala, reconciliation and the establishment of a firm and lasting peace,

Calling on the State as a whole, all sectors of Guatemalan society and the international community to assist in and contribute to the process of integrating URNG,

The Government of Guatemala and URNG (hereinafter referred to as “the Parties”) have agreed as follows:

I. DEFINITIONS

1. The “legal integration of URNG” means the process whereby URNG members are to be integrated into political, economic, social and cultural life in a context of dignity, security, legal safeguards and the full exercise of their civil rights and duties.

2. The process of integrating members of URNG shall begin with the signing of the Agreement on a Firm and Lasting Peace and shall lead to their lasting integration into the civil life of the country. The integration process shall be divided into two phases: an initial integration phase, which shall last one calendar year starting on D+60, and a subsequent, definitive integration phase, for the medium term, in which the support required to consolidate the process will be provided.

Initial integration phase

3. There shall be two separate procedures during the initial integration phase, which shall be applied according to the status of the URNG members concerned:

(a) The procedure applicable to members of the various guerrilla fronts and other combatants, according to the definitions set out in paragraph 20 of the Agreement on the Definitive Ceasefire. Such procedure shall be divided into two stages:

(i) The demobilization stage, which shall last two months and means the ending of URNG military structures at the agreed assembly points. This stage shall include services such as the provision of temporary documentation and vocational training and guidance, with a view to facilitating the subsequent integration of demobilized combatants. The verification authority shall transmit to the Special Integration Commission a definitive list of demobilized combatants drawn up at assembly points no later than D+30;

(ii) The reinsertion stage, which shall begin upon completion of the demobilization process (D+60) and end one year later. Its basic purpose is to provide emergency assistance to former combatants and create conditions conducive to a smooth transition to the definitive integration phase. The minimum requirements to be met during such phase are (but shall not be limited to):

- Provision of inputs and services appropriate to an emergency situation;
- Beginning of training and employment programmes;
- Establishment of financial machinery to obtain the resources needed to launch the definitive integration phase;
- Identification of government social and economic programmes for the population as a whole that can provide assistance to former

combatants and to members of URNG internal structures who are to be integrated during the definitive integration phase, on terms similar to those for other beneficiaries of such programmes;

(b) The procedure applicable to other URNG members, members of the internal political structure and Guatemalans forming part of the international support structure who are not subject to the demobilization process. Provision shall be made for them to receive the necessary support for their legal integration, and, based on their individual circumstances, other services to facilitate their integration into productive life. URNG shall transmit to the verification authority by D-15 at the latest a list of non-demobilized members who are to be beneficiaries of this procedure. The authority shall, in turn, transmit such list to the Special Integration Commission once it has been set up.

4. The Government of Guatemala and URNG pledge to take the necessary steps to ensure completion of the initial integration stage, and they request assistance from the international community to that end. For the execution of the relevant programme, subprogrammes and projects, a Special Integration Commission shall be set up, with the participation of the Government of Guatemala, URNG and, in a consultative capacity, donor and cooperative countries and agencies. To ensure full participation by beneficiaries in the design, execution and evaluation of projects and programmes concerning them, an Integration Foundation shall be set up which shall be directly involved in the various stages of the integration process.

Definitive integration phase

5. One year after D+60, beneficiaries of both procedures shall become eligible for longer-term services provided by the Government, including financial, technical, legal and employment assistance and assistance in the areas of education, training and production projects with a view to ensuring their lasting integration into the economic, social and cultural life of the country, on the same terms as the rest of the Guatemalan population. Additional specific projects for URNG members shall be the responsibility of the Integration Foundation. The Parties call on international cooperation to provide technical and financial support to ensure the success of the definitive integration phase.

Integration programme

6. "URNG integration programme" means the package of legal, political, economic and security measures and provisions, and also subprogrammes and projects, which are to ensure the success of the integration process. This programme shall be carried out in accordance with the objectives and principles set out below.

II. OBJECTIVES AND PRINCIPLES

Objectives

7. The integration programme shall seek to create the best possible conditions for the integration of URNG members into the legal, political, social, economic and cultural life of the country, in security and dignity.

8. The initial integration phase shall seek to provide URNG members, particularly former combatants, with the necessary means to embark upon their lasting integration by means of productive, educational, training and other activities. Appropriate use of such means shall be the responsibility of the beneficiaries.

9. The definitive integration phase shall seek to provide URNG members, particularly former combatants, with the necessary support to consolidate their integration. The integration programme shall also seek to contribute to the development of the country and to national harmony.

Principles

10. The Government of Guatemala undertakes to guarantee the political, legal and security conditions and promote the social and economic conditions necessary for the implementation of the integration programme.

11. URNG undertakes to do everything possible to ensure the successful integration of all of its members into the social, economic and cultural life of the country through the implementation of the programme.

12. The programme shall treat former combatants, women, young people and disabled persons as sectors requiring specific priority attention.

13. In view of the diverse personal circumstances of the URNG members who are being integrated into lawful life, the programme shall be implemented in a flexible manner appropriate to their needs.

14. In order to ensure such flexibility, subprogrammes and projects designed, managed and implemented with the full participation of beneficiaries shall be promoted, in accordance with the institutional arrangements set out in this Agreement.

15. Whenever relevant, and particularly in the case of production projects, efforts shall be made to ensure that the programme has a positive impact on the communities in which it is carried out and that it is designed and implemented in consultation with them.

III. ELEMENTS OF THE INTEGRATION PROGRAMME

16. The URNG integration programme shall consist of the following elements:

A. Legal area

National Reconciliation Act

17. The Government shall sponsor in the Congress of the Republic a draft National Reconciliation Act whose object shall be, in accordance with the spirit and content of the Peace Agreements, to promote a culture of harmony and mutual respect that will eliminate any form of revenge or vengeance, while safeguarding the fundamental rights of the victims, as prerequisites for a firm and lasting peace.

The right to know the truth

18. In recognition of the inalienable right of any society to know the truth, the National Reconciliation Act shall instruct the Commission to Clarify Past Human Rights Violations and Acts of Violence that Have Caused the Guatemalan Population to Suffer (the “Clarification Commission”) to devise means whereby the truth about the period of the internal armed conflict may be known and acknowledged, in order to avoid a repetition of such events. The Act shall require all State bodies and entities to provide the Commission with the support necessary for the accomplishment of its tasks, in accordance with the purposes specified in the relevant agreement.

The right of redress

19. On the principle that any violation of human rights entitles the victim to obtain redress and imposes on the State the duty to make reparation, the Act shall assign to a State body responsibility for implementing a public policy of compensation for and/or assistance to the victims of human rights violations. The body in question shall take into consideration the recommendations to be formulated in that regard by the Clarification Commission.

Extinction of criminal liability

20. With a view to promoting national reconciliation, without neglecting the need to combat impunity, the National Reconciliation Act shall contain a clause allowing URNG members to be integrated into lawful life.

Political crimes

21. In relation to the aforesaid clause, the National Reconciliation Act shall declare the extinction of criminal liability for political crimes committed in the internal armed conflict up to the date on which the Act enters into force and shall cover persons who perpetrated, abetted or were accessories to crimes against State security, public institutions and the public administration, as defined in Articles 359, 360, 367, 368, 375, 381, 385 to 399, 408 to 410 and 414 to 416 of the Penal Code and in Title VII of the Arms and Munitions Act. In such cases, the Public Prosecutor’s Office shall refrain from exercising a right of action and the judicial authority shall dismiss proceedings.

Related common crimes

22. Also in relation to the clause mentioned in paragraph 20, the National Reconciliation Act shall extinguish criminal liability for related common crimes committed in the armed conflict, such crimes being defined as those which are directly, objectively, intentionally and causally related to the commission of the political crimes referred to in the preceding paragraph and which cannot be shown to be motivated by personal goals. The common crimes which are defined as related to the political crimes mentioned in the preceding paragraph are those described in Articles 214 to 216, 278, 279, 282 to 285, 287 to 289, 292 to 295, 321, 325, 330, 333, 337 to 339, 400 to 402, 404, 406 and 407 of the Penal Code.

Other extinctions of criminal liability

23. In respect of persons who were involved in the internal armed conflict owing to institutional mandates, the National Reconciliation Act shall contain specific provisions equivalent to those previously mentioned, in that they shall extinguish criminal liability for common crimes perpetrated with the aim of preventing, thwarting, suppressing or punishing the commission of political crimes and related common crimes, where such crimes were directly, objectively, intentionally and causally related to that aim, unless it is demonstrated that there is no relationship between the criminal act and the stated aim.

Restrictions

24. The provisions in the National Reconciliation Act which extinguish criminal liability shall under no circumstances extend to crimes which, under domestic law or the international treaties ratified or signed by Guatemala, are imprescriptible or are not subject to an extinction of criminal liability.

Proceedings

25. The judicial proceedings for related common crimes shall be consistent with guarantees of due process, shall be expeditious and adversarial, and shall comprise the following stages:

(i) If the Public Prosecutor's Office or a judicial authority is to try one of the crimes referred to in paragraphs 22 and 23, it shall transfer the case immediately to the appeals court division having jurisdiction in the matter. The court shall notify the aggrieved person, defined as such in Article 117 of the Code of Criminal Procedure, the Public Prosecutor's Office and the defendant, ordering them to appear within the same period of 10 working days.

(ii) After this period has elapsed, the court shall have five working days in which to issue a reasoned order declaring the extinction valid or invalid and, where appropriate, dismissing the proceedings. If, after the period for notification of the parties has elapsed, the court feels that it needs additional information in order to reach a decision, it shall convene an immediate oral hearing with the sole participation of the parties, at which it shall receive relevant evidence, hear

statements by the parties or their lawyers and, immediately thereafter, issue a reasoned order declaring the extinction valid or invalid and, where appropriate, dismissing the proceedings. The oral hearing shall be held within 10 working days after the end of the period for notification of the parties. At least three days shall elapse between the summons and the hearing.

(iii) An appeal against the court's order shall be admissible only if it is submitted in writing, alleging grievances, within three days from the date of the last notification, by any of the parties having a legitimate interest in the case. If the appeal is declared admissible, the case shall be referred immediately to the *amparo* and preliminary judgements division of the Supreme Court, which shall decide within one week, without further hearings, to uphold, revoke or amend the contested order. The Supreme Court's decision shall not be subject to any form of appeal.

26. No coercive measures, such as committal orders, pretrial detention, measures in lieu of pretrial detention, remand or arrest shall be ordered during the proceedings. The alleged perpetrators, accused persons or defendants may be represented during the proceedings by their lawyers.

27. Upon conclusion of the proceedings, a certified copy of the entire case record shall be transmitted to the Clarification Commission.

Demobilization

28. In order to foster compliance with the demobilization of URNG members stipulated in the Agreement on the Definitive Ceasefire, the National Reconciliation Act shall establish the complete extinction of criminal liability for persons who perpetrated, abetted or were accessories to the crimes defined in articles 398, 399, 402 and 407 of the Penal Code and articles 87, 88 and 91 to 97, paragraph (c), of the Arms and Munitions Act and who committed such acts up to the date on which their demobilization was completed in accordance with the terms, conditions and time-limits stipulated in the aforesaid Agreement. The date on which that demobilization was completed shall be communicated officially by the United Nations verification authority.

Documentation

29. As a result of the conditions in which the internal armed conflict took place, many URNG members have no personal documentation. This limits the exercise of their civil rights and duties. To facilitate an immediate solution to this problem, the Government undertakes to sponsor in the Congress of the Republic the corresponding amendments to the Act on the Personal Documentation of the Population Uprooted by the Internal Armed Conflict (Decree 73-95). Such amendments, in addition to solving the documentation problems of uprooted population groups, shall resolve the lack of personal documentation of URNG members. The Congress shall be asked to consider and resolve

this issue in the two months following the signing of the Agreement on a Firm and Lasting Peace.

Temporary documentation

30. Pending completion of the procedures required for the issue of permanent personal documentation, the verification authority shall be asked to issue temporary documentation for demobilized combatants and other beneficiaries of the Agreement on the Basis for the Legal Integration of URNG.

Other documentation

31. The procedures for naturalization of children born abroad to Guatemalans belonging to URNG shall be expedited.

Other legal provisions

32. The Government undertakes to sponsor in the Congress such legal amendments as are needed to permit full compliance with this Agreement.

B. Political area

33. The Parties undertake to promote a climate of tolerance, openness and plurality which will foster reconciliation and understanding.

34. After the signing of the Agreement on a Firm and Lasting Peace, URNG members, like all other citizens, shall enjoy the full exercise of all their fundamental rights and freedoms (including freedom of organization, movement and residence and the right of political participation) and shall pledge to fulfil all their duties and obligations.

35. The Government considers that the transformation of URNG into a political party duly accredited with the corresponding bodies is a contribution to the strengthening of the rule of law and to the consolidation of a pluralist democracy.

C. Security area

36. The Government undertakes to adopt administrative measures to guarantee the necessary conditions for the effective exercise of the civil rights of URNG members, particularly the rights to life, security and physical integrity. Respect for this undertaking shall be subject to special verification by the international verification authority, which may arrange for URNG members to be accompanied temporarily when the need arises.

37. The Government shall pay particular attention to any complaint of acts or incidents that threaten the safety of URNG members.

D. Socio-economic area

38. In the socio-economic area, the integration programme shall cover the following spheres:

Vocational guidance and training

39. URNG members shall receive vocational guidance and assistance during the demobilization phase, and subsequently if necessary. Once agreement is reached on the kind of economic activity in which they are to engage, they shall be eligible for specific programmes of technical and vocational training.

Education

40. The Government pledges to take the necessary administrative action for the recognition, equivalency rating, validation and legalization of formal and non-formal education completed by URNG members, using appropriate evaluation and equivalency rating mechanisms.

41. During the initial integration period, specific literacy, post-literacy and intensive technical training subprogrammes shall be launched.

42. As part of integration subprogrammes, URNG members may, with the Government's cooperation benefit from grants, scholarships or any other mechanism to help them continue their education.

43. The Parties request international cooperation in implementing these provisions on education, to which end the technical recommendations to be made by the Integration Foundation shall be taken into account.

Housing

44. During the initial integration stage, the Special Integration Commission shall promote appropriate housing conditions for URNG members who require it in order to carry out the corresponding subprogrammes and projects, with special emphasis on the needs of demobilized combatants. Before the end of the initial integration phase, the Special Commission shall pay special attention to guaranteeing access to housing for demobilized URNG members who settle in rural areas and to providing proper credit facilities for those settling in urban areas.

Health

45. In the demobilization phase, combatants gathered at assembly points shall receive a medical check-up. The necessary action will be taken to treat cases identified by the check-up either in the camps or locally. The Special Commission will ensure that patients who require further treatment are referred to the corresponding services. This

subprogramme shall be carried out in cooperation and consultation with the URNG medical team.

Economic and production projects

46. The Parties agree that the integration of URNG members into civilian life requires that they participate actively in production on a basis of dignity, development and legality. To that end, the Parties agree that the Special Commission and the Foundation shall support projects for expanding production and generating employment in urban and rural areas which contribute to the fulfilment of this Agreement.

47. The orientation of such projects shall be in keeping with the provisions of the Agreement on Social and Economic Aspects and the Agrarian Situation. Projects for the expansion of production shall be implemented in keeping with the plans and needs of the communities in which they are to be carried out and in consultation with them.

48. The Government, according to its financial capacities and the technical and financial support provided by international cooperation, shall provide the necessary start-up resources for these projects. It shall facilitate access to means of production, technical advice, credit and marketing channels on the same terms as for other similar projects. It also pledges to take the necessary action to facilitate and legally recognize the forms of organization required to promote these economic activities. Programmes involving individually- or collectively-owned land shall be processed through the Land Trust Fund, on the same terms as other applicants.

E. Cultural area

49. Since a large proportion of URNG members are of Mayan origin, the Parties agree to stipulate that the integration programme must be implemented in conformity with the Agreement on Identity and Rights of Indigenous Peoples.

F. Special subprogrammes

Subprogramme for disabled persons

50. As a result of the internal armed conflict, a sector of the population is disabled and, as one of the most vulnerable and most severely affected groups, requires special priority attention under the programme envisaged in this Agreement.

51. The integration of this group is a more complex matter, because of the personal and social impact of their disability. As a result, specific projects will have to provide proper professional care for their rehabilitation and access to education and training so that they can be genuinely integrated into social and productive life in decent conditions.

Legal assistance

52. The integration programme shall provide for URNG members to receive legal assistance in dealing with the legal aspects of their integration.

Family reunification

53. The Parties agree to take all necessary measures to enable URNG members to be reunited with their families. The Government undertakes to extend all necessary facilities to that end.

54. The Government undertakes to cooperate with the Clarification Commission on matters relating to the issue of detained and disappeared URNG members and to contribute whatever resources, relevant measures and information might lead to the recovery of the remains of URNG members, including URNG combatants who died in combat.

IV. INSTITUTIONAL ARRANGEMENTS

Initial integration

55. This phase shall be financed with resources from the Guatemalan Government and contributions from the international community.

56. The Parties agree to create a Special Integration Commission, which shall consist of an equal number of representatives from the Government and URNG and, in a consultative capacity, representatives from donor and cooperating countries and international cooperation agencies.

57. The Commission shall be set up within 15 days following the signing of the Agreement on a Firm and Lasting Peace and the Government shall issue the corresponding government decree to that effect.

58. Once it is set up, the Commission shall be responsible for coordinating the integration programme, for taking decisions on the allocation of funding to its contingent subprogrammes and projects and for raising technical and financial resources. The Parties agree that the programme's execution shall conform to the objectives and principles of this Agreement.

59. In order to perform its functions, the Special Commission shall, by means of specific rules to be adopted no later than 30 days after it is set up, organize its responsibilities in the areas of coordination, financial management and decision-making with respect to subprogrammes and projects arising out of this Agreement. The Special Commission shall likewise identify in consultation with donor and cooperating countries and agencies, appropriate financial mechanisms, including the possibility of trust funds, to facilitate the flexible and effective implementation of the integration programme.

Definitive integration

60. Additional specific projects for URNG members shall be the responsibility of the Integration Foundation. URNG undertakes to set up that Foundation in the 90 days following the signing of the Agreement on a Firm and Lasting Peace. The Government undertakes to expedite the procedures for setting up the Foundation. The Parties call on international cooperation to provide technical and financial support to ensure the success of the definitive integration phase.

V. FINAL PROVISIONS

First. This Agreement forms part of the Agreement on a Firm and Lasting Peace and shall enter into force when the latter is signed, with the exception of any specific provisions which may have entered into force prior to that date.

Second. In accordance with the Framework Agreement, the Parties request the Secretary-General of the United Nations to verify compliance with this Agreement.

Third. This Agreement shall be widely publicized.

Madrid, 12 December 1996.

(signed)

For the Government of Guatemala:

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