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Guatemala

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Notice: Guatemala June 2011 Listserv Update

Office of Children's Issues Meeting with the Consejo Nacional de Adopciones in Washington, DC on April 14, 2011

On April 14, 2011, the Office of Children's Issues (CI) met with: Elizabeth de Larios, President of the *Consejo Nacional de Adopciones* (CNA); Marilys Barrientos de Estrada, and Fernando de la Cerda of the Guatemalan Embassy in CI's office in Washington, DC. Ambassador Susan Jacobs, the Director of Children's Issues, the Adoption Unit Chief, and other CI adoption unit staff represented the CI in the meeting. The U.S. Citizen and Immigration Services (USCIS) Deputy Director of International Operations Division, Wally Bird, attended as well.

Representatives of CI and USCIS expressed the U.S. Government's (USG) interest in resolving the estimated hundreds of grandfathered adoption cases. We specifically raised concerns regarding cases under CNA processing authority, which have been stagnant since mid-2010. The CNA stated again that cases placed under its authority must be processed in accordance with the December 2007 law, which requires the CNA to seek biological and domestic placement options prior to approving an intercountry adoption. In addition, the CNA also informed us that many of the cases it has reviewed do not meet other procedural and substantive requirements of the new December 2007 law.

CI pointed out that the December 2007 law provided for continued processing of transition cases. Specifically, Article 56 of the December 2007 law states that cases in progress prior to December 31, 2007, and registered by February 1, 2008, may proceed pursuant to processes in place at the time of case initiation (notarial). CI expressed concern that cases that have been under CNA processing for over 3 years are now no longer being treated as transition cases. While we respect the CNA's right and responsibility to apply Guatemalan law, we urged the CNA to continue to move forward on these cases, in the best interests of the children.

During the meeting CI also provided CNA with a draft letter of assurance that U.S. immigration process is available for CNA cases that meet U.S. grandfathering provisions. We had committed to providing this letter during our meetings in Guatemala in March 2011. CNA President De Larios reviewed and generally agreed with the language of the letter, but requested several additions. Both parties concluded that a single letter could cover the group of cases identified as ready to move forward.

May 5, 2011 meeting with the CNA and current status of the letter of assurance" for cases with the CNA

Following the April 14, 2011 meeting, the Director of the Office of Children's Issues finalized a letter of assurance, which incorporated CNA's previously stated expectations. The Consul General delivered this letter to the CNA on May 5, 2011. However, the CNA responded that it required additional language on four new points. CI is expeditiously working on a revised version of the letter addressing CNA's new requirements.

The CNA advised that it has identified 9 cases as ready to proceed once they accept the language of the letter. They also indicated that there are 27 total cases with 31 children under CNA processing authority. The CNA repeated its previous statements that not all cases under its authority will be able to proceed to intercountry adoption and that it will notify U.S. citizen prospective adoptive parents with cases that cannot proceed.

Senator Mary Landrieu and Ambassador Susan Jacobs trip to Guatemala April 18-19, 2011

Ambassador Susan Jacobs travelled to Guatemala from April 24-27, 2011 to attend meetings with a delegation led by Senator Mary Landrieu of Louisiana. The delegation attended meetings with: Ministerio Publico (MP); the Comisión Internacional Contra la Impunidad en Guatemala (CICIG); the Procuraduría General de la Nación (PGN); CNA; Guatemalan President Colom; and members of the Guatemalan Congress. Senator Landrieu expressed her desire for the pending adoption cases to be resolved and children placed with the U.S. families with whom they had been matched.

Working Group update

Guatemalan authorities have advised us that the working group (known as the "mesa tecnica" in Spanish) has continued to meet weekly. The U.S. Embassy continues to communicate with each of the institutions that participate in the working group on a regular basis.

In its April 19 meeting with Senator Landrieu and Ambassador Jacobs, the CNA provided information about cases reviewed by the working group to date. Though not all cases appear to be connected to U.S. grandfathered families, approximately 60 cases involving U.S. citizens have undergone an initial review by the working group since January 2011. The CNA information indicates the following on the cases reviewed by the working group:

- 6 cases were approved to proceed to final adoption processing as notarial cases
- 12 cases are pending additional processing
- 18 cases are pending under the CNA's protection processing authority
- 13 cases resulted in the child being placed with the biological family
- 6 cases resulted in the child being placed in domestic adoption proceedings
- 2 cases were completed and the child is already in the U.S.
- 3 of the cases did not meet transition requirements.

Important note: The information provided was incomplete, somewhat unclear, and is unconfirmed. We have asked the CNA and the PGN to inform families directly of significant case developments, and have asked that the two agencies provide us with copies of the notices to families, so that we can ensure that families receive this information. To date, the two agencies have not provided us with copies of the notice to families of case specific decisions, but we continue to request it.

Adoption Visas issued by the U.S. Embassy in 2011

Since January 1, 2011 the Consular Section of the U.S. Embassy has issued 16 IR3 adoption visas for cases which had completed all adoption processing including I-600 approval from USCIS. The numbers of visas issued each month from January 2011 to May 2011 are as follows:

January 2011: 2
February 2011: 3
March 2011: 7
April 2011: 3
May 2011 (as of May 15): 1

Please note that the numbers represent only those cases that have completed ALL Guatemalan processing, including: receiving a final adoption decree; new birth certificate; Guatemalan passport; and for which a complete Form I-600 petition has been filed with and approved by USCIS. Only after all of these steps are completed, USCIS transfers the case file to the Consular Section of the U.S. Embassy for visa processing. The above figures represent only the numbers of cases which have completed ALL processing steps with Guatemalan authorities, USCIS- Guatemala, and the Consular Section.

USCIS Status of Remaining Grandfathered Cases

As of April 30, 2011, USCIS Guatemala had 378 active cases. (Note: This total may include cases in which the petitioner has subsequently decided to abandon the case but did not inform USCIS.) Of these cases:

- 339 were pre-approved and pending action by the Government of Guatemala; awaiting final adoption documents
- 21 were pending U.S. petitioner action (i.e. DNA, RFE response, etc.)
- 2 cases were pending USCIS processing
- 2 cases pending other U.S. Government action
- 2 cases were pending Consular Section visa interview

In the month of April 2011, USCIS Guatemala received *final* Guatemalan adoption documents for 2 cases AND approved 2 Form I-600 petitions.

- If the documents are sufficient, the case is processed quickly and referred to Consular Section for visa appointment.
- If the final documents do not provide sufficient information to establish that the child meets the definition of an orphan under U.S. immigration law, USCIS Guatemala City issues a Request for Evidence (RFE).

USCIS Guatemala received 11 sets of final documents in from January through April, 2011.

Other news

CICIG announced in a press release that lawyer Susana Luarca Saracho was arrested in her residence on May 6, 2010 and charged with illicit association, trafficking in persons for the purpose of illegal adoptions, and use of false documents in connection with her involvement with Asociación Primavera. In addition, the CICIG press release announced that Alma Beatriz Valle Flores de Mejia, also connected with Asociación Primavera, was arrested on April 6 on similar charges. The link (in Spanish) can be found on CICIG's website at <http://cicig.org/index.php?mact=News,cntnt01,detail,0&cntnt01articleid=101&cntnt01returnid=355> .