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Guatemala

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Notice: Office of Children's Issues trip to Guatemala

Office of Children's Issues Trip to Guatemala, December 2010 The Department's Special Advisor for Children's Issues, Ambassador Susan Jacobs, and the Chief of the Adoptions Unit of the Office of Children's Issues, Alison Dilworth, travelled to Guatemala from December 6 - 11, 2010 to discuss the status of pending grandfathered adoptions in Guatemala with Guatemalan officials. Rebecca Weichand, Director of Policy for the Congressional Coalition on Adoption Institute, also travelled and attended many of the meetings.

The full itinerary included a meeting with Guatemalan President Colom, as well as meetings with the President of the Consejo Nacional de Adopciones (CNA), the Acting Solicitor General of the Procuraduria General de la Nacion (PGN), UNICEF's country director, the Chief of Adoptions of the Guatemalan Ministry of Foreign Affairs, the Commissioner of the International Commission against Impunity in Guatemala (CICIG), Norma Cruz of Sobrevivientes, and the Ministerio Publico (MP). They also visited public and private orphanages.

In their meetings, Ambassador Jacobs and Alison Dilworth expressed the U.S. government's strong interest in resolution of the estimated hundreds of pending grandfathered adoption cases. They were met with an overall positive atmosphere of cooperation and open discussion and support for intercountry adoptions processed with strong safeguards to protect children and birth parents.

Measures Toward Resolution of Grandfathered Cases

The Office of Children's Issues (CI) was encouraged by the positive reception on the recent trip, but the process for resolving the final grandfathered caseload remains complex. Pending Guatemalan investigations and court processes must still be resolved, on which a strict timeline cannot be imposed. The following measures to propel resolution were discussed during the visit and are in progress:

1. Guatemalan officials agreed to identify and release cases without serious anomalies for final processing, and to add additional resources so that more investigators work on resolving the more complex adoption cases.
2. The U.S. Embassy is creating a current master list of grandfathered cases that will use the existing USCIS caseload as a foundation and cross reference against cases on lists provided by the PGN, CNA and MP. The master list will help us ensure that none of the cases become lost and to monitor their progress.
3. The Guatemalan government is holding frequent working group meetings to evaluate pending cases and make decisions regarding next steps.
4. The U.S. Embassy is checking in frequently with the working group to monitor its progress.
5. The Guatemalans are following up on the President of Guatemala's pledge to look into the question of lifting travel holds or "arriagos" on cases where adoptions were completed but the cases were connected

to an open criminal investigation. We urged President Colom and the MP to separate the children's cases from the pending criminal investigation wherever possible.

Making Sure the Master List is Complete

On December 20, 2010 Ambassador Jacobs and Alison Dilworth hosted a conference call for prospective adoptive parents to report on their December trip. During the call they asked that all adopting parents with grandfathered cases send their case information to AskCI@state.gov to be sure their cases are included on the master list that CI and the Embassy are compiling. This information was also solicited on the [adoptions website](#). In response to this request CI has received 63 responses from adopting parents. As a reminder, in order to be considered grandfathered, the case must meet both U.S. and Guatemalan requirements.

Status of Remaining Grandfathered Cases

Since December 1, 2010 the U.S. Embassy has issued 5 immigrant visas for approved adoption cases. As of December 31, 2010, USCIS Guatemala City had 382 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:

- 345 were pre-approved and pending action by the Government of Guatemala; awaiting final adoption documents
- 32 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
- 1 case was pending Consular Section visa interview

In the month of December, 2010, USCIS Guatemala City received final Guatemalan adoption documents for 2 cases AND approved 3 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 an RFE - Request for Evidence.

In total, USCIS Guatemala received 30 sets of final documents in 2010. Since December 2010, the PGN reports that it has released 4 case files for final adoption processing, and identified another case for release after a scheduled court proceeding. The released cases are still working their way through the Registro Nacional de las Personas (RENAP). We have also learned that since December 2010 the MP has released two case files that were under investigation for continued processing.

Guatemalan Working Group

The Guatemalan working group met on January 21, 2011 and will meet weekly. The institutions that participated in this first meeting were the PGN, CNA, MP, and CICIG. The Embassy communicates with each of the institutions that participates in the working group on a regular basis.

Arriagos/travel holds

The U.S. embassy learned that two travel holds, or "arriagos", have been lifted since December 1, 2010.

Other news

RENAP: One of the questions raised in the December 20, 2010 conference call was whether or not RENAP was purposely delaying intercountry adoption cases. The U.S. Embassy reached out to RENAP regarding its processing. The issue appears to be systemic and not specific to adoptions. RENAP has the responsibility to verify the bona fides of new registrations and processes cases in accordance with its resources. RENAP is currently experiencing significant staffing issues due to a contract dispute that resulted in the contracts for 445 employees lapsing in January 2011 and the positions going unfilled. Despite the difficulties, RENAP continues to issue revised birth certificates for approved adoptions. **CNA:** Another question raised during the conference call was whether the CNA has the authority under current interpretation of the new law to process intercountry adoption cases. Our current understanding is that the new law created the CNA, and that it can only process cases that were filed since the inception of the CNA, i.e. after the date the law came into effect. In other words, the PGN is the sole authority to process the pending cases and the CNA is the sole authority to process new adoption cases. One of the tasks for the working group will be to review the files of pending cases that were transferred to the CNA and determine on a case-by-case basis how to move forward. This underlines the importance of frequent communication between agencies and the importance of the working group.