

REPORT No. 30/12
CASE 12.546
FRIENDLY SETTLEMENT
JUAN JACOBO ÁRBENZ GUZMÁN
GUATEMALA
March 20, 2012

I. SUMMARY

1. On December 27, 1999, the Inter-American Commission on Human Rights (hereinafter, "Inter-American Commission," Commission" or "IACHR") received a petition lodged by María Leonora Árbenz Vilanova and, subsequently, communications signed by María Cristina Vilanova Castro widow of Árbenz and Erick Árbenz (hereinafter, "petitioners"), against the State of Guatemala (hereinafter, "State" or "Guatemala").¹ In the petition, it is alleged that the State is responsible for violation of Article 21 (right to property), Article 10 (right to compensation), Article 24 (right to equal protection) of the American Convention on Human Rights (hereinafter, "the Convention" or "the American Convention"), to the detriment of Juan Jacobo Árbenz Guzmán, his spouse María Cristina Vilanova de Árbenz and his children Juan Jacobo, María Leonora and Arabella (hereinafter, "alleged victims"). Subsequently, it was alleged that Article 7 (right to personal liberty), Article 14 (right of reply), Article 25 (judicial protection) and Article 5 (humane treatment), all of the American Convention, were violated as well. These alleged violations of the rights of the Árbenz family stemmed from the overthrowing of constitutionally elected President Juan Jacobo Árbenz Guzmán in a military coup, which forced the Árbenz family into exile and led to the confiscation of their property by the military dictatorship.

2. On March 14, 2006, the IACHR adopted Admissibility Report No. 27/06, finding the petition admissible with regard to the alleged violations of the rights protected in Articles 8, 21 and 25 of the American Convention, in connection with Article 1.1 and Article 2 of the same international instrument.² In Resolution No 1/07, the Commission clarified that the right to equal protection, under Article 24 of the American Convention, had also been found admissible.³

3. On May 19, 2011, the parties entered into a friendly settlement agreement.

4. Pursuant to Article 49 of the Convention and Article 40.5 of the Rules of Procedure of the Commission, the IACHR adopts this report, which includes a brief statement of the facts and reproduces verbatim the friendly settlement agreement. After reviewing the agreement for consistency with the principles of the American Convention, the Commission resolves to notify the parties, publish this report and include it in its Annual Report to the General Assembly of the Organization of American States.

¹ Subsequent to the lodging of the petition with the IACHR, the Commission was informed that Mrs. María Leonora Árbenz Vilanova and Mrs. María Cristina Vilanova Castro widow of Árbenz passed away.

² IACHR, Report No, [Report No. 27/06, Admissibility, Petition 569-99, Juan Jacobo Árbenz Guzmán, Guatemala](#), March 14, 2006.

³ IACHR, Resolution No 1/07, of March 9, 2007, which was issued to correct a material error in Report No. 27/06 and to clarify the admissibility of the claims alleged with regard to Article 24 of the American Convention.

II. PROCESSING BEFORE THE COMMISSION

5. On March 14, 2006, the IACHR adopted Admissibility Report No. 27/06, finding the petition admissible for alleged violations of the rights protected in Articles 8, 21, 24 and 25 of the American Convention, in connection with Article 1.1 and Article 2 of said international instrument. On March 21, 2008, the IACHR served notice of the report to the parties and placed itself at their disposal with a view to reaching a friendly settlement of the matter, as provided in Article 48.1.f of the American Convention and Article 40.1 of the Rules of Procedure.

6. On October 20, 2006, at a working meeting before the IACHR, the parties agreed to undertake efforts to reach a possible friendly settlement of the case. Accordingly, several meetings were held in an effort to reach an agreement. The talks broke down for a period of time and then resumed on September 9, 2009.

7. On May 19, 2011, the parties entered into a friendly settlement agreement at the headquarters of the IACHR.

8. On August 31, 2011, the IACHR requested updated information from the petitioners on the status of implementation of the friendly settlement agreement commitments and, on September 6, 2011 it made the same request to the State.

9. On November 4, 2011, the IACHR received a note from the State dated November 2, 2011, with a report on compliance with the obligations taken on in the signed agreement in the instant case. The report was forwarded to the petitioners.

10. In a note dated November 14, 2011, which was received on November 28, the petitioners reported on the status of compliance of the friendly settlement agreement. The communication was forwarded to the State.

III. THE FACTS

11. Jacobo Árbenz Guzmán was elected constitutional president of Guatemala in 1951 and remained in office until June 27, 1954, when he was overthrown by a military coup led by Col. Carlos Castillo Armas and directed from Honduras by the United States Central Intelligence Agency, CIA. Juan Jacobo Árbenz and his family, which at that time included his wife, María Cristina Vilanova de Árbenz, and their children Juan Jacobo, María Leonora, and Arabella, were expelled from the country.

12. After seeking refuge at the Mexican embassy in Guatemala, the Árbenz family settled in that country for a few months. They then moved to Europe and lived in different places. The French government granted them a residence to live for one year in Paris, after which they traveled to Czechoslovakia, Uruguay and Cuba, settling in the end in Mexico once again. Juan Jacobo Árbenz Guzmán died in exile on January 27, 1971.

13. The *de facto* government led by Castillo Armas expropriated Mr. Juan Jacobo Árbenz Guzmán's and his family's property. The Government Junta issued Decree 2 of July 5, 1954, and then the dictator Castillo Armas enacted a second decree N° 68. The first article of Decree 2 ordered the seizure of property and freezing of all deposits, creditor's claims, securities, and current accounts of the individuals on a list drawn up by the Ministry of the Treasury and Public Credit, including President Árbenz. Additionally, Article 1 of the aforementioned Decree 68 awarded to the State, in the form of compensation and damages, all securities, shares, claims, assets, and goods of any sort, with no exceptions, that were, in any form, under the control, possession, holding, or usufruct of the former officials and employees listed in Decree 2. Among the assets expropriated from President Árbenz was El Cajón Farm, which belonged to the Árbenz family.

14. While he was still alive, Juan Jacobo Árbenz Guzmán and, following his death, his next of kin, demanded the return of their property. On May 28, 1995, Mrs. María Cristina Vilanova Castro widow

of Árbenz, through an authorized agent, filed suit arguing the unconstitutionality of Decrees 2 and 68, both of 1954, before the Constitutional Court of Guatemala. On September 26, 1996, the Court issued a ruling in the case, in which it declared the unconstitutionality of Article 1 of Decree 2 and Article 1 of Decree 68, and stated that they would remain null and void as of the day following publication of the ruling in the Official Gazette.

15. In 1996, the Office of the Attorney General of the Nation stated in decision 8-96 of 1996 that a legal review of the case seeking compensation for the relatives of the former President should be examined and that the place for this issue should to be debated is the legislature. In the end, the legislative bill introduced to this end did not win approval.

16. On January 31, 2003, the Office of the Attorney General of the Nation issued a new decision stating that the Constitutional Court ruling amounted to creating an obligation on the State of Guatemala, to return the property or else duly compensate his heirs. On this second occasion, the Office of the Attorney General recommended that a commission be established.

IV. FRIENDLY SETTLEMENT

17. At a working meeting on May 19, 2011, in the headquarters of the IACHR, the parties entered into the friendly settlement agreement, which is reproduced verbatim hereunder. On that occasion, the IACHR expressed its satisfaction with the signing of the agreement.⁴ In a communication received the same day, the parties requested the IACHR to keep the amounts of monetary reparation confidential. Accordingly, the IACHR has reproduced below the friendly settlement agreement signed by the parties, with the amounts of compensation redacted.

FRIENDLY SETTLEMENT AGREEMENT BEFORE THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS CASE 12.546 JUAN JACOBO ÁRBENZ GUZMÁN

I PARTIES ENTERING AN APPEARANCE

Appearing on behalf of the State of Guatemala, Dora Ruth del Valle Cobar, 50 years of age, unmarried, Guatemalan, Political Scientist, residing at this domicile, who identifies herself with national identity card with neighborhood number order B dash two (B-2) and registration number eleven thousand nine hundred and forty-nine (11,949), issued by the Municipal Mayor's Office of San Lucas, Department of Sacatéquepez, who serves as the President of the Presidential Coordinating Commission on Executive Branch Human Rights Policy (COPREDEH), she is accredited in this position by Government Decision of Appointment number forty-eight (48) of January 30, 2008 and record of taking office number seven dash two thousand and eight (7-2008) of January 31, 2008, registered in record book number thirty eight thousand seven hundred and sixty-two (38762) of COPREDEH, authorized by the Office of the Comptroller General of Accounts; María Elena de Jesús Rodríguez López, forty-three (43) years of age, married, Guatemalan, Attorney and Notary, residing at this domicile, who identifies herself with national identity card of neighborhood number order M dash thirteen (M-13) and registration number one thousand five hundred and sixty-nine (1569) issued by the Municipal Mayor's Office of Malacatancito, Department of Huehuetenango, who serves as Department Coordinator for Follow-Up of International Human Rights Cases of COPREDEH and Special Legal Representative, pursuant to the authorization conferred by the Attorney General of the Nation, as it appears in notarized public document number one hundred and sixty-nine (169) authorized in the Guatemala City on May twenty sixth of two thousand and ten, by Notary of the Chamber and Government and registered under the number one (1) of power-of-attorney one hundred and ninety-six thousand seven hundred and sixteen dash E (196716-E) of the electronic registry of Powers of Attorney of the General Archives of Notarial Record Books of the Supreme Court of Justice and the addendum thereto; appearing on behalf of the petitioner is Erick Jacobo Árbenz Canales, thirty seven years of age, unmarried, Costa Rican,

⁴ IACHR, Press Release No. 46/11, "[IACHR Satisfied with Friendly Settlement Agreement in Árbenz Case involving Guatemala.](#)" May 20, 2011.

Doctor of Medicine, residing in the city of Boston, State of Massachusetts, United States of America, who identifies himself with national identity card number eight hundred million seven hundred and forty thousand eight hundred and nineteen (800740819), issued in the Republic of Costa Rica. Hereby appearing in order to enter into FRIENDLY SETTLEMENT AGREEMENT IN CASE 12.546 JUAN JACOBO ÁRBENZ GUZMÁN, pursuant to Article forty-eight (48) of the American Convention on Human Rights –Pact of San Jose- and Article forty (40) of the Rules of Procedure of the Inter-American Commission on Human Rights.

II BACKGROUND

On March 15, 1951, Coronel Juan Jacobo Árbenz Guzmán took office as President of the Republic of Guatemala following a democratic transfer of power, his governing plan consisted of three core goals: a) make the country's economy independent, by transitioning from a semi-colonial economy to an independent one; b) make the country's economy capitalist; and c) for that transformation to raise the standard of living of the majority. As a consequence of his government policies, he was overthrown by a coup d'état on June 27, 1954.

As a result of the coup d'état, Coronel Árbenz Guzmán was expelled from the country along with his wife María Cristina Vilanova and their children Juan Jacobo, María Leonora and Arabella, all with the same last name of Árbenz Vilanova. They first took refuge at the Mexican embassy in Guatemala. Under the protection of a safe-conduct, they flew to Mexican soil settling in said country for a few months; they then moved to Europe where former President Árbenz attempted to obtain Swiss citizenship, which he ceased to pursue shortly afterwards, when the French Government authorized a year-long residence in Paris; next he traveled to Czechoslovakia, Uruguay and Cuba and, in the end, settled in Mexico, where he lived his last days.

On July 5, 1954, as a consequence of the coup d'état, the Government Junta issued Decree number 2, which ordered the seizure and freezing of all assets of several public officials of the governments of the revolution, who appeared on a list drawn up by the Ministry of the Treasury and Public Credit, in other words, Doctor Juan José Arévalo Bermejo and Coronel Juan Jacobo Árbenz Guzmán. On August 6, 1954, the President of the Republic issued Decree 68, which awarded to the State, in the form of compensation and damages, the assets confiscated under the first decree. Among the assets confiscated from the Árbenz Vilanova family, among other things, were bank accounts, real property and El Cajón Farm, located in Santa Lucia Cotzumalguapa, where a variety of traditional and non-traditional crops were grown.

Domestic judicial proceedings

On June 22, 1966, through a legal representative, former President Árbenz Guzmán and his wife María Vilanova, brought a lawsuit against the State of Guatemala for damages, demanding the return of the confiscated assets and payment for damages. Said proceeding culminated with a ruling of the Supreme Court of Justice on June 15, 1976, in which the Civil Chamber of the Court, partially overturned the judgment of the Appeals Chamber, but ruled in favor of the peremptory objection on the grounds of lapsing of the statute of limitations or release from obligation filed by the Attorney General of the Nation and the Chief of the Office of Prosecution at the time, which put an end to the proceedings and was based on the fact that the confiscation occurred in 1954 and the suit had been filed in 1966, that is 12 years later, inasmuch as the Civil Code, legislative Decree 1932, established a period of 10 years to file the corresponding claim.

On September 26, 1996, the Constitutional Court issued a judgment in case 305-95 finding related Article 1 of Decree 2 and Article 1 of Decree 68 to be unconstitutional. Consequently, said provisions were rendered null and void as of the day following publication of the ruling in the Official Gazette.

As a result of the efforts of former President Árbenz' wife, María Vilanova, on January 31, 2003, the Office of the Attorney General of the Nation issued decision 20-2003, in which it opined: "the Constitutional Court judgment in case 305-95 dated September 26, 1996, which found the provisions serving as the basis for the expropriation to be unconstitutional and rendered them null and void, amounted for all intents and purposes to creating an obligation on the State of Guatemala, to return the property or else duly compensate the heirs to it; thus said judgment is a decision of the

utmost importance, in order to define the dubious situation which gave rise to the case under our consideration today.”

On July 4, 2006, the Constitutional Court handed down a judgment in case 1143-2005 finding Decree 68 generally unconstitutional, rendering it null and void as of the day following publication of the ruling in the Official Gazette.

Processing before the Inter-American Commission on Human Rights

On December 27, 1999, María Leonora Árbenz Vilanova, daughter of former President Árbenz Guzmán, lodged a petition against the State of Guatemala before the Inter-American Commission on Human Rights (IACHR) for violations of the human right to humane treatment (Article 5), to personal freedom (Article 7), to compensation (Article 10), of reply (Article 14), to property (Article 21), to equal protection (Article 24) and to judicial protection (Article 25), as provided for in the American Convention on Human Rights (Pact of San Jose) to the detriment of Juan Jacobo Árbenz Guzmán, María Cristina Vilanova de Árbenz and their children, Juan Jacobo, María Leonora and Arabella, all with the same last name Árbenz Vilanova.

After the petition was lodged against the State of Guatemala, the petitioner’s communications were signed by the wife of deposed President Árbenz Guzmán, María Vilanova and their grandson, Dr. Erick Árbenz.

In Report 27/06 of March 14, 2006, the Illustrious Commission found the instant case admissible for violations of the following human rights: fair trial, property, judicial protection, as established in the Pact of San Jose. As a result of a material error in drafting resolution 27/06, on March 9, 2007, the IACHR issued resolution 1/07 clarifying the error and noting that the case is also admissible for violation of the human right to equal protection of the American Convention on Human Rights.

III

THE STATE OF GUATEMALA’S LEGAL AND POLITICAL BASIS FOR SEEKING FRIENDLY SETTLEMENTS

Article 25 of the Charter of the Organization of American States establishes that direct negotiation and conciliation, among other things, are peaceful proceedings for the resolution of disputes. Under these parameters and with respect for human rights reigning supreme, Article 48 paragraph 1 subparagraph f) and Articles 49 and 50 of the American Convention on Human Rights establish the possibility to reach a friendly settlement in cases lodged by private parties against the states parties to the American Convention. The two international instruments were ratified and deposited by the State of Guatemala on June 4, 1955 and May 25, 1978, respectively.

Under Government Decision 552-2007, COPREDEH’s responsibility for the National Human Rights Policy was approved, taking effect on December 7, 2007, and establishing among its provisions that “The Government shall continue to promote the pursuing of friendly settlements, before the Inter-American Commission on Human Rights, a mechanism that allows for the representatives of the victims, the investigation agencies of the State and the aforementioned international body to join efforts to bring about the clarification of certain particularly serious cases, and redress the damages resulting from Human Rights violations.” It further establishes, among its guiding principles, the “best interests of the victim,” which means giving the highest priority to victims of human rights violations.

IV

OBLIGATIONS UNDERTAKEN BY THE STATE OF GUATEMALA

The State of Guatemala hereby undertakes the following obligations:

1) RESPONSIBILITY OF THE STATE

The State of Guatemala recognizes and accepts the international responsibility stemming from the breach of its obligation to ensure, respect and protect the human rights of the victims to a fair trial, property, equal protection and judicial protection, protected in the American Convention on Human Rights, and violated to the detriment of former President Juan Jacobo Árbenz Guzmán, his wife

María Cristina Vilanova and their children Juan Jacobo, María Leonora and Arabella, all with the last name Árbenz Vilanova.

2) FINANCIAL REPARATION

The parties to this Friendly Settlement Agreement recognize the mutual willingness evinced by the parties in agreeing on an amount that allows for financial reparation of the Árbenz Vilanova family for the damages and human rights violations that were caused, based on the facts of the case before the Illustrious Inter-American Commission on Human Rights.

After a valuation conducted on February 21, 2007 by the Office of Land Registry and Real Estate Assessments of the Ministry of Public Finance of property number 3443 page 76 of book 40 of Escuintla of the General Registry of Property, known as "Finca El Cajon," located in the Municipality of Santa Lucia Cotzumalguapa of the Department of Escuintla, the State of Guatemala undertakes to pay the sum of [...] for financial reparation, to former President Juan Jacobo Árbenz Guzmán, his wife María Cristina Vilanova and their children Juan Jacobo, María Leonora and Arabella, all with the last name Árbenz Vilanova, which covers property damages and psychological damage of pain and suffering. The State of Guatemala undertakes to make the payment by means of bank transfer, immediately following the signing of the Friendly Settlement Agreement and after the petitioners submit the notarized certificate of identification of the beneficiaries and Doctor Erick Jacobo Árbenz Canales' special power-of-attorney authorizing him to sign the instant friendly settlement agreement and to receive the payment of financial reparation; these documents must have all of the approvals as required by law for them to have full legal validity pursuant to Guatemalan law. At the time of the transfer, the petitioner undertakes to sign an administrative certificate of receipt in full and final settlement releasing the State of Guatemala of further obligations.

3) OTHER FORMS OF REPARATION

Under this Friendly Settlement Agreement, the State of Guatemala undertakes to fulfill the obligations set forth hereunder:

- a) Public Recognition of International Responsibility:** The State of Guatemala undertakes to dignify the memory of former President Juan Jacobo Árbenz Guzmán by holding a public ceremony of recognition of the State's international responsibility, which shall take place at the National Palace of Culture and shall be presided over by the President of the Republic.

The State of Guatemala undertakes to make the arrangements with the appropriate institutions to install a temporary exhibition of photographs of the former President Árbenz Guzmán and his family at the National Palace of Culture, which shall be subject to internal regulations and require approval of the appropriate authorities.

The next of kin of former President Árbenz Guzmán undertake to provide the family photographs that they have kept in their possession and authorize the reproduction, exhibition and, as necessary, the publication thereof. The family members of former President Árbenz shall continue to own the original photographs, except any ones that they may decide to donate for exhibition.

- b) Letter of Apology:** The State of Guatemala undertakes to write a letter of apology, which shall be delivered by the President of the Republic to the family members of former President Árbenz Guzmán at the ceremony of recognition of responsibility that shall take place. This letter shall be signed by the President and shall be published in the daily newspapers El Diario de Centro America and El Periodico.

- c) Dedicating a room at the National Museum of History:** The State of Guatemala undertakes to permanently dedicate a room of the National Museum of History by naming it after Jacobo Árbenz Guzmán.

On November 5, 2010, the State of Guatemala dedicated the "Jacobo Árbenz Guzmán Reading Room" at the National Museum of History and, consequently, the petitioner accepts this act as part of the moral reparation in the instant case, as said act has already taken place.

d) Revision of the National Core Curriculum: The State of Guatemala undertakes to make the necessary arrangements with the Ministry of Education to revise the National Core Curriculum, specifically with regard to the government of then Constitutional President of the Republic of Guatemala, Coronel Juan Jacobo Árbenz Guzmán and the events that took place at the time of the 1954 military coup against him; once the revision is carried out by the State and the family of former President Árbenz Guzmán, the State shall take measures to implement the proposed changes.

e) Certificate Program in Human Rights, Multiculturalism and Reconciliation with Indigenous Peoples: The State of Guatemala undertakes to create a "Certificate Program in Human Rights, Multiculturalism and Reconciliation with Indigenous Peoples," with the academic support of the Universidad de San Carlos de Guatemala, which will entail two classes: one class shall cover the western region, be based out of the Department of Quetzaltenango and include San Marcos, Retalhuleu, Suchitepequez, Quiche and Solola; the other class shall cover the eastern region, be based out of Zacapa and include Chiquimula, Jalapa, El Progreso and Jutiapa.

This certificate program is aimed at public officials of executive and judicial branch agencies, other mid-level government officials and indigenous leaders. It shall be held in person on a biweekly basis for 10 sessions. The program shall focus on topics that serve to examine inequality among the Maya, Garifuna, Xinka and Mestizo peoples, in order to make a difference in eliminating discriminatory practices.

f) Dedication of the Atlantic Highway: The State of Guatemala undertakes to make the necessary arrangements with the appropriate institutions for the highway to the Atlantic to be named the "Juan Jacobo Árbenz Guzmán Highway" during 2011. When said request is authorized, a public dedication ceremony of the aforementioned highway shall be held.

g) Return of areas of Finca El Cajon: As was explained above, property number 3443, page 76, of book 40 of Escuintla, of the General Registry of Property, named "Finca el Cajon" located in the Municipality of Santa Lucia Cotzumalguapa of the Department of Escuintla, owned by the Árbenz Vilanova family, was expropriated by the State of Guatemala under Government Junta Decree 2 of July 5, 1954 and recorded as the property of the State of Guatemala, as stipulated in Decree 68 of August 6, 1954 by the de facto President. Subsequently, said farm was subdivided into smaller lots by the National Institute of Agrarian Transformation (INTA). In 1996 and 2006, the Constitutional Court issued judgments in cases 305-95 and 1143-2005, ruling related Decrees 2 and 68 to be unconstitutional.

In legal decision 29-2003 of the Advisory Section of the Office of the Attorney General of the Nation, said institution opined that "the Constitutional Court judgment in case 305-95 dated September 26, 1996, which found the provisions serving as the basis for the expropriation to be unconstitutional and rendered them null and void, amounted for all intents and purposes to creating an obligation on the State of Guatemala, to return the property or else duly compensate the heirs to it; thus said judgment is a decision of the utmost importance, in order to define the dubious situation which gave rise to the case under our consideration today."

In light of the foregoing, the State of Guatemala undertakes to conduct the appropriate inquiry and survey to verify whether any area that is part of the farm Finca El Cajon is under ownership of the State; if so, the State of Guatemala shall take legal and/or administrative measures so that ownership of this portion of the farm can be recovered by the family members of former President Árbenz Guzmán.

Should the inquiry and study conducted on Finca El Cajon reveal that no part of it are under ownership of the State or that it is impossible to return it to the family of former President Árbenz Guzmán, the State undertakes to pay the additional amount [...] over the course of 2011.

The family of former President Árbenz Guzmán reserves the right to chose between return of the portion of Finca El Cajon, which as a result of the survey is deemed recoverable, or payment [...] by the end of 2011.

h) Security: The State of Guatemala undertakes to make the arrangements with the appropriate state institutions and provide the security measures that are granted by the State to the family

of former President Árbenz Guzmán when they visit Guatemala for purposes of implementation of this Friendly Settlement Agreement.

The security measures shall be in effect as of the time the family members of former President Árbenz Guzmán arrive in Guatemala, either by air, sea or land and shall remain in effect for as long as the family members must remain in the country for purposes of implementation of this agreement.

- i) Photography Exhibit at the National Museum of History:** The State of Guatemala undertakes to arrange a temporary exhibition of photographs of former President Árbenz Guzmán and his family at the National Palace of Culture.

The family of former President Árbenz Guzmán undertakes to provide the family photographs that they have kept in their possession and authorize the reproduction, exhibition and, as necessary, the publication thereof. The family members of former President Árbenz shall continue to own the original photographs, except any ones that they may decide to donate for exhibition.

- j) Recovery of photographic archives of the Árbenz Guzmán Family:** The State of Guatemala undertakes to digitally record in San Jose, Costa Rica, the photographic archives of former President Árbenz Guzmán, which is in the possession of his family members, and to give the family members three full digital copies and three prints of a mutually agreed upon selection of photographs. This commitment shall be fulfilled over the course of 2011.

- k) Photograph Book:** The State undertakes to publish in 2011, a book with a selection of photographs of former President Árbenz Guzmán.

Pursuant to Decree 33-98, the Law of Copyright and Related Rights, the Congress of the Republic of Guatemala and the amendments thereto, property rights to the book belong to the State of Guatemala, which can execute any of the acts listed in Article 21 of the aforementioned law. In the event that any dispute arises as a result of exercise of property rights by the State of Guatemala, Guatemalan laws and courts shall govern.

- l) New edition of the Book “Mi Esposo el Presidente Árbenz” (‘My Husband President Árbenz’):** The State of Guatemala undertakes to reprint the book “Mi Esposo el Presidente Árbenz,” authored by María Cristina Vilanova de Árbenz, wife of former President Árbenz Guzmán.

The family of President Árbenz Guzmán undertakes to grant the State of Guatemala the rights to publish the aforementioned book and, if necessary, the copyrights thereto. It also authorizes the reprinting, publication and distribution of said book.

The State undertakes to reprint 1000 copies of the book, which shall be distributed by the State at the Universidad de San Carlos de Guatemala and at the ceremony of recognition of international responsibility.

- m) Writing and publishing the Biography of President Juan Jacobo Árbenz Guzmán:** The State of Guatemala undertakes to write and publish the Biography of former President Juan Jacobo Árbenz Guzmán. Accordingly, the family undertakes to provide the information that is required and to support the author of the book in the drafting of the biography as well as authorizing the writing and publication thereof.

The State undertakes to pay the amount of [...], for the writing of the biography. This payment shall be made through the petitioners in a single disbursement, which shall be carried out upon delivery of the text of the book. The publication, reproduction and distribution shall be paid by the State of Guatemala.

In accordance with Decree 33-98, the Law of Copyright and Related Rights, the Congress of the Republic of Guatemala and the amendments thereto, property rights to the book belong to the State of Guatemala, which can execute any of the acts listed in Article 21 of the aforementioned law.

It is hereby established in this agreement that the State shall enter into a contract with the author or, as the case may be, with the family of President Árbenz Guzmán, regarding transfer of property rights over the book, which the author of the biography shall be commissioned to write, wherein it shall be established that the property rights shall be awarded to the State for the maximum length of time as provided by the law on the subject matter. In order to enter into the aforementioned contract, the provisions of Articles 72 and 83 of the law cited in the previous paragraph shall govern. Any dispute that may arise regarding the property rights of the State of Guatemala shall be subject to the laws and courts of Guatemala.

- n) Issuing a series of postage stamps:** The State of Guatemala undertakes to arrange for the issuing of a series of postage stamps, the theme and/or vignette of which shall be to commemorate former President Árbenz Guzmán and his term in the presidential office. The authorization, design, perforation system, frame, number, value, and printing shall be left to the discretion of the authorities in the particular field, with whom COPREDEH and the family of President Árbenz Guzmán shall coordinate proposals.
- o) Travel:** The State of Guatemala undertakes to cover the cost of airline tickets of two family members of Juan Jacobo Árbenz Guzmán to attend the session of the Inter-American Commission on Human Rights for the signing of instant Friendly Settlement Agreement. It also undertakes to pay for the airline tickets and expenses of the stay for three members of the family of President Árbenz Guzmán to attend the public ceremony of recognition of responsibility to be held in the National Palace of Culture.

V CONFIDENTIALITY

The State of Guatemala and the petitioner in the instant case undertake to not release the terms of payment of financial compensation to the public and to maintain the confidentiality of this Friendly Settlement Agreement, given the nature and political implications thereof, in order to preserve the safety of the family members of President Juan Jacobo Árbenz Guzmán. The confidential status shall not apply when the agreement is required by judicial authorities or oversight institutions of the state.

VI NOTIFYING THE ILLUSTRIOUS INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

As provided herein, the parties entering into the instant Agreement undertake to bring to the attention of the Inter-American Commission on Human Rights, either jointly or separately, the commitments contained herein and inform the Commission on progress with implementation. The Commission shall be made aware of this Agreement immediately for approval thereof, the compensation amounts of which may not be made public for the reasons set forth in section V.⁵

VII INTERPRETATION

The meaning and scope of the instant Friendly Settlement Agreement shall be interpreted in accordance with Articles 29 and 30 of the American Convention on Human Rights, to the extent that it is pertinent, and with the principle of good faith. In the event of doubt or disagreement between the parties regarding the content and time deadlines of the instant Friendly Settlement Agreement, the Inter-American Commission on Human Rights shall rule on the interpretation thereof.

VIII OVERSIGHT

As stipulated in Article 48(1)(f) of the American Convention on Human Rights, the Inter-American Commission on Human Rights shall oversee compliance with the commitments set forth in the instant agreement until it has been fully and finally executed.

⁵ In a note dated May 19, 2011, the parties requested “to maintain the status of confidentiality of said Agreement with regard to the amount of financial reparation identified in section IV subsection 2) and relating to the possibility of additional payment set forth in section IV, subsection 3), subparagraph g).”

IX ACCEPTANCE

In response, petitioner Doctor Erick Jacobo Árbenz Canales states on his own behalf and on behalf of the family members of former President Juan Jacobo Árbenz Guzmán that the commitments undertaken by the State of Guatemala in the instant agreement, conform to their requests and shall redress the property and psychological damages caused; he expresses gratitude to the State of Guatemala for its good faith, open mind and good will during the negotiation phase of the Friendly Settlement Agreement.

The petitioner hereby accepts on behalf of himself and the family members of President Árbenz Guzmán who are entitled to receive the forms of reparation that have been agreed upon in the instant agreement, and undertakes to grant the State of Guatemala, at the time of compliance with each form of reparation, the broadest and fullest release of claim and not demand at any future time any further financial compensation for the same case.

The reparation agreed upon before the Illustrious Inter-American Commission on Human Rights shall be the only one enforceable upon the State. Additionally, he states that he undertakes to submit to the State of Guatemala a notarial certificate of a sworn statement indicating the names of the beneficiaries of the instant case. He further states that he hereby releases the State of Guatemala and the Presidential Coordinating Commission of Executive Branch Human Rights Policy from any claim and, therefore, binding himself to answer to the competent courts of the country about any claim brought by any other potential beneficiary, releasing the State of Guatemala of all criminal, civil and administrative or any other type of liability.

The petitioner undertakes to not pursue any further national or international judicial or administrative actions for State responsibility, that may be linked to acts of its agents or for property or non-property damages stemming from the facts before the Inter-American Commission of Human Rights in case 12.546 Juan Jacobo Árbenz Guzmán.

X GENERAL ACCEPTANCE

The parties express their absolute assent and acceptance of all of the terms of the instant Friendly Settlement Agreement.

Executed at headquarters of the Inter-American Commission on Human Rights in the Federal District of Washington, D.C., of the United States of America, on May 19, 2011.

On behalf of the Petitioners: Erick Jacobo Árbenz Canales, Representative of the Family

On behalf of the State of Guatemala: María Elena de Jesús Rodríguez López, Legal Representative of the State and Dora Ruth del Valle Cóbar, President of COPREDEH

On behalf of the Inter-American Commission on Human Rights: Elizabeth Abi-Mershed, Assistant Executive Secretary of the IACHR, Witness of Honor

V. DETERMINATION OF COMPATIBILITY AND IMPLEMENTATION

18. Pursuant to Articles 48(f) and 49 of the Convention, this procedure is aimed at “reaching a friendly settlement of the matter on the basis of respect for the human rights recognized in this Convention.” The agreement to engage in this procedure expresses the good faith of the State when it comes to carrying out the purposes and objectives of the Convention, in keeping with the principle of *pacta sunt servanda*, whereby States must fulfill in good faith the obligations undertaken by them in treaties. In addition, the IACHR wishes to reiterate that the friendly settlement procedure provided for in the Convention makes it possible to end individual cases in a non-contentious manner and has proven, in cases regarding several countries, to offer an important and effective vehicle for settlement that can be used by both parties.

19. The Inter-American Commission has closely monitored developments during the friendly settlement process in the instant case and greatly appreciates the efforts displayed by both parties in order to achieve this settlement, which is consistent with the object and purpose of the Convention.

20. In this regard, the Commission takes note of and values in particular the recognition and acceptance of international responsibility by the State of Guatemala, on record in the agreement of May 19, 2011, for breach of its obligation to ensure, respect and protect the victims' human rights to a fair trial, property, equal protection and judicial protection, as recognized in the American Convention on Human Rights, and violated to the detriment of former President Juan Jacobo Árbenz Guzmán, his wife María Cristina Vilanova and their children Juan Jacobo, María Leonora and Arabella, all with the last name Árbenz Vilanova.

21. Information submitted by the parties shows that the State has also fulfilled the following obligations, which are set forth in the agreement of May 19, 2011:

1. **Compensate the Árbenz Vilanova family for the damages that were caused and human rights violations that were committed.** This obligation was fulfilled by the State in June 2011.
2. **Public Ceremony of Recognition of International Responsibility and installation of a photographic exhibition at the National Palace of Culture.** The public ceremony of recognition of the State's international responsibility was held on October 20, 2011, in the Courtyard of Peace of the National Palace of Culture. At the ceremony, the President of the Republic of Guatemala recognized the State's responsibility for the human rights violations committed against the Árbenz family⁶ and apologized: "As head of State, as constitutional president of the Republic, as commander in chief of the army, I want to apologize to the Árbenz Vilanova family, for that crime committed on June 27, 1954."⁷

Additionally, on October 17, 2011, the State opened a photo exhibition in the National Palace of Culture called "Árbenz, Fighter for Freedom and Progress" and "Árbenz, End of the Exile/Apotheosis of the Return."⁸

3. **Letter of Apology.** The letter of apology was delivered by the President of the Republic on October 20, 2011, during the public ceremony of recognition of the State's international responsibility, to Mr. Jacobo Árbenz Vilanova, the son of former President Árbenz Guzmán, and was published in the print media. The text of the letter reads as follows:

"Esteemed Family of His Excellency the Former President of the Republic of Guatemala, Juan Jacobo Árbenz Guzmán:

In my capacity as President of the Republic of Guatemala, I respectfully write to you in order to send a message of sympathy, for the suffering you endured as a consequence of the coup d'état on June 27, 1954, committed against President Juan Jacobo Árbenz Guzmán.

⁶ Prensa Libre, [Presidente Álvaro Colom pide perdón a familia Árbenz](#) ['President Alvaro Colom apologizes to Árbenz Family'], October 21, 2011; La Nación, [Guatemala pide perdón a familia Árbenz por golpe de Estado](#) ['Guatemala apologizes to Árbenz family for Coup d'état'], October 21, 2011; The New York Times, [An Apology for a Guatemalan Coup, 57 Years Later](#), October 20, 2011; BBC, [Guatemala apologizes to Árbenz family for 1954 coup](#), October 20, 2011; AFP, [Guatemala pide perdón a la familia del presidente Árbenz, derrocado por EEUU](#) ['Guatemala apologizes to family of President Árbenz, overthrown by US'], October 20, 2011.

⁷ La Jornada, [Guatemala pide perdón a familia de Árbenz](#) ['Guatemala apologizes to Árbenz family'], October 21, 2011.

⁸ The invitation to the opening ceremony of the photo exhibit reads: "As moral dignification and recognition of the State of Guatemala for the human rights violations committed against his excellency Mr. President Juan Jacobo Árbenz Guzmán and his family, in compliance with the Friendly Settlement Agreement, entered into by the State of Guatemala in case 12.546 Juan Jacobo Árbenz Guzmán, processed before the Inter-American Commission on Human Rights against the State of Guatemala." Copy of the invitation to the photo exhibit and three photographs attached to a communication of the State of November 2, 2011, received on November 4, 2011.

A first step to achieve national reconciliation in Guatemala is to effectively recognize the events that took place in the past, inasmuch as we cannot conceive of a promising future for the country, if the violent events are relegated to oblivion and are dismissed.

The State of Guatemala has recognized the international responsibility that is attributed to it for said events, especially for the expropriation of the property and forced exile of the Árbenz Vilanova family.

Accordingly and in compliance with the **Friendly Settlement Agreement** executed in Washington, D.C., United States of America, at the headquarters of the **Inter-American Commission on Human Rights**, on May 19, 2011, on behalf of the State of Guatemala, I apologize to the family members of former President Juan Jacobo Árbenz Guzmán, for the suffering caused to his family and to him, who was one of the three icons of the Revolution of October 20, 1944 and President of Guatemala during the time known as “**Epoch of the Democratic Spring**” and who was known as “**The Soldier of the People.**”⁹ (bold in original text). [...]

4. **Dedication of a permanent room at the National Museum of History named after Jacobo Árbenz Guzmán.** On November 5, 2010, the State of Guatemala dedicated the “Jacobó Árbenz Guzmán Reading Room,” at the National Museum of History. In the agreement entered into on May 19, 2011, the petitioner accepted this act as part of the moral reparation in the instant case.
5. **Creating a “Certificate Program in Human Rights, Multiculturalism and Reconciliation with Indigenous Peoples,” with the academic support of the Universidad de San Carlos de Guatemala.** In order to fulfill this obligation, the State prepared a curriculum of seven modules that were conducted in 10 classroom sessions, in the departments of Quetzaltenango and Zacapa. Public officials from different departments attended and Mr. Jacobo Árbenz Vilanova, the son of former President Árbenz Guzmán, took part in the graduation ceremony. This obligation was fulfilled over July, August and September 2011.¹⁰
6. **Security.** As agreed, the State provided security for the family members of former President Árbenz Guzmán to attend the public ceremony of recognition of international responsibility on October 20, 2011.
7. **Recovery of the photographic archives of the Árbenz Guzmán family.** This obligation was fulfilled by the State in July and August 2011.
8. **Reprinting of the Book “Mi Esposo el Presidente Árbenz.”** This obligation was fulfilled by the State and copies of the book were handed out during the public ceremony of recognition of international responsibility on October 20, 2011.
9. **Travel of family members of Juan Jacobo Árbenz Guzmán to attend the IACHR session of signing of the friendly settlement agreement and the public ceremony of recognition of responsibility, which was held at the National Palace of Culture.** This obligation was fulfilled by the State in May 2011 and October 2011.
22. As for obligations still pending fulfillment, the State reported:¹¹
 1. **Revision of National Core Curriculum:** The State reported that COPREDEH would coordinate with the Ministry of Education (MINEDUC) to implement in the national core

⁹ Annex to a communication of the State of November 2, 2011, received on November 4, 2011.

¹⁰ Curricular structure and four photographs of the graduation ceremony of the certificate program attached to a communication of the State on November 2, 2011, received on November 4, 2011.

¹¹ Communication of the State of November 2, 2011, received on November 4, 2011.

curriculum “reference to the government of then Constitutional President of the Republic of Guatemala, Coronel Juan Jacobo Árbenz Guzmán and to the events which took place at the time of the 1954 military coup against him.”

2. **Dedication of the Atlantic Highway.** The State reported that COPREDEH, without prejudice to the agreement achieved in May 2011, had begun on February 22, 2011 to make the appropriate arrangements with the Ministry of Communications, Infrastructure and Housing to name the highway to the Atlantic coast after Juan Jacobo Árbenz.
3. **Return of areas of Finca El Cajon.** In this regard, the State reported that the obligation was “to conduct the appropriate inquiry and survey to verify whether any area that is part of the farm Finca El Cajon is under ownership of the State;” if so, it would return that portion of land to the family of former President Árbenz and, if not, it would proceed to compensate the family. After conducting the survey, it was found that there was no area of Finca El Cajon that “is available in possession of the nation.” Consequently, it informed that it would wait for the budget to be available to proceed with payment of the corresponding compensation.
4. **Photography Exhibit at the National Museum of History.** Regarding this obligation, the State reported that the photo exhibition “Árbenz, Fighter for Freedom and Progress” that was installed at the National Palace of Culture on October 17, 2011, would be transferred to the National Museum of History during the second half of November 2011.
5. **Photo Book.** In its report, the State noted that the photos that will be used in the book shall be selected under the criterion of clearing the name of former President Jacobo Árbenz Guzmán “as a man, husband and father, revolutionary and President of the Republic.”
6. **Writing and publishing the biography of Jacobo Árbenz Guzmán.** With respect to this obligation, the State reported that it made the appropriate arrangements for writing the biography of former President Árbenz Guzmán, “which is titled ‘**Jacobo Árbenz: por la patria y a la revolución en Guatemala, 1944-1954,**’ written by Guatemalan historian Doctor Julio Castellanos Cambranes. This work is in the process of being reviewed, prior to publication.”
7. **Issuing a series of postage stamps.** The State informed that the arrangements had been made to fulfill this obligation on April 11, 2011 with the General Directorate of Postal and Telegraph Service, the state entity in charge of issuing stamps. It noted that this entity submitted the matter to the National Philatelic Council, which is in charge of authorizing the issuing of stamps. The response of the Council had been “that, because the calendar of postage stamps to be issued in 2011 was already full, it would hear and decide on the matter in 2012.”

23. The Commission reiterates that it appreciates the significant efforts made by the State of Guatemala to fulfill the obligations of the agreement executed by the parties on May 19, 2011 at the headquarters of the IACHR.

24. Additionally, with regard to the pending obligations, the IACHR shall continue to closely monitor the steps taken by the State to reach full compliance with them.

VI. CONCLUSIONS

25. On the basis of the foregoing considerations, and in accordance with the procedure set forth in Articles 48.1.f and 49 of the American Convention, the Commission wishes to reiterate its deep appreciation for the efforts made by the parties and its satisfaction at the achievement of the friendly

settlement agreement in this case, which is rooted in respect for human rights and consistent with the objective and aim of the American Convention.

26. Based on the considerations and conclusions set forth in this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES:

1. To approve the terms of the agreement signed by the parties on May 19, 2011.
2. To continue to monitor and oversee the obligations pending fulfillment by the State of Guatemala and, remind the parties of their commitment to periodically report to the IACHR on the status of fulfillment of these obligations.
3. To publish this report and include it in its Annual Report to the OAS General Assembly.

Done and signed in the city of Washington, D.C., on the 20th day of the month of March, 2012.
(Signed): José de Jesús Orozco Henríquez, President; Tracy Robinson, First Vice-President; Felipe González, Second Vice-President; Dinah Shelton, Rodrigo Escobar Gil, Rosa María Ortiz, and Rose-Marie Antoine, Commissioners.