

Reference: C.N.600.2016.TREATIES-IV.4 (Depositary Notification)

INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS  
NEW YORK, 16 DECEMBER 1966

GUATEMALA: NOTIFICATION UNDER ARTICLE 4 (3)

The Secretary-General of the United Nations, acting in his capacity as depositary, communicates the following:

The above action was effected on 2 August 2016, with:

(Translation) (Original: Spanish)

Ministry of Foreign Affairs  
Guatemala, Central America

DH/360-000-416-16  
Guatemala City, 27 June 2016

Sir,

I have the honour to inform you, pursuant to article 4 (3) of the International Covenant on Civil and Political Rights, that on 21 June 2016, in concert with the Cabinet, Mr. Jimmy Morales Cabrera, President of the Republic of Guatemala, issued Government Decree No. 2-2016 declaring a state of emergency in the municipality of Jerez, Department of Jutiapa, for 30 days beginning from the date of entry into force of the decree.

The state of emergency was declared as a result of landslides caused by heavy rainfall in the municipality of Jerez, Department of Jutiapa, which damaged roads, housing, schools, health facilities and other infrastructure and impaired the provision of essential services, as well as affecting production activities and human development. Accordingly, the measure is aimed at mitigating the damage, repairing roads and buildings, restoring essential services and minimizing the impact, as well as enabling the necessary measures to be taken, in places where the circumstances so warrant, to avoid or reduce the impact of the disaster and, above all, to protect the life, physical integrity and safety of the affected or at-risk population and to safeguard their property.

In this connection, measures have been taken to restrict the application of article 12 of the

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International Covenant on Civil and Political Rights with respect to liberty of movement.

I should be grateful if you would inform the other States Parties to the International Covenant on Civil and Political Rights accordingly.

Accept, Sir, the assurances of my highest consideration.

(Signed) Alicia V. Castillo Sosa  
Deputy Minister for Foreign Affairs

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Executive Branch  
Office of the President of the Republic  
Government Decree No. 2-2016  
Guatemala City, 21 June 2016

THE PRESIDENT OF THE REPUBLIC,

WHEREAS the State and its authorities have an obligation to guarantee to the inhabitants of Guatemala the full enjoyment of the rights established in the Political Constitution of the Republic of Guatemala, and the full application of some rights may be suspended during states of emergency, subject to a declaration by the President of the Republic, in concert with the Cabinet, describing the nature and gravity of the situation and applying such legal measures as are strictly necessary in accordance with the Public Order Act,

WHEREAS the heavy rainfall affecting the entire national territory, especially the municipality of Jerez in the Department of Jutiapa, has resulted in landslides on the slopes of the Chingo volcano, which have deluged the community with mud, stones and other debris, damaging roads, housing, schools, health facilities and other infrastructure and impairing the provision of essential services, and the local authorities fear that the municipality may be buried under soil and debris from the volcano if the landslides continue, and all possible measures and action must therefore be taken as a matter of urgency to rebuild, restore and assist it, to which end a decree is hereby adopted declaring a state of emergency in the aforementioned municipality,

WHEREAS the National Coordination Office for the Reduction of Natural and Man-made Disasters (CONRED) is a Guatemalan State institution set up to prevent, mitigate and assist in dealing with the damage caused by disasters and to participate in rehabilitation and reconstruction, and its functions are set forth in Legislative Decree No. 109-96, under which it has responsibility for coordinating the activities of public and private entities to that end and is the overriding authority for measures to deal with natural and man-made disasters,

THEREFORE, in exercise of the powers conferred on him by articles 1, 2, 3, 138, 182 and 183(f) of the Political Constitution of the Republic of Guatemala and on the basis of article 139 of the Constitution, articles 1, 2, 6, 14, 15, 25, 28, 31, 32 and 36 of Decree No. 7 of the National Constituent Assembly: Public Order Act, and article 44 of Decree No. 57-92 of the Congress of the Republic: State Contracting Act,

IN CONCERT WITH THE CABINET,

DECREES AS FOLLOWS:

Article 1. Declaration. A state of emergency is hereby declared in the municipality of Jerez, Department of Jutiapa, Republic of Guatemala.

Article 2. Justification. The state of emergency is being declared as a result of landslides caused by heavy rainfall in the municipality of Jerez, Department of Jutiapa, which have damaged roads, housing, schools, health facilities and other infrastructure and impaired the provision of essential services, production activities and human development.

Article 3. Purpose. The purpose of the state of emergency is to mitigate the damage, repair

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roads and buildings, restore essential services and minimize the impact, and to enable the necessary measures to be taken, in places where circumstances so warrant, to avoid or reduce the impact of the disaster and, above all, to protect the life, physical integrity and safety of the affected or at-risk population and to safeguard their property.

Article 4. Period of application. The state of emergency is declared for 30 days beginning from the date of entry into force of this Decree.

Article 5. Rights subject to restriction. The full application of the rights set forth in articles 5 and 26 of the Political Constitution of the Republic of Guatemala shall be restricted for the period indicated in the preceding article.

Article 6. Measures. During the state of emergency, the following measures shall be taken:

(a) All necessary measures shall be taken to deal with the damage resulting from the impact of the landslides caused by heavy rainfall in the municipality of Jerez, Department of Jutiapa, which have deluged the community with mud and stones from the Chingo volcano, and to mitigate the risk that this presents; these measures shall be taken in such manner, circumstances and places as the situation requires and shall be coordinated by the National Coordination Office for the Reduction of Natural and Man-made Disasters;

(b) The right of liberty of movement shall be restricted and persons in affected or at-risk locations shall be either removed from or allowed to remain in their homes, as circumstances require;

(c) Cordons sanitaires shall be established to restrict the movement of vehicles and prevent the entry of persons to affected or at-risk areas, as circumstances require;

(d) All private individuals shall be required to provide the assistance and cooperation deemed essential for controlling the situation in affected areas more effectively;

(e) Residents of housing located in the so-called "high-risk" area shall be encouraged to relocate, and priority shall be given to residents of in areas where infrastructure, housing and services have collapsed; and

(f) The civilian and military authorities, under the coordination of the National Coordination Office for the Reduction of Natural and Man-made Disasters, shall be ordered to take all necessary measures to protect and safeguard the life, physical integrity, safety and property of persons living in the places in question and ensure the provision of basic essential public services.

Article 7. Procurement. Under Decree No. 57-92 of the Congress of the Republic: State Contracting Act, as long as the state of emergency remains in force, public entities and units shall not be required to seek bids or quotations for the procurement of goods, supplies, works and services essential for addressing situations arising from the state of emergency declared by the present Decree that have caused, or could imminently cause, the suspension of public services. In any case, procurement processes shall be publicized as required by the implementing regulations of the State Contracting Act.

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Article 8. Donations, humanitarian aid and assistance, recovery and related assistance. Donations, humanitarian aid and assistance, recovery and related assistance for helping, rehabilitating and rebuilding the municipality of Jerez and building its local capacities shall be addressed and registered to the National Coordination Office for the Reduction of Natural and Man-made Disasters and duly supported by a request for international humanitarian aid and assistance issued through the Ministry of Foreign Affairs of the Republic of Guatemala, and shall in all cases comply with the customs, tariff and non-tariff requirements and rules in force in the country, which shall be communicated to international cooperating agencies along with the request for international humanitarian assistance. Where donations are addressed to other public institutions or to national or international non-governmental organizations duly accredited and represented in the country, the addressee shall endorse them over to the National Coordination Office before undertaking the procedures for importing the donations. Imported donations shall be duly supported by the rules and requirements established by the National Coordination Office. In all cases, the entry of exempt donations shall remain under the control and supervision of the Tax Administration Superintendency. Recipients of donations that reach the country after the state of emergency has formally ended will have to comply with the ordinary procedures for applying to the Superintendency for a tax exemption before the latter can authorize the entry of the donations to Guatemala. Such donations shall be governed not by Decree No. 101-97 of the Congress of the Republic: Budget Act, but by Legislative Decree No. 109-96: Act establishing the National Coordination Office for the Reduction of Natural and Man-made Disasters and its implementing regulations, under which donations are exempt from all taxes, including import tariff duties and value-added tax.

Article 9. Cooperation. All entities and units of the executive branch, as well as those indicated in article 4 of Decree No. 109-96 of the Congress of the Republic, shall participate and cooperate within their sphere of competence in order to ensure that the measures decided upon for guaranteeing the provision of essential public services to the population are implemented.

Article 10. Protection of persons and their property. The Ministry of the Interior shall take all necessary measures forthwith to ensure the safety of persons and their property, prevent any unlawful act and guarantee the maintenance of peace and public order.

Article 11. Administrative and budgetary management. The Ministry of Public Finance is hereby authorized to identify and allocate the budgetary resources needed to deal with this emergency, to transfer financial resources to spending units in accordance with their legal mandates and to facilitate the corresponding administrative procedures for the timely and appropriate receipt of donations in accordance with article 8 of this Decree.

Article 12. Notification. For the purposes of articles 138 and 139 of the Political Constitution of the Republic of Guatemala, the content of this Decree shall be communicated to the Congress of the Republic. In accordance with article 32 of the Public Order Act, a detailed report on the events that occurred and the measures that were taken during the emergency shall be submitted to Congress in due course.

Article 13. Entry into force. This Decree shall enter into force immediately and shall be published in the Central American Gazette.

(Signed) Jimmy Morales Cabrera  
President of the Republic of Guatemala

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(Signed) Jafeth Ernesto Cabrera Franco  
Vice-President of the Republic

(Signed) Francisco Manuel Rivas Lara  
Minister of the Interior

6 September 2016

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom.

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