

Guatemala

The Government of Guatemala is submitting this report pursuant to Security Council resolution 1540 (2004).

Only the Guatemalan army is authorized to use weapons of mass destruction, as specified in article 6 of the Arms and Ammunition Act. Accordingly, the Guatemalan Government could not provide support to non-State actors that attempt to use such weapons. Furthermore, article 95 of the Act establishes penalties for the illegal possession and storage of such weapons.

"Article 16. Arms used by the Guatemalan army. The Guatemalan army may use any category of arms, without restriction, for the internal and external defence of Guatemala. Offensive weapons, chemical and biological weapons, explosives, materiel, nuclear weapons and weapons for special military purposes, may be used only by the Guatemalan army, provided that they are not covered by the prohibitions established in the international conventions or treaties accepted and ratified by Guatemala. Security forces belonging to or under the control of the Ministry of the Interior may possess and bear offensive weapons with the express authorization of the Department of Arms and Ammunition Control.

No arms registered as State property may be used by private citizens".

All weapons-related matters are regulated by the Arms and Ammunition Act, article 4 of which states:

"Article 4. General arms classification. For the purposes of this Act, arms are classified as: firearms, weapons using compressed gases, blade weapons, explosives, chemical, biological and nuclear weapons, missiles, mines and experimental weapons".

Illegal possession is punishable under the Act. In this regard, article 95 of the Arms and Ammunition Act stipulates:

"Article 95. Illegal possession and storage of offensive firearms, explosives, chemical, biological and nuclear weapons, mines and experimental weapons. Anyone who possesses offensive firearms, explosives, chemical, biological and nuclear weapons, mines and experimental weapons without

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authorization from the Department of Arms and Ammunition Control shall be guilty of the offence of illegal possession and storage of such arms.

Persons committing this offence shall be punishable by 8 to 12 years' imprisonment and confiscation of the arms".

Guatemalan legislation includes the following provisions:

Arms and Ammunition Act (Decree-Law No. 39-89)

"Article 81. General prohibitions (as amended by article 25 of Decree-Law No. 74.90). Prohibits private individuals from manufacturing, importing, possessing and bearing:

(a) Offensive firearms, offensive blade weapons except for collector's bayonets, explosives, chemical, biological and nuclear weapons, mines and experimental weapons;

"Article 93. Illegal possession of offensive firearms, explosives, chemical, biological and nuclear weapons, mines and experimental weapons. Anyone who possesses one or more of the following without authorization: offensive firearms, explosives, chemical, biological and nuclear weapons, mines and experimental weapons shall be guilty of the offence of illegal possession of such arms.

Persons committing this offence shall be punishable by six to eight years' imprisonment and confiscation of the arms".

"Article 95. Illegal possession and storage of offensive firearms, explosives, chemical, biological and nuclear weapons, mines and experimental weapons. Anyone who possesses offensive firearms, explosives, chemical, biological and nuclear weapons, mines and experimental weapons without authorization from the Department of Arms and Ammunition Control shall be guilty of the offence of illegal possession and storage of such arms".

"Article 97. Illegal bearing of offensive blade weapons (last paragraph amended by article 29 of Decree-Law No. 74-90). Anyone who bears offensive blade weapons shall be guilty of the offence of carrying such arms.

Persons committing this offence shall be punishable by one to three years' imprisonment and confiscation of the arms".

"Article 110. Validity of the current regulations on explosives. The regulations for the import, storage, transport and use of explosives for industrial purposes and of devices for detonating them, as contained in Governmental Decision No. 14-74 of the Ministry of National Defence and its amendments, shall remain valid until the new regulations on this subject enter into force, in accordance with the Restricted Substances Act (Decree-Law No. 123-85)".

Although no substances that could be used to manufacture chemical, biological or nuclear weapons are produced in Guatemala, there is legislation to control the import and export of such substances for use in other fields on the national territory.

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Restricted Items Act and its implementing regulations

Decree-Law No. 123-85

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. Individuals or entities interested in obtaining a licence for an activity involving the manufacture, processing, import, export, storage, transport, acquisition, transfer and use of restricted items mentioned in article 2 of these regulations must apply to the Ministry of National Defence.

The application must be made using the forms prepared for this purpose by the Ministry of National Defence and must in each case comply with the following requirements, in addition to those established by these regulations:

1. Indicate the name of the authority to which it is addressed.
2. Give the applicant's full names and surnames, age, marital status, nationality, profession or activity, domicile, and address for receipt of notices; if the applicant is a legal entity, the aforementioned information shall be that of its duly accredited legal representative.
3. Be made in precise terms and fulfill the requirements of these regulations for each individual licence.
4. Indicate the place and date and bear a signature.
5. If the applicant is an individual, be accompanied by the following documents:
 - (a) Certified photocopy of the business licence;
 - (b) Original of the document attesting that the applicant has no criminal or police record;
 - (c) Certified photocopy of the residence card.
6. If the applicant is a legal entity, be accompanied by:
 - (a) Certified photocopy of the first attestation of the articles of incorporation and any amendments thereto duly registered in final form in the General Commercial Register of the Republic;
 - (b) Certified photocopy of the business licence;
 - (c) Certified photocopy of the designation of the legal representative.

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"Article 6. Procedure. Once the application has been submitted and the requirements established in the preceding article have been fulfilled, the following procedure shall be followed:

1. The Ministry of National Defence shall forward the dossier to the National Defence General Staff.
2. The National Defence General Staff shall verify such information as it deems necessary and request the opinion of the Corps of Engineers of the Guatemalan army. The Corps of Engineers shall conduct the corresponding inspections, determine whether the material which is the subject of the application is a restricted item and shall set the amount of the insurance based on the tables authorized by the Ministry of National Defence. The original of the insurance policy must be submitted to the Corps of Engineers for attachment to the corresponding dossier.
3. Subsequently, the dossier shall be forwarded to the army's legal department for the corresponding legal opinion.
4. Once the procedure is completed, the Ministry of National Defence shall,

if appropriate, authorize the corresponding licence and shall return the original of the insurance policy to the applicant; a certified copy thereof shall be placed in the archives of the Ministry's Department of Restricted Items".

"Article 7. Other opinions. For technical, practical and safety reasons, before the requested licence is granted or denied, the Ministry of National Defence may request an opinion from any of its own offices or those of any other Ministry. The Ministry of National Defence may also refuse to grant the licences provided for under these regulations for reasons of national security".

"Article 8. Specific import requirements. Applications for licences to import restricted items must in addition to the requirements set out in articles 5 and 6 above, comply with the following:

1. Indicate the quantity, grade, quality, weight, brand, number, expiration date and other characteristics of the restricted item.
2. In the case of detonators, the quantity, grade, brand, expiration date and other identifying data for each item.
3. The reason for importing the item.
4. The country it is coming from and the port of loading.
5. The name of the company or person in whose name it is being shipped.
6. The registration number of the ship or vehicle and the name of the shipping company.
7. The port or customs office of entry.
8. The place where they will be stored.

"Article 9. Authorization for direct import. Subject to fulfillment of the requirements in articles 5 and 6 of these regulations, the Ministry of National Defence may authorize the import of chlorates directly by and on behalf of individuals or legal entities engaged in the activities indicated below, for use exclusively in manufacturing their products:

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1. Manufacture of matches.
2. Manufacture of paper pulp".

"Article 11. Requirements for import with a licence. For each import, individuals and legal entities with the necessary licence need only request the corresponding authorization from the Ministry of National Defence, attaching certified photocopies of the licence and the other documents listed in articles 5 and 6 of these regulations".

"Article 12. Specific export requirements. Applications for licences to export restricted items must, in addition to the requirements set out in article 6 of these regulations comply with the following:

1. Indicate the quantity, grade, quality, weight, brand, number, expiration date and other characteristics of the restricted item.
2. In the case of detonators, the quantity, grade, brand and other identifying data for each item.
3. The country to which the product will be exported and the port or customs office of departure.
4. The name of the company or person in whose name it is being shipped.

"Article 14. Requirements for export with a licence. For each export, individuals and legal entities with the necessary licence must request the corresponding authorization from the Ministry of National Defence, attaching a certified photocopy of the licence, and must comply with the requirements set out in articles 5 and 13 of these regulations".

"Article 15. Manufacture by the State. Only the State is authorized to manufacture explosives for industrial purposes and detonators. However, individuals or legal entities that are in partnership with the State or its decentralized, autonomous or semi-autonomous entities for such purposes may manufacture them, under the supervision of the Ministry of National Defence, provided that they fulfill the requirements set out in this chapter.

"Article 16. Specific requirements for manufacture or processing.

Applications for licences to manufacture or process restricted items must, in addition to fulfilling the requirements set out in article 5 of these regulations, comply with the following:

1. Indicate the exact location of the plant where the manufacture or processing of the restricted items will take place.
2. Attach a location plan, on a minimum scale of 1:500, showing the entire site with existing and future buildings, the transport and electricity grids and a full projection of

the perimeter fence. Also attach a set of blueprints and a description of all the buildings that will belong to the manufacturing plant, indicating the size, construction and materials used, and an environmental impact study.

3. State the type of restricted items that the applicant plans to manufacture or process and the maximum monthly capacity, as well as the quantities that will be stored at any one time in the plant or in an authorized storage area.

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Include a description of manufacturing methods and of the full operation of the machinery and equipment to be used.

4. Provide a technical description of the processing or manufacturing process.

5. Provide a description and diagram of the structure and safety features of the facilities.

6. Provide a list of the personnel who will be involved in the process of manufacturing or processing the restricted items, their identity number and home address, to be updated whenever changes are made.

Decree-Law No. 36-98. Plant and Animal Health Act

The Ministry of Agriculture, Livestock and Food is responsible for the management and overall coordination of the public agriculture, forestry and hydrobiology sector. Through the Ministry, the Government of the Republic implements the country's sustainable development policy in defence of plant and animal health. One of the Ministry's main activities, carried on through its, respective units is the monitoring of raw materials and inputs for use in agriculture and animal husbandry.

"Article 6.

(d) Prevent the introduction and dissemination of pests and diseases that threaten food security, agricultural, forestry and hydrobiological production and international trade in the related products;

(f) Regulate the use, handling, manufacture, storage, marketing, registration, import, quality and residues of chemical, chemicopharmaceutical, biological and related substances for specific use in agricultural, forestry and hydrobiological activities;

(k) Issue technical standards for the movement, transfer, export and import of plants and animals and of unprocessed agricultural and hydrobiological by-products;

(m) Disseminate phytosanitary and zoosanitary standards and procedures by all necessary means with a view to promoting national and international trade in animals, plants and unprocessed products and byproducts.

"Article 11. The Ministry of Agriculture, Livestock and Food shall be responsible for carrying out and coordinating action for the implementation of regulatory procedures and standards in the movement of plants, unprocessed products and by-products of plant origin, means of transport, equipment and inputs for agricultural use, in order to prevent the entry or the spread and establishment in the country of exotic pests. The specific measures to be carried out shall be established by related regulations".

"Article 20. The Ministry of Agriculture, Livestock and Food shall establish the norms, procedures and regulations for entry into and transport to

19S/AC.44/2004/(02)/18 and within the national territory of animals, pharmaceuticals, biological and hydrobiological products, raw materials, unprocessed products and byproducts of animal origin and equipment and materials for use in animal husbandry, in order to prevent the entry or the spread and establishment in the country of diseases, pests, contaminants and other pathogens that may affect animal health and biodiversity. For that purpose, the Ministry shall have the powers and duties established in the relevant regulations".

Governmental Decision No. 745-99.

Regulations for the implementation of the Plant and Animal Health Act

"Article 23. The import and export of plants, animals, plant and animal products and by-products and inputs for use in agriculture and animal husbandry shall be subject to compliance with the provisions of these regulations and other regulations issued by the Ministry of Agriculture, Livestock and Food for that purpose by means of ministerial decisions".

"Article 24. The import of plants, animals, plant and animal products and by-products and inputs for use in agriculture and animal husbandry shall require a phytosanitary or zoosanitary permit, as the case may be, as well as a permit or licence in the case of inputs, which shall be granted to the person concerned upon application to the Unit, as

established by the Ministry of Agriculture, Livestock and Food. Applications for such permits or licences must be submitted to the Unit by the person concerned prior to the arrival of the product in the country.

"Article 27. Any person coming from outside the country who brings with him plants, animals, plant or animal products or by-products and inputs for use in agriculture or animal husbandry shall be obliged to declare them to the competent authorities for the purposes of compliance with the provisions contained in the present Regulations".

"Article 28. The introduction into the country, in diplomatic pouches, of plants, animals, plant or animal products or by-products and inputs for use in agriculture or animal husbandry shall be subject to the provisions of the present Regulations and the related regulatory norms.

"Article 37. Prior to the issuance of an international phytosanitary or zoosanitary certificate for the export of plants, animals or plant or animal products or by-products, the applicant must present the record of inspection and treatment of the product, where required by the importing country. In the case of animals, the corresponding health and vaccination certificate must also be presented.

6. Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

Reply of the Government of Guatemala

The Ministry of National Defence is responsible for explosives and restricted items, which are regulated by Decree-Law No. 123-85, containing the Restricted Items Act and its implementing regulations.

Biological Applications:

Psychotropic substances

- Alprazolam
- Amfepramone
- Barbitol
- Bromazepam
- Chlordiazepoxide
- Clobenzorex
- Clobazam
- Clonazepam
- Clorazepate
- Cloxazolam
- Diazepam
- Estazolam
- Ethylamphetamine
- Phenobarbital
- Phentermine
- Fenproporex
- Flunitrazepam
- Flurazepam
- Halazepam
- Haloxazolam
- Ketazolam
- Ethyl loflazepate
- Loprazolam
- Lorazolam
- Lorazepam
- Mazindol
- Medazepam
- Meprobamate
- Methylphenidate
- Midazolam
- Nitrazepam
- Secobarbital
- Tetrazepam

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- Triazolam
- Zolpidem

Guatemala occupies a very important geo-strategic position as a communication and supply channel between North and South and East and West.

This facilitates the movement of all kinds of resources, including nuclear, chemical, biological or atomic weapons, or material which may be used for their proliferation.

Although Guatemala is a signatory to multilateral conventions and treaties in that area, it does not have the necessary human resources trained to detect such material, nor the equipment and technology to implement proper controls.

International cooperation is therefore required to improve detection systems and train personnel of the various institutions responsible for compliance with the agreements and conventions ratified by Guatemala.

Guatemala is a party to:

- International Convention for the Suppression of the Financing of Terrorism.

Guatemala is also a party to the following multilateral instruments relating to international terrorism:

- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction;

Issues relating to weapons of mass destruction are regulated by Guatemalan legislation as contained in the following:

- Plant and Animal Health Act, Decree Law No. 36-98

Guatemala signed the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction on 9 May 1972 and ratified it on 30 August 1973; it was published in the Official Gazette of 29 May 1974. Although Guatemala has no biological weapons, it has participated actively in meetings and conferences held on that issue.

At the international level, Guatemala is a party to the Treaty on the Non-Proliferation of Nuclear Weapons, the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction