

PERMANENT COUNCIL



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RECENT DEVELOPMENTS IMPACTING THE RULE OF LAW  
AND DEMOCRATIC PRESIDENTIAL TRANSITION IN GUATEMALA<sup>1/2/</sup>

(Adopted by the Permanent Council at its special meeting, held on November 15, 2023)

THE PERMANENT COUNCIL OF THE ORGANIZATION OF AMERICAN STATES,

TAKING INTO ACCOUNT that, in accordance with the Charter of the Organization of American States (OAS), the States of the Americas have undertaken to conduct their relations on the basis of the principles of good faith and cooperation;

RECALLING the principles enshrined in the Inter-American Democratic Charter, which states that “the peoples of the Americas have a right to democracy and their governments have an obligation to promote and defend it;”

RECOGNIZING the importance of an orderly, transparent, effective, and peaceful transition of power in Guatemala, and of upholding the rule of law in accordance with the Political Constitution of the Republic of Guatemala and Guatemalan law, the related international treaties to which Guatemala is a party, and the Inter-American Democratic Charter;

RECALLING that Chapter IV of the Inter-American Democratic Charter includes provisions related to strengthening and preserving democratic institutions in response to situations in member states “that may affect the development of its democratic political institutional process or the legitimate exercise of power;”

RECOGNIZING the invitation extended by the President of the Republic of Guatemala, Alejandro Giammattei Falla, to the Secretary General of the OAS, Luis Almagro, to accompany the process of presidential transition towards the incoming administration of Mr. Bernardo Arévalo de León, which was accepted;

BEARING IN MIND declaration CP/DEC. 80 (2446/23), “Recent developments in Guatemala,” adopted by the Permanent Council at its special meeting held on September 1, 2023, which

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1. Guatemala is a free, sovereign, independent State, whose system of government is republican, democratic, and representative. Consequently, it respects democracy, seeks to promote...
  2. The Republic of El Salvador reaffirms its principled position in matters of international law, in the sense of not intervening or interfering in the internal affairs of another State.

recognized the invitation from the President of the Republic of Guatemala for the OAS to observe the presidential transition process, and called upon the Organization to hold high-level meetings with relevant stakeholders, among other things;

WELCOMING the efforts of the OAS Electoral Observation Mission (EOM) in Guatemala, the ongoing work of the Accompaniment and Observation Mission for the 2023–2024 Government Transition Process of the OAS Secretary General to support a peaceful transition, and the announcement on October 7, 2023, of an OAS Mediation Mission comprising former Minister of Defense of Uruguay, Luis Rosadilla, Secretary for Access to Rights and Equity of the OAS General Secretariat, Maricarmen Plata, and the Representative of the OAS General Secretariat in Guatemala, Diego Paz;

BEARING IN MIND the preliminary recommendations of the EOM, as contained in its preliminary report of August 22, 2023, to evaluate legal and normative reforms to the electoral process in Guatemala and in that sense recognize the presentation of the methodology of work for the Electoral Update and Modernization Commission (CAME), presented by the Supreme Electoral Tribunal on September 29, 2023, with the objective of evaluating and presenting reform proposals to the Electoral and Political Parties laws, including reforms to Guatemala's electoral process, to improve clarity, enhance transparency, and strengthen the credibility of future elections, including the establishment of clear, objective criteria for candidate inclusion;

AWARE OF the observations contained in the subsequent reports of the OAS Secretary General on the Observation Mission for the 2023–2024 Government Transition Process, as delivered to the Permanent Council on September 18, (CP/INF. 9909/23), and October 10, 2023 (CP/INF.9956/23) the statements of the EOM in Guatemala from September 12 and September 29, 2023, as well as the statements of the OAS Mediation Mission from October 13 and 18, 2023;

MINDFUL OF the statements issued by the Inter-American Commission on Human Rights (IACHR) on October 4 and October 18, 2023, in which the IACHR expressed deep concern regarding the state of constitutional order in Guatemala, urged the State of Guatemala to respect the outcomes of the general elections and cease the actions of the Public Prosecutor's Office that jeopardize the constitutional order and independence of the branches of government;

TAKING NOTE of the presentations delivered by the Minister of Foreign Affairs of the Republic of Guatemala, Mario Adolfo Búcaro Flores, and President-elect Bernardo Arévalo de León, at the special meeting of the Permanent Council held on October 10, 2023;

EXPRESSING GRAVE CONCERN over continued post-electoral actions, partisan disputes, the excessive judicialization of the electoral process, and ongoing litigation negatively impacting the presidential transition in Guatemala; the ongoing efforts by the Public Prosecutor's Office (*Ministerio Público*) to intimidate election authorities, including through raids on Supreme Electoral Tribunal (TSE) offices and attempts to withdraw immunity from TSE officials; as well as reports of intimidation against members of *Movimiento Semilla* and their families;

REITERATING its support for the democratic will of the people of Guatemala and for collaboration between OAS Member States, regional, and international partners to uphold democratic principles and accountability in Guatemala;

ACKNOWLEDGING the importance of public trust, of advancing the ongoing dialogue and mediation processes, of protecting the rule of law in Guatemala, and of promoting adherence to the principles enshrined in the Inter-American Democratic Charter;

ACKNOWLEDGING ALSO the openness to dialogue, demonstrated by the indigenous authorities and representatives of the National Government with the accompaniment of the OAS Mediation Mission, appointed by the Secretary General, in the context of the social protest, in which both parties have expressed their commitment to maintain a peaceful dialogue with respect to fundamental freedoms; and

NOTING that on October 31, 2023, the TSE issued Decree 05-2023, by which it declared the conclusion of the electoral process, which "... makes official the results of the general election and the elections for deputies to the Central American Parliament, and the results of the second presidential election in 2023, which are inalterable. The elected citizens shall take office on January 14 and 15, 2024",

RESOLVES:

1. To call upon all institutions of the State of Guatemala, including the executive, judicial and legislative branches, as well as the Public Prosecutor's Office (*Ministerio Público*), in accordance with their constitutional responsibilities, to stop or prevent, as appropriate, any act of intimidation of electoral officials, the *Movimiento Semilla* party, and those who have been elected, and to respect the integrity of electoral materials.

2. To express its continued support for the Accompaniment and Observation Mission for the 2023-2024 Government Transition Process, which will conclude with the presidential inauguration that will take place on January 14, 2024, in accordance with Decree 5-2023 issued by the Supreme Electoral Tribunal of Guatemala on October 31, 2023, which declares the electoral process closed and makes official the election results; and to express its support for the work of the Mediation Mission within the framework of the Observation Mission, and to urge all parties involved to actively, swiftly and sincerely participate in the dialogue and mediation processes currently led by the OAS General Secretariat.

3. To denounce the attempts by the Public Prosecutor's Office (*Ministerio Público*) to discredit and prevent a peaceful transition of power, which undermine the democratic process and Guatemala's commitments under the Inter-American Democratic Charter.

4. To request that the OAS Secretary General continue his engagement and diplomatic efforts in Guatemala to promote democracy, human rights, and the rule of law in accordance with international law.

5. To request that the representatives of the OAS General Secretariat and the Inter-American Commission on Human Rights to continue, within the framework of their respective competencies and mandates, to present regular reports to the Permanent Council on the progress and outcomes of their monitoring work in Guatemala.

6. To request the OAS Secretary General to include, in his periodic reports on Guatemala to the Permanent Council, recommendations on possible actions that may facilitate a peaceful and democratic presidential transition.

7. To continue monitoring closely the situation in Guatemala over the coming weeks, mindful of the commitments shared by OAS member states to promote and support democratic governance, including the strengthening and preservation of democratic institutions, in accordance with the OAS Charter and the Inter-American Democratic Charter.

#### FOOTNOTE

1. ...constructive dialogue, and acts in good faith. In the course of the deliberations on this resolution, Guatemala participated actively to ensure that its content was fair, objective, and balanced.

When agreement on the text was not reached, Guatemala did not join the consensus and requested a vote on it, expressing its objections and disagreement, not only because of the nature of the text, which does not correspond with the reality of the country, the transition process and transfer of power that is underway, but also because it ignores the constitutional obligations of its institutions.

Therefore, the Government of Guatemala does not support the draft resolution presented, because it ignores the transparency of the transition process underway towards a transfer of power.

