

9/30/16
STATE DEPT

CERTIFICATION PURSUANT TO SECTION 7045(a)(3)(B) OF THE
DEPARTMENT OF STATE, FOREIGN OPERATIONS, AND RELATED
PROGRAMS APPROPRIATIONS ACT, 2016 (DIV. K, P.L. 114-113)

By virtue of the authority vested in me as Deputy Secretary of State by Department of State Delegation of Authority 245-1, and pursuant to section 7045(a)(3)(B) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2016 (Div. K, P.L. 114-113), I hereby certify that the central government of Honduras is taking effective steps to:

- establish an autonomous, publicly accountable entity to provide oversight of the Plan [of the Alliance for Prosperity in the Northern Triangle of Central America];
- combat corruption, including investigating and prosecuting government officials credibly alleged to be corrupt;
- implement reforms, policies, and programs to improve transparency and strengthen public institutions, including increasing the capacity and independence of the judiciary and the Office of the Attorney General;
- establish and implement a policy that local communities, civil society organizations (including indigenous and other marginalized groups), and local governments are consulted in the design, and participate in the implementation and evaluation of, activities of the Plan that affect such communities, organizations, and governments;
- counter the activities of criminal gangs, drug traffickers, and organized crime;
- investigate and prosecute in the civilian justice system members of military and police forces who are credibly alleged to have violated human rights, and ensure that the military and police are cooperating in such cases;
- cooperate with commissions against impunity, as appropriate, and with regional human rights entities;
- support programs to reduce poverty, create jobs, and promote equitable economic growth in areas contributing to large numbers of migrants;
- establish and implement a plan to create a professional, accountable civilian police force and curtail the role of the military in internal policing;
- protect the right of political opposition parties, journalists, trade unionists, human rights defenders, and other civil society activists to operate without interference;
- increase government revenues, including by implementing tax reforms and strengthening customs agencies; and

- resolve commercial disputes, including the confiscation of real property, between United States entities and such government.

This certification shall be published in the *Federal Register* and, along with the accompanying Memorandum of Justification, shall be reported to Congress.

9/30/16
Date

Heather A. Higginbottom
Heather A. Higginbottom
Deputy Secretary of State

UNCLASSIFIED

**MEMORANDUM OF JUSTIFICATION REGARDING CERTIFICATION
UNDER SECTION 7045(a)(3)(B) OF THE DEPARTMENT OF STATE,
FOREIGN OPERATIONS, AND RELATED PROGRAMS
APPROPRIATIONS ACT, 2016 (DIV. K, P.L. 114-113)**

Section 7045(a)(3)(B) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2016 (Div. K, P.L. 114-113) (SFOAA) requires the Secretary to make certain certifications prior to the obligation of 50 percent of assistance made available pursuant to paragraph 7045(a)(1) of the SFOAA for the central Government of Honduras to implement the U.S. Strategy for Engagement in Central America, in support of the Plan of the Alliance for Prosperity (A4P) in the Northern Triangle of Central America (the Plan). The certification is being submitted to the House of Representatives Committees on Appropriations and Foreign Affairs and Senate Committees on Appropriations and Foreign Relations. Consistent with the certification requirements in section 7045(a)(3)(B) of the SFOAA, the central government of Honduras is taking effective steps to:

Establish an autonomous, publicly accountable entity to provide oversight of the Plan:

The Government of Honduras published decree PCM-32-2016 in its official gazette in May, which legally established the A4P Consultative Council. The Council held meetings April 28 and May 26 to discuss progress on meeting A4P goals. The Council is designed to encourage public participation in the execution of A4P programs and increase their transparency, and includes representatives of Honduran civil society organizations; the business community; and various international organizations like the Inter-American Development Bank (IDB) and the U.S. Embassy in Tegucigalpa. The Government of Honduras participates at the Cabinet level.

Combat corruption, including investigating and prosecuting government officials credibly alleged to be corrupt:

From January to August 2016, Honduran courts convicted 19 former officials of corruption, including two congressmen, a former minister, a judge, current and former mayors, and two officials involved in a massive fraud scheme against the national health care system that cost the state more than \$350 million. By comparison, only nine public officials were convicted of corruption between 2008 and August 2015. Further, Honduran efforts over the last year resulted in the forfeiture of 90 assets acquired with funds stolen from the national health care system. An internal investigation initiated by the president of the new

UNCLASSIFIED

UNCLASSIFIED

- 2 -

Supreme Court uncovered deeply rooted corruption in the Council of the Judiciary, which is responsible for managing the court system. The investigation led to the forced resignations of three Council members on March 3 and its dissolution March 14. Honduran Attorney General Oscar Chinchilla announced a proposal to reform the criminal code to allow prosecutors to charge officials accused of corruption with illicit association, a charge currently reserved for members of organized crime that carries an additional penalty of 12 years in prison.

Implement reforms, policies, and programs to improve transparency and strengthen public institutions, including increasing the capacity and independence of the judiciary and the Office of the Attorney General:

In February, Congress elected a new Supreme Court in a more transparent judicial election process than previously carried out. Televised live, members of Congress cast votes over 17 days to select the 15-member court. The independent board that selected candidates to recommend to Congress implemented robust vetting to review nearly 200 aspirants, and the final 97 underwent polygraphs and answered questions in televised hearings. The President of the new Supreme Court worked with the Organization of American States (OAS) Mission Against Corruption and Impunity in Honduras (MACCIH) to devise a new, insulated court system with vetted personnel to prosecute public corruption cases, and presented the proposal to vet the anti-corruption court judges to Congress for approval. On May 30, the Honduran Congress approved a budget for the Office of the Attorney General (Public Ministry) of \$61.8 million, representing an increase of \$15.25 million, or approximately 25 percent, over the previous year. On June 2, Congress also approved a \$1.5 million budget increase for the Public Ministry's Technical Agency for Criminal Investigations (ATIC), which will support creation of a special unit to investigate sensitive, high-profile criminal cases.

Establish and implement a policy that local communities, civil society organizations (including indigenous and other marginalized groups), and local governments are consulted in the design, and participate in the implementation and evaluation of, activities of the Plan that affect such communities, organizations, and governments:

The Government of Honduras decreed that the A4P Consultative Council's Directive Committee must consult with representatives of civil society and local governments in the geographic zones targeted by the A4P. Separately, the government engaged civil society and local communities on specific A4P activities. For example, during its development of one-stop service centers for women (*Ciudad Mujer*), primarily victims of gender-based violence and/or returned migrants, the government consulted with several women's organizations

UNCLASSIFIED

UNCLASSIFIED

- 3 -

and the communities where centers will be built. With technical support from the UN Development Program (UNDP), Honduras drafted a bill mandating that companies engage in consultative processes with affected communities before they begin development projects. The government and UNDP shared the bill with the nine primary indigenous communities in Honduras, as well as civil society and the private sector, and plan to formally submit the bill to Congress by the end of 2016. The government, international organizations, and local civil society groups also restarted a consultative body designed to identify development priorities and coordinate projects in the Department Gracias a Dios in eastern Honduras. Additionally, MACCIH includes a Civil Society Observatory through which civil society organizations will provide input into that process.

Counter the activities of criminal gangs, drug traffickers, and organized crime:

President Hernandez issued a decree ordering law enforcement to focus efforts on combating criminal gangs and extortion. Honduras continues to invest in its National Automated Case Management System (NACMIS) - a criminal history and arrest warrant tracking system - at all border crossings, mobile checkpoints, and police posts. A NACMIS Criminal History Information Sharing (CHIS) agreement with the United States has helped Honduran INTERPOL arrest more than 158 fugitives on arrival in Honduras via Immigration and Customs Enforcement air operations chartered flights. With data from NACMIS, from January to August, the Honduran National Police (HNP) arrested 942 persons accused of violent crimes, such as rape (197) and murder (519).

The HNP's Criminal Structures Unit (CSU) is a dedicated anti-kidnapping force and has arrested 217 persons and prevented more than \$14 million in ransom payments since 2014. The CSU is expanding both geographically and in personnel to address criminal organizations in Honduras. Honduran authorities have extradited 12 Hondurans to the United States since 2013, including major drug traffickers. Honduras' willingness to extradite individuals under the extradition treaty with the United States has led more than a dozen others to turn themselves in to U.S. law enforcement authorities. In coordination with the HNP, ATIC carried out Operation Avalanche on February 23 against MS-13, one of the country's largest and most powerful transnational gangs. Honduran law enforcement arrested 19 people in the operation, including a mayor and several public officials, and seized millions of dollars in real and personal property, as well as \$600,000 in cash.

UNCLASSIFIED

Investigate and prosecute in the civilian justice system members of military and police forces who are credibly alleged to have violated human rights, and ensure that the military and police are cooperating in such cases:

On May 2, ATIC arrested an active duty Army Special Forces officer implicated in the murder of environmental activist Berta Caceres; he was dishonorably discharged June 1 and is facing prosecution in the civilian justice system. In April, following revelations that senior HNP officers were suspected of masterminding the assassination of several senior government anti-drug officials between 2009 and 2013, the President ordered the creation of a civilian-led commission to purge the HNP of corrupt officers and restructure the force. By August, the Commission had worked its way down through the top four tiers of police leadership. In its first quarterly report, the Commission said it dismissed 313 senior officers out of the 946 it evaluated, with support of the new HNP leadership. Based on information provided by the Commission, the Public Ministry is investigating dozens of high-level officers, including those reportedly involved in the murders of the country's top counternarcotics and anti-money laundering officials.

Cooperate with commissions against impunity, as appropriate, and with regional human rights entities:

The Honduran government and the OAS signed the terms of reference establishing MACCIH on January 19. MACCIH launched operations in Honduras April 14 and is actively collaborating with the Supreme Court and Public Ministry on reforms to the justice system and the oversight of high-profile corruption cases. As of mid-September, it had identified four initial priority cases. In 2015, the President invited the UN Office of the High Commissioner for Human Rights to open an office in Honduras, which began operations in March; the country representative arrived in September. The Government of Honduras hosted and cooperated with multiple visits in 2016 from special rapporteurs from the United Nations and OAS and is moving to resolve outstanding Inter-American Court judgments against it. Between 1987 and 2015, the Inter-American Court issued 20 judgements against Honduras, 14 of which are in the Monitoring Compliance with Judgement phase, and three of which the government has already fully satisfied.

Support programs to reduce poverty, create jobs, and promote equitable economic growth in areas contributing to large numbers of migrants:

In March, the Honduran government launched Honduras 2020, a joint initiative by the government and private enterprise to prioritize investment in economic sectors with the most potential to create jobs, with a goal of adding

600,000 jobs to the economy in the next five years. The government allocated 43 percent of its national budget in 2016 to health, education, and social development programs. The Honduran government also continued high-profile social programs in 2016, including “Con Chamba Vivís Mejor,” directed at the unemployed and highlighted for returning migrants; “Vida Mejor,” which improves housing for the poor, provides free meals to school children, and supports microentrepreneurship; and “Vivienda Saludable,” which improves access to water, home sanitation, roofs, and floors. The Honduran government also established the \$300 million Employment and Opportunities Program, which in the first quarter of 2016 created 27,605 new formal sector jobs and other income opportunities. During 2016, the Honduran government also took steps to implement a monitoring and action plan to address gaps in enforcement of labor laws and increase transparency and outreach to labor and business stakeholders.

Establish and implement a plan to create a professional, accountable civilian police force and curtail the role of the military in internal policing:

The HNP is undergoing a significant restructuring, focused on combatting corruption, professionalizing and educating its 14,000 personnel, and improving the working and living conditions of officers. Honduras inaugurated a Community Policing model (*Modelo Catracho*) in January, designed to increase public confidence in the HNP in the long term by requiring all police to receive training in community policing. Approximately 25 percent of the force had received the community policing training as of September 2016, and the entire force is expected to be trained by the end of 2017. The HNP increased from approximately 8,000 several years ago to 14,000 today, with a goal of approximately 22,000 police by 2018. The Honduran government approved a salary increase of 25 to 45 percent based on rank, in order to dissuade officers from resorting to extortion or bribes. The increased pay is also expected to attract more qualified candidates and aid in retention. The government developed a written plan that links the withdrawal of the Military Police for Public Order from civilian police duties directly to the pace of HNP professionalization and reform. The plan is comprehensive and provides clear indicators and projected timelines for the HNP’s full resumption of civilian policing duties. According to the Honduran government, the role of the military in police operations has been limited to perimeter security and SWAT team-type functions. The military is not responsible for investigations and making arrests.

Protect the right of political opposition parties, journalists, trade unionists, human rights defenders, and other civil society activists to operate without interference:

In May 2015 the Honduran Congress unanimously approved the Law for the Protection of Human Rights Defenders, Journalists, Social Communicators, and Legal Practitioners, which places responsibility on the state to protect human rights defenders, including trade unionists. On July 20, 2016, the Honduran government announced it would invest an additional \$434,000 for protection measures, beyond the 2015 operational budget of \$500,000. The Vice Ministry of Human Rights is responsible for implementing the law and in 2016 hired four full-time staff. Honduras committed to continue to increase the program's budget and hire the right people to run the mechanism. Full implementation of the law will require time, as well as increased and sustained effort, resources, and personnel. In spring 2016, the government also consulted with the U.S.-based NGO Freedom House on improving the design and operation of its protection mechanism. As part of this consultation, experts from Colombia and Mexico who had helped develop their protection mechanisms came to Honduras and held meetings with government officials and civil society about improving Honduras' protection program. The Ministry of Security is responsible for carrying out nearly 50 cases of protection measures ordered by the Inter-American Commission on Human Rights and the Inter-American Court. These individuals were offered police protection until the new mechanism is in place, at which point the government will be able to offer more comprehensive protection packages.

Increase government revenues, including by implementing tax reforms and strengthening customs agencies:

The Hernandez administration has shown political will to implement measures to balance the budget. The government projects a 17.2 percent increase in tax collection for 2016, which, when added to increases in 2014 and 2015, represents a total tax revenue increase of 62 percent since President Hernandez took office. On March 15, the Honduran government dissolved the national tax directorate, DEI, due to corruption and inefficiency. In its stead, a new tax authority has initiated operations. In June, the International Monetary Fund (IMF) announced Honduras will be the first IMF member in the Western Hemisphere to implement the Enhanced General Data Dissemination System, an initiative to enhance transparency by publishing key macroeconomic data, and that Honduras' economic program with the IMF remained on track. Congress passed the Fiscal Responsibility Law July 19, which requires that a fiscal impact analysis be prepared for any new tax exemptions, and limits the amount of fiscal deficit and unpaid obligations at the end of each year. The Secretary of Finance is drafting

UNCLASSIFIED

- 7 -

revisions to the Organic Budget Law to present to Congress in conjunction with the 2017 budget. The revisions clarify that all government accounts, including trust funds, be included in budgeting and reporting. Honduras' budget and information on debt obligations are widely and easily accessible to the public, including online. The information in the budget is largely complete, although not all government agencies comply with a law to publish details.

Resolve commercial disputes, including the confiscation of real property, between United States entities and such government:

There are four investment disputes pending between U.S. citizens and the Government of Honduras. On April 27, the Honduran Foreign Ministry convened an interagency meeting to discuss the next steps in resolving its disputes with U.S. citizens. The new interagency group will track U.S. investors' claims, decide how to best address them, and issue regular updates to heads of the participating agencies on progress in specific cases. On June 21, the interagency group met and approved an appraisal of property and machinery related to one of the disputes.

UNCLASSIFIED