

REPUBLIC OF GUATEMALA, CENTRAL AMERICA – COMPLIANCE REPORT ON THE UNESCO CONVENTION 1970

The Republic of Guatemala, as State Member of the “**Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970**”, regarding to the compliance, informs:

Guatemala, as part of the convention since 1985, and during this time, has tried to comply with each of the regulations contained therein.

Regarding to the establishment of one or more services to protect the cultural heritage, the Ministry of Culture and Sports, has the Department of Prevention and Control of Illicit Trafficking of Cultural Property under the responsibility of Bachelor of Law and Social Sciences, lawyer and notary Eduardo Enrique Hernandez Herrera, this department manages administrative and legal actions under the Convention, and recovery at the national and international level the cultural property belonging to the Guatemalan cultural heritage.

DEPARTMENT OF PREVENTION AND CONTROL OF ILLICIT TRAFFICKING OF CULTURAL PROPERTY

It is within the Ministry of Culture and Sports, it is Technical-Administrative Department, specializes in the management of cases of illicit trafficking of cultural property that integrate the Guatemalan cultural heritage, both nationally and internationally and thus ensure prevention actions and control measures.

This Department has been created base on the policy for “Prevention and Preservation of Cultural and Natural Heritage”, which set up that the Ministry will intensify efforts to protect the heritage, designing programs and plans for prevention and safeguarding of cultural heritage to cases of predation and / or illicit trafficking.

FUNCTIONS AND MANAGEMENT DESCRIPTIONS:

- **Support with the definition of policies, strategies and actions, in which the Ministry of Culture and Sports has to perform the prevention, control and recovering of the Guatemalan cultural heritage that has been object of robbery, theft and illicit tracking.**
- **Manage the cases of illicit trafficking of cultural property.**
 - National Level:
 - Complaints.
 - Follow up of the cases.
 - Cooperation and assistance in the investigation procedures for resolving the complaints of the Office of Crimes, Section of Cultural Heritage of the Nation of the Attorney's Office.
 - Instruction of the guard of the evidence.

- Follow up of the delivery of cultural property subject of criminal proceedings, for the Ministry of Culture and Sports.
- International Level:
 - Monitoring the international sales;
 - Filing claims on Guatemalan cultural property abroad through a complaint (Rogatory letter from the Attorney's Office), or by the diplomatic route.
 - Dissemination and international alert through a robbery report, Object ID of the Guatemalan cultural property stolen and/or theft, through the INTERPOL, Ministry of Foreign Affairs, customs house and administrative organizations seems to the Ministry of Culture and Sport abroad (Ministries, Secretariats, Institutes or Departments)
- **Manage and facilitate the repatriation and restitution to the State, of the Guatemalan cultural objects stolen or illegally exported.**
- **About legislation on Protection of Guatemalan cultural property, the department provides:**
 - National Level:
 - Advisory for the application in cases regarding to illicit trafficking of cultural property.
 - Training managers on the legal standard of protection of cultural heritage; Example: a) Workshop for staff of the Administration of Customs of the Tax Authority, 2013; b) Workshop of Needs of training between the Department of Cultural and Natural Heritage of the Ministry of Culture and Sports and the Attorney's Office, 2014; c) Training to the officers of the National Civil Police, 2015.
 - Participation in the creation of juridical laws on protection of the cultural heritage.
 - International Level:
 - Implementation of the international conventions, agreements and/ or memorandum on protection of the cultural heritage and illicit trafficking.
 - UNESCO Convention of 1970:
 - Participation and follow up of the Meetings of States Members, the Intergovernmental Committee for Return of Cultural Property, and Subsidiary Committee for subscription of the operational guidelines of the convention,
 - Advice, preparation and presentation of agreements, conventions or memorandums texts, on protection of cultural heritage and illicit trafficking of cultural property.
- **National and international cooperation. Manage and ensure national and international cooperation to combating illicit trafficking of Guatemalan cultural heritage.** Example: Printing of the Law for the Protection of Cultural Heritage of the Nation, G&T Continental Foundation.
- **Promote awareness campaigns and educational measures to stimulate and develop respect for the Guatemalan cultural heritage, and widely dissemination of provisions of its protection.** Example: Statement of compliance arising from the criminal trial for the crime of Trafficking of National Treasures, consisting of educational campaign "AWARENESS

PROMOTION OF REGISTRATION OF ARCHAEOLOGICAL PIECES AND THE LAW OF CULTURAL AND NATURAL HERITAGE OF THE NATION".

- **Promote the signing of interagency agreements with those entities that contribute with the prevention, control and combating illicit trafficking.** Example: Technical Cooperation Agreement with the Attorneys Office, 2013; Cooperation Agreement for Technical Cooperation with the Tax Authority, 2015.

COMBATING ILLICIT TRAFFICKING OF CULTURAL PROPERTY- GUATEMALA.

Concrete actions and progress of the Department

- ✓ **Tax Authority – SAT (For its Spanish acronym) / Custom House Office.** A commission was formed for the elaboration of specific custom rules for export and import of cultural property, in which were established procedures, necessary documentation, custom procedures, customs affidavit of entry and exit (migration) and authorization procedure franchise settled.

Regarding to exports of goods in air cargo companies or ports

- Interagency cooperation with COMBEX-IM, Company in charge of air and seaport security, export and import warehouses.
 - Verification through scanner.
 - Records of exports in case of cultural property outside of the cultural heritage registered by the Cultural Property Registry.
 - Coordination with cargo companies.
- ✓ **Civil Aeronautics Board.** Training for staff in airport security in case of review and oversight of cabin baggage and standard baggage in airport, 2010.

Interagency Cooperation

National Level

- Attorney's Office / Prosecution Section, district prosecution offices, municipal offices.
- National Civil Police (Specialized Criminal Investigation Division – DEIC, Direction of Cultural and Natural Heritage- DIPRONA (for its Spanish acronym)
- INTERPOL – Guatemala
- Ministry of Foreign Affairs (Internal Departments, Embassies of Guatemala around the world)
- **Tax Authority – SAT (For its Spanish acronym) (Customs municipalities)**

International Level

International organizations

- UNESCO
- INTERPOL
- Agencies of international cooperation
- Administrative bodies like the Ministry of Culture and Sports (ministries, departments, institutes, divisions)

Training

- **In coordination with the Attorney's Office,** the department is working on a training project for staff of the General Direction of Cultural and Natural Heritage of the Ministry of

Culture and Sports, and staff of the **Attorney's Office**, about cultural heritage, legal rules of protection of cultural heritage, criminal proceedings, it will be presented to the Security and Justice Project of USAID for funding.

- **With National Civil Police**, training on cultural heritage and illicit trafficking of cultural property to the police officers (POLIMERC, DIPRONA, DISETUR, SGAIA), 2014 - 2015.
- Training Project to students of the Academy from the National Civil Police and of the Division of Nature Protection (For its Spanish Acronym- DIPRONA).
- **In coordination with the Civil Aeronautics Board**. Training for all staff of "La Aurora" International Airport, regarding to cultural heritage and illicit trafficking of cultural property, 2010.
- Training for Customs staff as part of their own customs rules for cultural property, 2013.
- **National Council for Protected Areas** - CONAP, Training Unit of the **Attorney's Office** - UNICAP, Ministry of Culture and Sports, Security and Justice Project- USAID, the workshop "legal and technical aspects in cases of offenses against the Natural and Cultural Heritage of the Nation" for CONAP technical staff and Ministry of Culture and Sports, prosecutors and assistants, specifically from the Department of Petén, for the protection of cultural and natural heritage of the Maya Biosphere Reserve, 2015.

DISSEMINATION TOOLS

Guatemala has several documents that serve to spread the word on cultural heritage goods in danger of being stolen and smuggled, also manuals and publications relating to legal rules of protection of cultural heritage, among these tools we can mention:

- ✓ Law for the Protection of the Cultural Heritage from the Nation.
- ✓ Red list of Cultural Property in danger of Central America and Mexico, ICOM 2010.
- ✓ List of Guatemalan Cultural Property in danger 2009.
- ✓ Manual procedures against illicit trafficking. Museum Network in Central America. (REDCAMUS).
- ✓ Guide for identification of Cultural Property of Guatemala, pocket version.
- ✓ Compendium of laws regarding to the protection of the cultural heritage, distributed to courts and public staff.
- ✓ Marking the cultural property in case of armed conflict, Guatemalan Commission on international humanitarian law.-COGUADIH (For its Spanish acronym).
- ✓ In case of robbery, theft or illicit trafficking of cultural property, the data-theft is made in the Object ID card, the same that is distributed at national and international level.

MECHANISMS OF CONTROL AND REGULATION IN EXPORTS AND IMPORTS OF CULTURAL PROPERTY

The Political Constitution of the Republic of Guatemala, provides in Article 60, the prohibiting of the exportation of cultural property that are part of the cultural heritage, establishing an exceptional regulate export regime for a specific term, which is why it is used to control exports and imports, the following mechanisms of control and regulation, we have:

Tax Authority – SAT / Custom House Office

- A commission was created to develop specific customs rules for import and export cultural property, in which were established proceedings and necessary documentation.

- ✓ Customs procedure.
- ✓ Affidavit customs of entry and exit (migration).
- ✓ Franchise authorization procedure.

Regarding to exports of goods in air cargo companies or ports.

- Inter-agency cooperation with COMBEX-IM, company in charge of air and seaport security, export and import warehouses.
- ✓ Verification through scanner.
- ✓ Check if the cultural goods have the export certificate in case they are outside of the cultural heritage issued by the Registry of Cultural Property.
- ✓ Coordination with cargo companies.

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Civil Aeronautics Board.

- Staff trained in airport security in case of review and monitoring of baggage and standard baggage at the airport.

Registry of Cultural Property.

- The exception is up temporary export for a maximum period of three years. So that it can be verified, the goods must be properly registered and should be met with the appropriate administrative process that includes the establishment of a bond or insurance policy.
- Regarding to cultural property that are not part of Guatemala cultural heritage, and they want to be exported by its owners, the Register of Cultural Property is responsible for issuing an export certificate.
 - Request for the application form.
 - You must submit the cultural property so that it is analyzed (measurement, photography, analysis of characteristics).
 - Signed and sealed certificate is extended, which specifies: "The piece of recent manufacture it is not subject to the Law for the Protection of Cultural Heritage of the Nation, Decree 26-97 and Decree 81-98 and its reforms, both made by Congress of Republic, so if it can leave the country. "

INVENTORY OF NATIONAL CULTURAL PROPERTY

The Republic of Guatemala in compliance with the provision to keep up the national inventory of cultural property from 1976 to July 2015, by the Registry of Cultural Property, has registered:

MOVABLE PROPERTY	No. OF COLLETION	No. OF PROPERTY	SUBTOTAL
Museum Collections	38	75,834	
Private collections	850	37,454	
Governmental Collections	46	7,418	
Ecclesiastical collections	209	8,001	
Collections Archeological Sites	176	22,521	
Collections of Seizures	46	9,233	
Subtotal movable	1,365	9,233	160,461

INMOVABLE PROPERTY			
Heritage property		5,775	
Archeological Sites		2,616	
Holy Places		248	
Subtotal property		8,638	8,638
INTANGIBLE HERITAGE		29	29
TOTAL OF PROPERTY REGISTERED			169,128
ONE HUNDRED AND SIXTY NINE THOUSAND ONE HUNDRED AND TWENTY EIGHT			

CONTROL OF ARCHEOLOGICAL EXCAVATIONS.

The Law for the Protection of the Cultural Heritage of the Nation, establish: Article 16. Development of Projects. When a public body or natural or legal, national or foreign, with scientific and technical conclusively proven ability, seeks to develop projects of any kind in property, or historical centers, urban or rural areas or in sets and archaeological, paleontological or historical sites, included in this law, shall form prior to its execution, make those projects subject to the approval by the General Department of Cultural and Natural Heritage, which have compliance with the technical conditions for the best protection and conservation of those under its monitoring and supervision.

Given this provision it is elaborating the REGULATIONS FOR DEVELOPING ARCHAEOLOGICAL RESEARCH AND IN RELATED DISCIPLINES, which states that the investigations shall be conducted under any of the following ways:

- a. Programmatic and systematic examinations surface or underwater, with or without collection of archaeological materials, involving boreholes or not.
- b. Archaeological salvage of movable property and before any intervention as inevitable necessity before public and private works. For such projects must conduct thorough and comprehensive investigations, preferably multidisciplinary, sites or threatened areas.
- c. Rescue and / or emergency response to infrastructure damage.
- d. Investigations to find missing factors in societies, which can range implied excavation and conservation structures, as well as the rescue and / or transfer, protection, restoration and conservation of movable property warrant.
- e. Comprehensive long-term interdisciplinary research on missing societies, which require excavation of sites and the protection, conservation and restoration of movable and immovable property that warrant.
- f. Researches that not involve excavation, but which involve the study of the evidence exposed, for example analysis of architecture, mural painting, epigraphy, iconography, etc., activities that require special photographs, drawings, replicas and other documentary techniques.
- g. Studies on archaeological movable property deposited in museums, laboratories, warehouses and collections in general.
- h. Underwater explorations and surveys.

LEGAL PROTECTION OF CULTURAL HERITAGE OF GUATEMALA

National Legislation

- ✓ Political Constitution of the Republic of Guatemala.

- ✓ Civil Code
- ✓ Law for Protection of the Cultural Heritage of the Nation.
- ✓ Criminal Code
- ✓ Law for Protection of the Antigua Guatemala City.
- ✓ Other ordinary laws, Governmental Agreements, Ministerial Agreements.

International Legislation

- ✓ Convention for the Protection of the World Cultural and Natural Heritage.
- ✓ Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. (UNESCO 1970)
- ✓ Convention for the Protection of Cultural Property in the Event of Armed Conflict, its implementing regulations and protocols. (Hague Convention)
- ✓ UNIDROIT Convention on Cultural Property Stolen or Illegally Exported.
- ✓ Convention on the Protection and Promotion of the Diversity of Cultural Expressions.
- ✓ Convention for the Safeguarding of the Intangible Cultural Heritage.
- ✓ Treaty on the Protection of Artistic Institutions, Scientific and Historic Monuments (Roerich Pact).
- ✓ Treaty on the Protection of Historical Value Furniture.
- ✓ Mexico - Convention for the Protection and Restoration of Monuments Archaeological, Artistic and Historic between the Republic of Guatemala and the United Mexican States.
- ✓ Mexico - Technical and Operating Agreement for the Restitution and Combating Smuggling of Archaeological Monuments, Artistic and Historic between the Secretariat of Public Education of the United Mexican States and the Ministry of Culture and Sports of the Republic of Guatemala.
- ✓ Mexico - Memorandum of Understanding on archeology, anthropology, Protection and Preservation of Cultural Heritage between the Government of the Republic of Guatemala and the Government of the United Mexican States.
- ✓ Peru - Agreement between the Government of the Republic of Guatemala and the Government of the Republic of Peru for the protection, conservation, recovery and return of cultural property, archaeological, artistic and historic stolen, theft, exported, imported or illegally transferred.
- ✓ USA - Memorandum of Understanding between the Government of the United States of America and the Government of the Republic of Guatemala concerning the imposition of import restrictions on archaeological materials from pre-Columbian cultures and ecclesiastical ethnological objects from the period of conquest and from colonial times to Guatemala.
- ✓ Belize - Agreement between the Republic of Guatemala and Belize for the protection, conservation, recovery and return of stolen cultural and natural property, stolen, exported, imported or illegally transferred, 2014.
- ✓ Belize - Agreement between the Republic of Guatemala and Belize for environmental protection and sustainable use of resources, 2014
- ✓ Egypt - Agreement between the Government of the Republic of Guatemala and the Government of the Arab Republic of Egypt on protection and restitution of stolen or illicitly transferred cultural property 2015.

Regional

- ✓ OAS Convention on the Protection of the Archaeological, Historical and Artistic Heritage of the American Nations.
- ✓ Central American Convention for the Protection of Cultural Heritage.
- ✓ Central American Convention for the Restitution and Return of Archaeological Objects, Historical and Artistic.

- ✓ Central American Convention for Performing Exhibition of Archaeological Objects, Historical and Artistic.

CRIMINAL TYPES OF CRIMES AGAINST THE CULTURAL HERITAGE

The Law for Protection of Cultural Heritage of the Nation. Decree 26-97 of Congress, Chapter X regulates penalties for administrative offenses and crimes against the cultural heritage of the nation. It also brings us to the Criminal Code sanctions for specific offenses. Naming Title VIII. Crimes against the public faith and national heritage and Chapter IV as 'predation National Heritage'.

TYPES OF CRIMINAL OFFENSES AGAINST GUATEMALA CULTURAL HERITAGE

- ✓ Predation of cultural property.
- ✓ Illegal export of cultural property.
- ✓ Research or illicit excavations.
- ✓ Illegal placement of signs.
- ✓ Illegal pulling down
- ✓ Failure to return conditions.
- ✓ Removal of historical documents.
- ✓ Alteration of original names.
- ✓ Impairment of traditional culture.
- ✓ Robbery, theft and trafficking of cultural property
 - Theft and robbery of national treasures.
 - Theft of national treasures.
 - Theft of national treasures.
 - Theft and robbery of archaeological property.
 - Robbery of archaeological property.
 - Theft of archaeological property.
 - Trafficking national treasures.
- ✓ Illicit modifications of cultural property.
- ✓ Illicit export of replicas and copies.
- ✓ Sacrilegious acts.
- ✓ Attack against to the Natural and Cultural Heritage of the Nation.

STATISTICAL DATA

AÑO	ARCHAEOLOGICAL PROPERTY CLAIMED IN INTERNATIONAL SALES
2010	16
2011	09
2012	68
2013	47
2014	38
2015	03
TOTAL	181

AÑO	CULTURAL PROPERTY OF THE CATHOLIC CHURCH AND OTHER STOLEN
2010	09

2011	09
2012	45
2013	10
2014	24
2015	16
TOTAL	113

AÑO	ARCHAEOLOGICAL PROPERTY STOLEN
2010	04
2011	04
2012	04
2013	12
2014	06
2015	01
TOTAL	30

AÑO	RELIGIOUS PROPERTY RECOVERED
2010	00
2011	06
2012	07
2013	00
2014	01
2015	30
TOTAL	24

AÑO	ARCHAEOLOGICAL PROPERTY RECOVERED
2010	05
2011	2168
2012	2531
2013	225
2014	11
2015	26
TOTAL	4,966

AÑO	GUATEMALAN CULTURAL PROPERTY CLAIMED ABROAD
2010	00
2011	00
2012	287
2013	53
2014	09
2015	03

TOTAL	352
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▪ **CULTURAL PROPERTY RECOVERED FROM 1998 - 2015**

	ARCHAEOLOGICAL HERITAGE	RELIGIOUS AND OTHER CULTURAL PROPERTY
	9601	1160
TOTAL	10761	

Lic. Eduardo Enrique Hernández Herrera

Chief- Department of Prevention and Control of Illicit Trafficking of Cultural Property

General Department of Cultural and Natural Heritage

Vice Ministry of Cultural and Natural Heritage

Ministry of Culture and Sports

Republic of Guatemala, C. A.

Telephone (502) 22086600 Extension Secretary 217 – Head Office 218

Mobile: (502) 41962753

Email: traficoilicito@gmail.com