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TRANSPARENCE AND REFORM OF THE SECURITY SECTOR, DEFENSE SECTOR: GUATEMALA CASE.

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A good Government must gather the qualities of a predictable politics determination, open and smart, a bureaucracy infused with a professional culture which acts in favor of public welfare, the empire of Law, transparent processes and a solid civil society which participates in public life. In the other hand, a bad Government is characterized by a determination of imperfect politics, bureaucracies that do not render profits, unapplied or inexistent legal systems, abuse of the Executive Power, a civil society which is not committed with public life and a generalized corruption.¹

REFORM OF THE DEFENSE SECTOR

The reform of the Defense Sector is one of the components of the Reform of Security Sector. The reform of the security sector suggests the increasing acceptance of an extended definition of the term security over the traditional definition focused on the military sector. According to this extended definition, the military sector is not the main element and the security objective is not only the defense of the State, but it is important to include the persons and the society in a closer way. This concept extends the scope of the security to include public security and the security of persons from the threats of crime, disorder and violence.

The reform of security sector is focused in the utilization of public resources to provide security to all citizens. It is a holistic focus which seeks the reform of the State structures which are responsible of the security with a meaningful emphasis in governability, the State of Right and transparence.

Public institutions to be reformed include armed forces, police structures, paramilitary forces, intelligence agencies, institutions of judicial and criminal systems in the same way of the bureaucracy structures of the State in charge of the formulation of policies and to handle this situation.

Wilhelm, states that the RSS has two main origins: the first one comes from the cooperation field for development that recognized the important role of this environment in the economic development and in the democratization processes. And, the second one, from the field of civil-military relations, particularly in the relation with the development of the European center and east, in the post-communist context.²

The reform of the security sector in Latin America has been applied mainly to contexts with societies and political regimes which go from authoritarianism to democracy or which live consolidation and peace construction processes and governability. This type of changes are closely related to the security sector by two reasons: by the fact that the authoritarian States tend to exercise an absolute control over the security environments and because during the transition periods to democracy, parallel groups of interest arise,

¹ World Bank, 1994. *Governability: The experience of the World Bank*. Washington.

² Germann, Wilhelm. *Responding to post cold war security challenges: conceptualizing security sector reform*. DCAF. Working Paper No. 94. Geneva, October,2002. Pp. 13.

these groups take advantage of power emptiness and “instrumentalize” violence with ideological or particular purposes³.

Within this frame, the reform to the defense sector is a key, since it includes everything related to the armed forces duties in a democracy as one of the many edges of the general problematic of establishment, maintenance and change of political order of any society.

Since 1990, the armed forces submitted to deep reforms are many; same which happened by different causes and in different countries. Pursuant the Guide for Parliaments about Security Sector Controls⁴, three main objectives from the need of a reform can be distinguished:

1. Democratization

In many countries with dictator regimes, the main objective of the sector reform is the democratization, with the idea that military persons must present reports to the political leaders democratically elected since, on the contrary, they will constitute a threat to democracy.

2. Adaptation to the new security environment

Need to adapt the size and budget of the armed forces to the new threats to security, as well as to prepare the armed forces for new missions like peace missions.

3. Internationalization

Every time, the armed forces do not operate any more in the national context to work jointly with the forces of other countries like ONU’s peace missions over an institutional base or over a bilateral or multilateral base.

THE REFORM FOR THE CASE OF GUATEMALA

The Guatemalan State is still in a historic joint of deep institutional transformation, linked to the transit process from authoritarianism to democracy which the country goes by since the eighties’. The scope of this transformation goes beyond the restoration of a political democracy which completely fulfills with the periodical elections. Also, it goes beyond the Peace Agreements signature that, after 36 years of armed conflict in Guatemala, ended with said conflicts in 1996.

³ Gonzalez, Patricia. *Reforma del Sector Seguridad: el rol del WSP-Internacional*. Work Document. Guatemala 2005.

⁴ Born, Hans; Philipp Flury and Anders B. Jonson. *Control Parlamentario del sector de la seguridad: principios, mecanismos y prácticas. Guía Práctica para Parlamentarios No. 5*. Interparliament Union: Geneva Center for the Democratic Control of Armed Forces (DCAF). Civic-military relations Center, Belgrade, 2004.

Guatemala has lived a double transition: from authoritarianism to democracy and the peace conflict. This transitional situation endures the hybrid nature of the State or the ambiguity of the institutional action derived from the coexistence of rules and values belonging to 2 opponent systems: the authoritarian and the democratic systems⁵. This is why the need of a change in the paradigm centered in the Doctrine of National Security, to another one that would correspond to the democratic regime but that, in turn, be able to face different security dilemmas, has been part of the fundamental reform process.

In the agreement of firm and lasting peace, the parties indicated that “the strength of civil power is an indispensable condition for the existence of a democratic regime. They added that the end of the armed conflict offered the historic opportunity to renew the institutions so that, in an articulated way, they may guarantee all inhabitants of the Republic life, freedom, justice, security, peace and integral development of the person. Finally, they said the Army of Guatemala must adapt their duties to a new epoch of peace and democracy”⁶.

In the Agreement of Civil Power Strength (AFPC – for its name in Spanish) and in the Army duties in a democratic society, a series of commitments and recommendations for the sector reform in Guatemala were proposed. The Agreement begins in a new conception of security that includes the protection against external threats and threats to public order and internal security, the respect to human rights and multiethnic, pluricultural and multilingual nature of the Guatemalan nation, as well as the economic development with social justice, social participation, interests conciliation and strength of democratic institutionalization⁷. To achieve this objective, the State became liable to recover its functioning, what was previously established by the Army, intelligence services of public security and justice.

The reform of the defense sector proposed in the AFPC, implied a series of commitments to be fulfilled by the State of Guatemala among we can find: to limit the Army to external defense, derogation of Voluntary Committees of Civil Defense, military enrollment in a voluntary way, 33% decrease in military expenses, 33% cash reduction, reforms to the Constitutive Law of the Army, re-conversion of the Army, reorganization of the external defense deployment, reform to the educational system and a new military doctrine.

The commitment of the Army to reduce its forces to 33% and its budget to 33% was verified by MINUGUA on September, 1998, when said commitment was fulfilled and the effective number of members was adjusted to the Table of Organization and Equipment

⁵ See Aguilera Peralta, Gabriel and Edelberto Torres-Rivas. *Del Autoritarismo a la Paz*. Guatemala: FLACSO, 1998.

⁶ Verification Mission of United Nations for Guatemala (MINUGUA). *Informe de verificación sobre la situación de los compromisos relativos al ejército en los Acuerdos de Paz*. May, 2002. <http://www.minugua.guate.net>

⁷ See *AFPC*, number 18.

(TOE – for its name in Spanish)⁸. In relation to the budget, the reduction was progressive and it was altered during the exercise of 1999, when it increased to 0.68%. During the year 2000, it was incremented to 0.83% through extraordinary budget transferences. Even though the assignation foreseen for 2001 respected the agreed reduction, the Government continued transferring additional extraordinary entries to the budget during the year with an increase of 85% over the original budget.⁹

According to MINUGUA, the fulfillment of the commitments related to the Army was unequal, since important commitments were achieved, such as reduction and the aspects of the re-conversion; however, the commitments linked to the territorial deployment, to the reform of the military teaching and to the formulation of a new doctrine are still outstanding of compliance for the year 2002.¹⁰

The rejection of a set of constitutional changes derived from the Peace Agreements would have introduced changes in the legal regulation of the Army in relation to the limitation of the duties in the external defense. The AFPC was proposing that, in order to adequate the army institution to a democratic system, the mission of the Guatemalan Army must be defined as the defense of the country's sovereignty and the integrity of its territory. No other duties must be assigned and its participation in other fields must be limited to the cooperation tasks.¹¹

However, with the rejection of the Popular Consultation in 1999 from a set of changes proposed in the Peace Agreements for the State's transformation in general¹², Article 244 of the Political Constitution of the Republic, Integration, Organization and Purposes of the Army, was still in force keeping the Guatemalan Army as the entity in charge of the territory, peace and, interior and exterior security. This situation has caused controversy because it allows the FFAA to interfere in the tasks of citizens' security, justified from the political leaders due to the weakness of the National Civil Police and based on decree

⁸ García Blas, Montserrat et al. *Hacia el Estado de Derecho en Guatemala. Guía sobre compromisos, recomendaciones y nivel de cumplimiento*. Guatemala: WOLA, April, 2001.

⁹ See Report of the Verification Mission of United Nations for Guatemala (MINUGUA) for the period from July 1, 2000 to March 31, 2001; Guatemala, June, 2001. Report of MINUGUA for the Consultant Group about Guatemala; Guatemala, January 18, 2002.

¹⁰ Report of MINUGUA for the Consulting Group about Guatemala; Guatemala, January 18, 2002.

¹¹ Number 35, Strengthening Agreement of Civil Power and Action of the Army in a Democratic Society.

¹² Unfortunately, due to the great amount of changes they proposed and to the few explanations given to the population by the responsible authorities, as well as due to the manipulation exercised by certain sectors in the communication media, the Consultation was taken as a punishment vote against the policy of the ruling party from 1 year of the General Elections. As a result, only a small part of the population exercised their voting right (abstention surpassed 81.45% pursuant the Supreme Electoral Court) and none of the reforms proposed succeeded; therefore, there is always the doubt if the population agreed or not with the item related to the modernization of the armed forces. It is important to mention that this result has caused that some sectors justify any refusal to the modifications to the military re-conversion adducing the legitimacy of the Consultation.

40-2000 which stipulates joint patrol shifts between the Army and the Police, situation that violates what was stated in the Peace Agreements.

With regards to the book of National Defense, this one was discussed with the participation of the civil society within the frame of the Intersector Dialogue Table about the Defense Policy; it was officially presented on November, 2003. Afterwards, different discussion exercises followed, convoked by the Ministry of National Defense for the elaboration of the Doctrine of the Guatemalan Army (2004)¹³, the draft of Law of National Defense (2004) and the Defense Policy (2005).

Even though the executive power is the one responsible to formulate the policy of defense sector, this one must be a public policy socially agreed, which contemplates well-defined roles and missions for the Armed Forces. In the case of societies, such as the Guatemalan society, which are characterized by the weakness of trained human resource to involve in different stages of formulation, implementation, evaluation and inspection of the defense policy, a greater formation of specialized panoramas is required as well as of sustainable development of institutional structures necessary for the fulfillment of these tasks that correspond to the State as well as to the society.

As part of the sector reform, on August, 2004, the President of the Republic issued decree number 178-2004, in which it was stated the modernization of the Guatemalan Army for its role in a democratic society and in a peace epoch and it was agreed “the reduction of military expenses and the re-conversion to a modern, small, sustainable, flexible, highly mobile, with communications, fire power and moving capacity Army, allowing the Army to comply with the purposes constitutionally destined”.¹⁴

This modernization process of the Ministry of National Defense has been centered in a reduction of the size and amount of military members, but also modifies the strategic deployment with a transformation from a territorial organization to a functional organization, where the concept of Units of Quick Deployment is search.¹⁵

This transformation process has caused the numerical reduction of members and seeks the transformation of the forces to a functional deployment, reorganization of the administrative structure, expenses efficiency, new Military Code, military education, military intelligence, civic alliances and social communication.

The transformation extents in the relations among society, State and armed forces, are subject to the deepness of the changes achieved in important aspects in topics such as: the definition of civil leadership that must be given to defense sector; the extents of the

¹³ The Ministry of Defense had previously published two books about Doctrine of the Army in the years of 1999 and 2002.

¹⁴ Governmental Agreement 240-2004 from the Ministry of National Defense of Guatemala, published on August 12, 2004.

¹⁵ Hernández, Iduvina. *Análisis del caso de Guatemala*, in *Atlas Comparativo de la Defensa en América Latina*. Buenos Aires: Security and Defense Network in Latin America (RESDAL/SER 2000), 2005.

participation of civil officers in the design and execution of defense policy, including the possibility to appoint a civil person in said portfolio; the definition of roles for the armed forces (discussion about the support rendered to the civil security forces), the participation of the Congress of the Republic in the ratification of military promotion as of the judgment from an ad-hoc commission, the civil rights of the army members and the general supervision of the armed forces exercised by the Congress of the Republic.

Within this context, the reform process in Guatemala has gone from an emphasis centered in the change of state security frames as the expression of the transition from authoritarianism to peace and, particularly, in the role of FFAA in a democratic society – expression of the post-war period – in concentrating the attention in the last years to the challenges caused by the transnational organized crime and the transformation of the international security agenda after September 11, 2001. It is not about the substitution of old problems by new ones, but it is about a change in the priorities and a complexity of the challenges in a growing level of association and interdependency of the national agenda problems of national security and the ones existing in the international environment.

For countries such as Guatemala, which are at the middle of the substitution processes of conceptual and operational frames of security inherited from authoritarianism and war corresponding to a democratic state of right, the change in the international context has not been positive. The security of international policy and militarization of the security agenda have generated an environment that does not favor national efforts of the security sector reform.

DEMOCRATIC AND SUPERVISION CONTROLS

Any democratic State desires to create for its citizens security conditions and respect to inalienable human rights; therefore, this premise constitutes the base of the democratic control over the security function.

The controls “instrumentalized” by a democratic State of right have the expressed and implied purpose of protection and promotion of the citizens’ rights as well as the denounce of violations.

In this sense, since the Defense is part of the State’s attributions, this one is publicly submitted to the mechanisms of negotiation, control, supervision and transparency. But circumstances concurrent to the singularity of Defense topics causes that over these controls an employment of a set of procedures and guidelines be exercised, in agreement to the own particularity and respectful of the State of Right. If the controls and limitations over this strategic sector fail, the Defense can become a danger for the State as well as for its own society.

The reform of security sector proposed in the Guatemalan Peace Agreements has made special reference to the surveillance topic by Defense civil institutions. With this regards, we can differentiate between control and supervision. It is understood by control the act to compare and analyze actions, persons and events with previsions and set objectives at

the moment of the supervision, in a regular basis, the performance, to detect eventual deviations and to propose determined adjustments pursuant the guidelines and measures agreed, to the rules and regulations in force and to the expected results. By its part, the supervision comprises the act of supervise, inspect and verify the execution of the guidelines and measures disposed.

The objective of effective subordination of the armed institution to the political authority of the democratic State of Right implies the creation and strengthening of the state capacities to exercise the supervision and control responsibilities of the military function that can be technically called objective controls and subjective controls.

The objective controls are those institutional mechanisms employed in the control and supervision of military expenses from the governmental responsible entities; these are divided into internal and external controls.

INTERNAL CONTROL

The internal control must comply with a double function:

- a).- Supervision or fiscal function
- b).- Financial Control

a).- Supervision or Fiscal function

It is carried out on: “All the acts, documents and files from which rights and obligations of economic content for the State are derived”.

b).- Financial Control

It is carried out after the activity which was submitted to control. Its purpose is to verify the operation of public sector entities in the economic-financial aspect, pursuant the regulating dispositions and guidelines.

In the case of Guatemala “it has not been established a control system for the Guatemalan Army or to the security services in general. Internally, in the Ministry of National Defense, the General Directorship of the Army is found, position that requires the same qualities of the Ministry or the Headquarters of the Military Staff of National Defense”.¹⁶

EXTERNAL CONTROL

It is found in a set of institutions, procedures and values whose objectives are that the State completely fulfills with its duties under conditions of genuineness, legality, efficacy, efficiency and economy.

The development of the parliament control function for the case of Guatemala is developed through the corresponding commissions (of defense) and the General

¹⁶ Idem.

Comptrollership of the Republic (inspection of annual accounts and their approval by the Congress of the Republic). These are the controls exercised by the politic-administrative system over the military institution to guarantee the fulfillment of the duties.

To obtain optimum results, there must be coordination among the Control Bodies of the state administration (internal control), the General Comptrollership of Accounts and the Congress of the Republic (external control).

The subjective controls are those mechanisms that regulate the collective and individual military behavior from the inside of the institution developing the adherence and compromise with democracy values, with the political authorities of the State and with the rules established by the duties and mission of the armed forces. Basically, it is about the world values and visions which determine the perception and guide the actions of the military members in their relation with the political and social environment.

The development of both control mechanisms (objective and subjective) requires the design of a clear strategy by the civil authorities in regards to the objectives, resources, mechanisms and times of this transformation process of the relations among society, State and armed forces.

Three elements are important for the success of a defense policy with the corresponding controls and supervision:

- Conceptual clearness,
- Political will,
- Implementation of proper policies.

For the Guatemalan case, in the Peace Agreements it was established the need to promulgate new conceptual frames, policies and laws that from democracy and subordination of the armed forces to civil power can clearly delimit the environments of different security, defense and intelligence corps in a coordinate and coherent way.

The importance of transparenance must be outlined in all these acting environments, transparenance which must begin with the design and elaboration of the corresponding public policies, where the relation environments of the armed institution with other organizations of the security sector, State and society must be clearly stated.

The three powers of the State are responsible for the defense policy and its supervision. The Executive power assumes the obligation of the Defense Policy design, the Legislative power is the one which first assigns the budget entries for the effect and, in second place, the supervision controls. Last, Justice judges any felony or fault that may be produced from the military environment.

The supervision and auditing actions of the citizens may be exercised from a wide variety of possibilities. Said alternatives begin in the free exercise of the citizen – individual or associated – to perform the scrutiny of public administration. Within said initiatives, we

can mention: journalism, research job in social sciences and its incidence, as well as the actions from institutions that monitor, document, research and follow-up defense topics.

TRANSPARENCE AND ACCOUNTS SUBMITTANCE IN THE DEFENSE BUDGET.

During the years of the internal armed conflict, within the frame of the contra insurgent State, the logistics of the facts forced to keep high budgetary entries which also escape from any type of inspection by the competent State bodies, since they were considered as reserved matter that affect national security. This opacity was the cause of many denounces of corruption cases and nepotism since they were the origin of power abuse within the own armed institution, facts that were denounced in several occasions by different civil organizations inside and outside the country.

The effective control of the military budget in budgetary entries more or less fixed based on the PIB percentages was achieved only when democracy was restored and, then, more effectively, when the Peace Agreements were signed. A fix percentage of 0.66% was instituted and one applicable variable to the circumstances which depend on the political considerations from the Government and the Congress, which causes that during the period from 1996 and 2002 the effective defense budget reaches 7% of PIB.

At the present moment and as part of the implementation of the Modernization Plan of the Guatemalan Army developed by the present team of the Government of President Berger, it was agreed a percentage of 0.33% of PIB (notwithstanding the budget for the year 2005 reached 0.47% of PIB, a total of 121,573.780 USD).¹⁷ The resources to grant this budgetary entry must be obtained from the national budget as well as from the sale of assets of the Army that, once the reduction of cash agreed in said Agreements was implemented, they may be dispensable.

To this respect, the Modernization Plan of the Guatemalan Army contemplates a strategic re-definition based on the country's reality which takes into account the new hypothesis of threats to security as well as the adequacy of the size of the Guatemalan army to the rest of the Central America homonymous. The basic guidelines on this new strategic perspective are detailed in the Book of the National Defense of the Republic of Guatemala or "White Book" ("Libro Blanco").

Thus, the reduction went from 31,400 in 1998 to 27,000 at the middle of 2004 and to 15,500 at the present moment. The definition of objectives is changing a contra insurgent deployment by a defensive one (one territorial force to a functional one) which has more specialized units with quick deployment and more technically qualified to face new challenges to security or international commitments, if any.

This transformation has also reached the military negotiation in charge of the administrative reorganization and of the budgetary planning, including the processes of material purchase as well as accounts rendering. At the present moment, there is not any prohibition to access the information of the Ministry of Defense, except for the cases

¹⁷ Idem.

related to national security. There are two resolutions from the Court of Constitutionality that state that the military budget is not a national security business and it can be of public knowledge as it is stated in Article 30 of the Political Constitution of the Republic.¹⁸

In the White Book of the National Defense, the three areas that must be covered by such budget are specified: in the first area we can find the Resources for the National Defense (in which all the institutions of the State related to Defense are involved); the second one is constituted by the Resources for the Ministry of National Defense. And, finally, the third one is formed by the Resources for the Guatemalan Army or Military expenses.¹⁹ It also includes the idea that the expenses and budget of the Defense be continuously reviewed by the academic and political sectors, promoting in this way the researches and contributions related to the methods to evaluate the resources assigned to the Defense framed in the development, economy and threats topics.

At the present moment, the following is the plan that the budget project of the Ministry of Defense must follow: the Executive power must present it for its discussion and modified, accordingly, with the previous authorization from the Congress of the Republic within the project of annual budget of expenses. This one must receive in first instance the approval from the Commission of Defense and, then, it must go through the Commission of Finance.

The supervision of the military expenses is carried out through a series of external and internal controls. Within the first ones we can find the delegations of the General Comptrollership of the Nation's Accounts designated for such effect by the Ministry of Defense, whose permanent location is at the Army's Finance Department. Among the latter ones, we can find the Military Accounts Auditing, which is in charge to supervise the Military Commands and Branches and the Internal Auditing of the Army's Finance Department, whose mission is to exercise controls on the budgetary execution of said Ministry.

At the end of the fiscal year, a report has to be submitted to the Congress, with the results of the military budget for its subsequent evaluation. As it was mentioned before, the military budget is not, at the present moment, a national security business and it is susceptible to be known by the public in general.

A first approximation to the defense budget for the year 2005, reveals that the expense for that year was 82.57% of what was originally budgeted; an amazing amount since it is the first time that it is known that the army does not totally execute 100% of its budget. In this fact, the control exercised by different organizations from civil society dedicated to defense topics has been very important.

¹⁸ *Idem.*

¹⁹ Book of National Defense of the Republic of Guatemala.
<http://www.resdal.org.ar/Archivo/d00001f8.htm>

With regards to the entries that have formed the defense budget for the last exercise period, these were divided into the following items: 75.5% personnel salaries, 22% assets and services, 1.1% indirect taxes and 1.1% formation of fixed capital.²⁰

At the present moment, there are no entries destined to the Army's modernization; fact that contravene Governmental Agreement number 178-2004. Notwithstanding, the Guatemalan Army has received donations in this regards. It must be mentioned, \$3.27 million of Dollars from the Military Assistance Program that the Congress of the United States granted on April, 2005, which were used in communication and navigation equipment to fight narcotraffic.

MATERIAL RESOURCES: SUPERVISION AND TRANSPARENCE OF ARMS AND MILITARY EQUIPMENT

The acquisition of arms and military equipment has to be a consequence of the Defense Policy designed by the Executive power and countersigned by the Legislative power, pursuant the International Treaties related to this subject. As such, it must be subject to the democratic controls, to transparence and to supervision.

“The policy of arms and military equipment purchases must come from plans and superior policies as the concept of national security or defense plans. Any demand of new arms or military equipment must be analyzed taking into account its impact and importance in the national security policy”.²¹

At a legislative level, it is important the control function of such complex subject as it is the purchase of armament and equipment. Mainly for those countries in post-conflict situations that are going through an institutional weakness, which is the case of Guatemala, where this situation is more evident since the Congress handling must initiate with the formation of the legislators and counselors in a subject with an specific and technical nature. At the same time, any State with these characteristics must face the suppliers and manufacturers of weapons that, for definition, are only interested in sale their products at the best possible price and they do not worry by the requirements from a democratic supervision and/or from the restrictions of international sales.

For the case of Guatemala, the institution in charge of the control of weapons and ammunitions is the Department of Control of Weapons and Ammunitions – DECAM (for its name in Spanish) – which works as an agency of the Ministry of National Defense.

According to Article 18, Sole Chapter, Decree number 39-89: Law of Weapons and Ammunitions of the Congress of the Republic; it is established that the functions of DECAM are to: a) authorize, register and control the importation, manufacture, purchase and sale, donation, exportation, storage, unstorage, transportation and carry of weapons;

²⁰ Polanco, Mario and Gilberto Robledo. *Ejecución Presupuestaria de Ingresos y Egresos del Estado*. Guatemala: Annual Report, 2005; GAM, CIIDH – Citizen Observatory.

²¹ Born, Hans et al. Op. Cit.

b) Authorize, register and control the importation, manufacture, exportation, storage, unstorage and transportation of ammunitions; c) Authorize and control the operation of armories, shooting polygons with fire guns and ammunitions reconditioning machines; d) Registry and control weapons tenancy; e) Registry of ballistic prints of all fire weapons; f) Registry of seals for commercial and sports entities which sell weapons and ammunitions; g) To carry out, at least, every thirty (30) days or at any moment that it may deem necessary, the physical control of the inventory of the fire arms and ammunitions found in the commercial establishments and warehouse places; h) Supervise the polygons and control books, at any moment, if it is considered convenient; i) All others demanded by Law.

The law of Weapons and Ammunitions states in its Article 3 that the Guatemalan Army is excluded from said regulation, since the Army is regulated by specific laws; even though Article 16 states that “The Guatemalan Army may use, without any limitation, all kind of weapons for the internal and external defense of Guatemala. Offensive, chemical and biological weapons, explosives, war devices, nuclear arms and weapons with a special bellicose purpose are of the exclusive use of the Guatemalan Army, provided they are not contemplated within the prohibitions established in the international agreements or treaties accepted and ratified by Guatemala. Security corps belonging to or under the control of the Ministry of the Interior may have or carry offensive weapons with the expressed authorization from the Department of Control of Weapons and Ammunitions – DECAM -. All weapons registered as property of the State cannot be used by particular citizens”.

This Law emphasizes that (Article 69) police members and the members of security agencies of the State can carry fire weapons in all national territory if they are on duty.

The Constitutive Law of the Guatemalan Army states in Article 17, Chapter III: Ministry of National Defense, that this Ministry has, among others, the duties to: “Guide, carry out, solve and supervise all the businesses related to the Ministry of National Defense; the supervision and control of the institutions and public or private entities, that according to the law, are authorized to use weapons, equipment or war supplies; dispose the acquisition, production, conservation and betterment of armament, equipment, ammunitions, livestock, clothing and all other combat equipment; and, regulate and supervise the production, importation, exportation, consumption, storage, transfer, loan, transformation, transport, usage, alienation, acquisition, tenancy, conservation and carry any type of fire guns, ammunitions, explosives, flammable materials and similar ones.”

In Articles 144, 145, 146 and 147 of this Constitutive law, it is also stipulated that “The members of the Guatemalan Army will have the right to have and carry offensive or bellicose weapons, as long as they are authorized to do so due to their position or service; that the Officers of the Guatemalan Army have the right to carry defensive fire guns and weapons with blades for their personal use without the need of license; that all other members of the Guatemalan Army may carry the before mentioned weapons complying with the requirements stipulated in the corresponding regulation; and, a regulation will rule the tenancy and carry of offensive or bellicose weapons for the members of the

Guatemalan Army as well as the carry of defensive fire weapons and weapons with blades.”

Independently from the Constitutive Law of the Army, in which it is established that the Ministry of Defense is the one which has the authority to see everything related to the businesses of the Ministry, it is also important to mention that all purchases made by the State will be subject to the Governmental Purchase Law, where it is stated that “the agencies of the State, their decentralized and autonomous entities, executor units, the municipal halls and public state or municipal entities are subject to said Law and its regulation.”²²

In this sense, the incorporation of the Purchase Information System and Acquisitions of the State (GUATECOMPRAS) has allowed that the stages of the acquisition process of all entities of the State are at sight of all citizens and to the competence of buyers and suppliers, which is a transparent mechanism to render accounts of the governmental purchases.

²² Decree number 57-92: Governmental Purchase Law.

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