

Congress of the United States
Washington, D.C. 20515

October 30, 2023

The Honorable Antony Blinken
Secretary
U.S. Department of State
2201 C Street, NW
Washington, D.C. 20520

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, D.C. 20220

Dear Secretary Blinken and Secretary Yellen:

We continue to closely monitor political developments in Guatemala and note with concern persistent attempts by the Public Prosecutor's Office to undermine a democratic transfer of power, as well as the lack of actions of the Constitutional Court and the Supreme Court of Justice to stop electoral interference. We applaud steps the Biden administration has taken to support electoral integrity in Guatemala, including clear public messaging, public and private high-level engagement, support for regional body oversight mechanisms, and the designation of additional visa restrictions against corrupt individuals. We urge you to use all available tools, including the expanded use of targeted financial sanctions, to hold accountable those who undermine democracy, commit human rights abuses, and obstruct justice.

Since the August 20 second-round electoral victory of Bernardo Arévalo of the Movimiento Semilla party, the ruling coalition in Guatemala has repeatedly undermined the democratic transfer of power and committed human rights abuses, including arbitrary detention and targeted violations of due process. Between September 29-30, the Guatemalan Public Prosecutor's office raided facilities of the Supreme Electoral Tribunal (TSE)¹. During this raid, agents physically and verbally harassed electoral officials, opened boxes of votes and photographed their contents, and requested review of at least 160 boxes of votes in flagrant violation of Guatemalan law². In addition, the Guatemalan Public Prosecutor's Office filed a request to lift immunity against the regular and alternate judges of the TSE³. We are concerned that in November when election workers lose their legal protections—the Attorney General and others will attack them in order to overthrow the election.

In addition, the ruling coalition has continued attempts to suspend or outright de-certify the Movimiento Semilla party and target Semilla party members, causing a rise in threats against President-elect Arévalo and Vice President-elect Karin Herrera. An August 24 statement by the

¹ https://www.oas.org/en/media_center/press_release.asp?sCodigo=E-061/23

² <https://apnews.com/article/guatemala-arevalo-elections-standoff-4950f85160c5354f9610a8282dc22e94>

³ <https://www.ohchr.org/en/press-releases/2023/10/guatemala-sustained-attempts-undermine-democratic-process-extremely-worrying>

Inter American Commission for Human Rights (IACHR) cited “serious and urgent” risk to the safety of President-elect Arévalo and Vice President-elect Karin Herrera, including two assassination plots, and called on the government of Guatemala to provide more protections for their physical safety. Meanwhile, systematic criminalization of justice sector operators, journalists, and human rights defenders, resulting in arbitrary detention, forced exile, and the obstruction of precedent-setting human rights and corruption cases, further demonstrates the serious deterioration of rule of law in Guatemala.

We applaud the Biden administration’s clear public messaging in support of electoral integrity in Guatemala. We are grateful to see the Biden administration’s October 1 announcement stating that it is “actively taking steps to impose visa restrictions on individuals who continue to undermine Guatemala’s democracy” under section 212(a)(3)(C) of the *Immigration and Nationality Act*⁴. In total, the Biden administration has placed 46 individuals from Guatemala on the Section 353 List of Corrupt and Undemocratic Actors.⁵ However, only six Guatemalans have been subjected to targeted financial sanctions under the *Global Magnitsky Act*.

While we support the imposition of additional visa bans against actors undermining the democratic process in Guatemala, we note that visa restrictions are one of many available policy instruments to hold corrupt and anti-democratic actors accountable. Unfortunately, current efforts by the Biden administration are not leading to desired change in behaviors. We encourage the administration to expand the use of targeted financial sanctions authorities, which would likely have a more productive effect. When combined, the threat and actual imposition of sanctions, as well as clearly expressed prerequisites for sanctions relief, can raise the cost of human rights abuses and acts of corruption and create pressure for positive behavior change.

As Guatemalans raise their voices for democracy, we believe the United States must do our part to protect their rights. Specifically, we request that you:

1. Expand the use of targeted sanctions in Guatemala, including toward individuals who are already subject to Section 353 designations.
2. Set clear red diplomatic lines regarding the post-electoral process, including assurances for the physical safety of President-elect Arévalo and Vice President-elect Herrera; and an immediate halt to harassment and intimidation of electoral officials, unconstitutional interference in vote review and storage processes, and a halt to legal attacks on the Movimiento Semilla party.
3. Link imposition of sanctions and sanctions relief to respect for judicial independence, respect for independence of electoral institutions, transparency within the extractive industry sector, respect for freedom of expression and assembly, and protection for at-risk rights defenders, journalists, and anti-corruption activists.

⁴ <https://www.state.gov/anti-democratic-actions-in-guatemala/#:~:text=We%20are%20actively%20taking%20steps,others%20engaging%20in%20such%20behavior.>

⁵ [Section 353 Corrupt and Undemocratic Actors Report: 2023 - United States Department of State](#)

We thank you for considering our letter and respectfully request a briefing on Section 353 implementation and a written response to the following questions:

- What are the practical limits to imposing more targeted financial sanctions in Central America, including staff capacity and evidentiary standards?
- Please provide information on how many staff members are addressing financial sanctions for individuals and corporations in Guatemala within the Departments of Treasury and State. How does this staffing level compare to other countries and regions?
- Visa sanctions, including those under Section 353 and 212(a)(3)(C) of the Immigration and Nationality Act do not have publicly articulated de-listing criteria, unlike financial sanctions designations. Sanctions experts urge sanctions to be viewed as a means of behavior change and emphasize that clearly articulated “off-ramps” are key to their efficacy. Absent clearly articulated delisting criteria for visa sanctions, how does the Biden administration assess their intended impact or measure efficacy?
- Given the importance of having any targeted travel and financial sanctions be connected to clear policy objectives, please provide information on current mechanisms in place to ensure coordination amongst the different U.S. agencies involved in sanctions policies, particularly between Treasury and State, as well as the Department of Justice.

Sincerely,



Norma J. Torres
Member of Congress



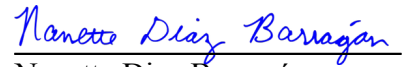
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