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February 3, 2009

Major General Abraham Valenzuela González
Minister of Defense
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Ciudad de Guatemala, Guatemala
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Dear Major General Valenzuela:

Congratulations on your appointment as the Minister of Defense of Guatemala. As you assume this important position, we urge you to prioritize accountability for mass atrocities committed during Guatemala's internal armed conflict. In particular, we urge you to ensure that military archives are promptly declassified and released, consistent with the President's order, a Constitutional Court decision, and Guatemalan law.

As you know, the United Nations Commission for Historical Clarification found that gross human rights violations, including genocide, occurred during the conflict and that the vast majority of the 200,000 killings were committed by the armed forces.¹ Much of the continued lawlessness in Guatemala may stem from the culture of impunity that has grown out of the failure to prosecute the heinous crimes committed during the conflict.

In 2000, in an effort to address this impunity, Guatemalan human rights defenders presented criminal complaints to the Attorney General against several former military and police officials, including former General Efraín Ríos Montt, alleging that they had committed mass atrocities during the conflict. Despite the validity of the petitions, the Attorney General has not opened a formal investigation.

¹ Commission for Historical Clarification, *Guatemala: Memory of Silence*, February 1999, para. 41.

Human rights defenders and survivors of the conflict have long sought access to military archives from the conflict in order to shed light on the role of these and other officials in the commission of mass atrocities. Declassification and release of documents in the archives will undoubtedly aid in the investigation of these and other cases and in bringing the perpetrators to justice.

It is not only human rights defenders who recognize the need to declassify these documents. On February 25, 2008, the National Day of Dignity for Victims of the Armed Conflict, President Álvaro Colom Caballeros ordered the declassification of all military archives related to the internal armed conflict. An Archives Unit within the Human Rights and Peace Commission (SEPAZ), headed by Commissioner Orlando Blanco, has been created to gather relevant information from the archives, a process which is currently underway within the archives of the National Police.

In March 2008, Guatemala's Constitutional Court also ordered that military archives be released. It dismissed a claim by General Ríos Montt that specific military archives documenting Plan Sofía, Plan Victoria, Plan Firmeza, and Operation Ixil could not be released for use in court proceedings against him. The Constitutional Court upheld an earlier decision of the First Criminal Appeals Court mandating the release of the four documents.² The lower court had rejected Ríos Montt's argument that the military archives contain state secrets and that their release could endanger national security. It found that given a decade had passed since the end of the conflict, Guatemala was not at imminent risk to its security and that the documents did not relate to preserving the physical integrity of the nation.

In addition to its obligation to act on these orders from the executive and judicial branches, the military must also abide by Article 24 of the Law for Free Access to Public Information passed in September 2008, which takes effect in March 2009. The law states, "In no case may information relevant to investigations of human rights violations or mass atrocities be classified as confidential or reserved." The creation of the Ministry of Defense's Public Information Unit is a welcome first step in accordance with this law. Given that the petitions before the Attorney General allege human rights violations, the Unit must make the military archives public.

We regret that your predecessor, Minister Marco Tulio Garcia, and other military officials have refused to make the archives public. They alleged that releasing these documents would undermine national security interests as protected under Article 30 of the Guatemalan Constitution, an argument similar to that of General Ríos Montt. We strongly support the finding of the Constitutional Court that this historic information will not compromise national security and is therefore not protected by law.

By refusing to abide by both the President's order and the decision of the Constitutional Court, the Guatemalan military undermines the rule of law. We urge you to reverse the position of the Defense Ministry and to cooperate with the instructions of the President, as the

² La Sala Primera de la Corte de Apelaciones del Ramo Penal, Amparo 26-2007 Of.1 (July 19, 2007).

Commander in Chief, and with the ruling of the highest court of Guatemala. We call on you to immediately release all archives relating to the internal armed conflict to the Archives Unit of SEPAZ and to release to the Attorney General the four documents requested in the proceedings against General Ríos Montt and others. We also urge you to certify that the documents released are true and correct.

Releasing the military archives would be a historic act that would strengthen respect for human rights in Guatemala. Ultimately Guatemala's national security will be best served by upholding the rule of law and prosecuting those responsible for gross human rights violations.

Thank you for your attention to this urgent matter.

Sincerely,

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