

**PLAN FOR THE REPARATION OF
DAMAGES AND HARM SUFFERED BY
THE COMMUNITIES AFFECTED BY
THE CONSTRUCTION OF THE CHIXOY
HYDROELECTRIC DAM**

The approval of this Reparation Plan is the result of consensus between the Government of Guatemala and the communities affected by the construction of the Chixoy Hydroelectric Dam - COCAHICH, in a political negotiation, which started in September 2006. With the mediation and facilitation of the Organization of American States (OAS), and the observation of the Human Rights Procurator (PDH), the Office of the United Nations High Commissioner for Human Rights (UNHCHR), the World Bank (WB), and the Inter-American Development Bank (IDB).

It is the obligation of the State of Guatemala to comply with the commitments set out in the Reparation Plan to avoid re-victimizing the communities.

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PLAN FOR THE REPARATION OF DAMAGES AND HARM SUFFERED BY THE COMMUNITIES AFFECTED BY THE CONSTRUCTION OF THE CHIXOY HYDROELECTRIC DAM

I. INTRODUCTION

The construction of the Chixoy Hydroelectric Dam, which started in 1975, severely affected the lives of those in the communities of the region, with serious consequences for the same due to multiple injustices and violations of their human rights and the additional impact caused by the lack of attention towards those rights until now, this therefore representing a new victimization in itself.

After countless efforts, including the protests of the communities in the water inlet of the Chixoy Hydroelectric Dam, they achieved on the 18th September of 2006¹, under the mediation of the Organization of the American States, OAS, the establishment of a political round table for the negotiation of the reparations for the damages and harm caused, in order to restore the rights of the victims, to improve their living situation and promote political reforms with the intention of preventing a repetition of the violations.

A result of the negotiation process between the Coordinating Committee for Communities Affected by the Construction of the Chixoy Hydroelectric Dam (COCAHICH) and the Government of Guatemala - hereinafter known as the parties-, was that they signed on the 13th November 2009 the **Report of the Identification and Verification of the Damages and Harm inflicted on the communities by the construction of the Chixoy Hydroelectric Dam**², which notes the responsibility of the State and the other entities involved in the hydroelectric project; thereafter approved in the present **Plan for Reparations**. It is important to emphasize that from November 2008 the negotiation had a new impulse in order to arrive at the fundamental agreements that have allowed the successful conclusion of this process.

The said plan is made official via a Government Agreement; it is structured with an introductory framework of a conceptual historical and judicial nature, with elements of substantial order and uses as a basis the damages and harm inflicted on the communities. It defines the objectives of the same and the measures adopted, finally establishing the institutional mechanisms of tracking, monitoring, verification and financing.

Overall, the present document could be considered as a point of arrival but at the same time a point of departure. It is a point of arrival because after more than 4 years of intense and complex negotiation sessions between the parties, the approval of the final products has arrived, as well as the definition of the operational tool that will permit the following reparation. It is a point of departure because it represents

1 The Political Agreement among the Parties was renewed on September 18, 2007, then on March 17, 2008 and November 20, 2008. At present, rules the "Political Agreement between the Government of the Republic of Guatemala and the representatives of the communities affected by the construction of the Hydroelectric Chixoy, that contains the bases for the identification, verification, and reparation of the damages and detriments caused to such communities", signed on July 1, 2009 by the President of the Republic, the Representative of COCAHICH, and the mediator of the OEA.

2 See Annex 1.

the contractual tool mediated through which the State of Guatemala commits to implement a combination of measures strategically defined as integral to the approach for dealing with the damages and harm inflicted on the said communities.

The Parties provide evidence of the valuable work of facilitation and mediation by the Organization of the American States (OAS) that helped to overcome extremely difficult situations within the negotiation process as well as that of the decided accompaniment of the observed requests. Equally, they express gratitude to the entities that financially supported the technical and logistical aspects in the last phase of the negotiation and to the friendly countries that were present during this pathway of negotiation. The parties are aware that this process would not have concluded in this way without the patience, perseverance and commitment of the communities.

II. ANTECEDENTS³

The negotiation process headed by the Coordinator of Communities Affected by the Construction of the Chixoy Hydroelectric dam (COCAHICH) and the Government of the Republic of Guatemala concluded with the signature of the Report of Identification and Verification of the damages and harm caused to the communities and of the present Plan for Reparations.

However, this process started on the 18th September 2006, formed through a Political Agreement between the Government of the Republic and COCAHICH, with the mediation of the OAS, and is an instrument that contains the Basis of Negotiation for the Identification, Verification and Reparation for the Damages and Harm inflicted on the communities by the Construction of the Chixoy Hydroelectric Dam⁴.

Through the mentioned Agreement, the Parties established and incorporated themselves onto a political round table, which at the heart of its negotiation had the objective of identifying, verifying and creating a Plan for Reparations for the damages and harm suffered by the communities, specifying the principle tasks that needed to be fulfilled for that purpose. They promised that the decisions made on the round table would be made by consensus, and would function under the principle that the agreements would be made in good faith, a principle that has governed all aspects of this plan and previous Political Agreements. They confirmed their interest in continuing to rely on observers of the process, and in the case of the participation of the OAS, they established that it would be the responsibility of the procedural mediation, the reporter and the systemization of the commitments made, as well as the summons to the corresponding sessions.

In the framework of the Technical Commission of Verifications⁵, in May 2009, they subscribed to the "Partial Reparation Agreements"⁶ concerning projects destined for the Community of Pacux (Rabinal, Baja, Verapaz) and to the Colonies of El Najanjo

3 Details of the process can be found in Annex 1, CTV Verification Report, November 2009.

4 Document included in Annex 1: Report of Identification and Verification of Damages and Detriments caused to the communities affected by the construction of the Hydroelectric Chixoy, OEA, Guatemala, November 9, 2009.

5 Entity formed by both parties and enabled by the OEA.

6 See later part A) AGREEMENTS REACHED DURING 2009, "Agreements on Partial Reparation". Further details can be found in Annexes 2 and 3.

and Pacuxtin (Cubulco, Baja Verapaz). The mentioned projects form part of the present Plan for Reparations (Chapter VI, paragraph A, Numbers 1 to 46), and are directed at families affected by the construction of the Chixoy Hydroelectric Dam, and are included in the project of the National Budget 2010, created by the Government but not approved by the Congress of the Republic. Currently, the same are the objective of incorporation in the budgets of the diverse governmental institutions responsible for its execution.

In 2008, the current Government representation assumed the governmental agreement offered in 2006 for the implementation of projects requested by the COCAHICH, directed towards families affected by the construction of the Chixoy Hydroelectric Dam, and of maximum priority for numerous communities of Cubulco, Rabinal, and San Miguel Chicaj (Baja Verapaz), San Cristóbal and Santa Cruz (Alta Verapaz) and Chicamán (Quiché), agreeing in March 2010 its inclusion in the present Plan for Reparations.

On the 13th November 2009, and after nearly four years of dialogue and negotiations, COCAHICH and the Government of the Republic of Guatemala passed the Report of the Identification and Verification of the Damages and Harm inflicted on the communities by the construction of the Chixoy Hydroelectric Dam⁷, the draft of which was made by the Technical Commission of Verifications.

The Final Report of Identification and Verification establishes that as a consequence of the construction of the Chixoy Hydroelectric Dam, there were reported to be severe impacts on the families and communities of an environmental, anthropological-cultural, socioeconomic, infrastructural, social and psychosocial nature.

The discoveries, conclusions and recommendations of the said report formed the basis for the debate, negotiation and were the principle input for the creation of the present Plan for Reparations.

III. LEGAL FRAMEWORK⁸

The present Plan for Reparations is underpinned by a legal framework whose sources can be found as much in international law as in national regulation, assuming in the same manner all that is considered in the legal framework of the Report of the Identification and Verification of the Damages and Harm signed on the 13th November 2009.

The Political Constitution of the Republic of Guatemala establishes in Articles 1 and 2, that the State is set up to protect the person and the family, with the supreme aim being the realization of the common good; that it is the duty of the State to guarantee to the Republic's inhabitants, the right to life, freedom, justice, security, peace and full development of the person. Furthermore, Articles 44 and 46 grant the protection of human rights at the highest hierarchical level in legislation and they recognize the supremacy of the Agreements and international treaties with regard to human rights

7 Document signed on November 13, 2009. See Annex 1.

8 Taken from chapter VI, Conceptual Framework, incorporated in the Final report of identification and verification of damages and detriments caused to the communities affected by the construction of the Hydroelectric Chixoy, OEA, November 9, 2009.

accepted and ratified by Guatemala. With respect to regular legislation, the present Plan is based on, amongst others, the Organic Law of the Executive Branch, the Organic Law of the State Budget and the framework law on the peace agreements. These contain different precepts applicable to the implementation of the same.

In the international environment according to Article 1 of the Inter-American Convention on Human Rights the State Parties in the said convention “commit to respect the rights and liberties recognized in it and to guarantee the free and full right of any person that is subject to its jurisdiction”; the said convention also establishes the competence of the Inter-American Court of Human Rights and as part of the said competency the ability to establish reparation methods once it is decided that it is the responsibility of one State Party (Article 63). Likewise, the regulations of the Inter-American Court of Human Rights notes – in Article 52 – “as a general principle” a state defendant before a Tribunal can communicate their leveling of the claims. A leveling of the claims of the defendant parties, that is to say that they accept their responsibility in the event of litigation. Furthermore, Articles 4 and 5 of the American Convention on Human Rights (the right to life and their right to personal integrity respectively); in 1927 the Permanent Court of International Justice, a World Court established by the League of Nations, affirmed a fundamental principle of International Law supporting that the violation of an international duty would lead to the necessary reparation of that violation.

IV. CONCEPTUAL FRAMEWORK

The present Plan for Reparations is equally underpinned by a system of principles that constitutes the reference framework for the definition and realization of the objectives, aimed at the realization of the operational and legal actions that derive from the same.

1. PRINCIPLES

The Plan for Reparations, agreed to by the Government of the Republic of Guatemala and the Coordinating Committee for Communities Affected by the Construction of the Chixoy Hydroelectric Dam, COCAHICH, aims to help victims to better their subjective and objective situation and their integral well-being; to deal with the consequences of their unjust suffering and recognize their dignity and their rights; furthermore it sets out to show solidarity with the victims and find a pathway in order to re-establish their confidence in the public institutions responsible for the damage caused. This will be possible as long as the victims are protagonists in the implementation of their Plan for Reparations and the State fulfills all elements agreed in the same.

In this respect, the parties reiterate that, for the successful implementation of the said plan, the participation of the victims in the design, implementation, monitoring and verification of the agreed measures is indispensable, as well as their participation in the institutional reforms that they aim to carry out.

All of the reparation measures must be understood, implemented and assessed in the spirit of cultural relevance and gender principles.

The above is enunciated in an ethical and legal framework, in which the principles of integrity and coherence are outlined in the design and implementation of the different measures, which further emphasizes the importance of both in the realization of the Plan for Reparations.

The present Plan for Reparations recognizes and incorporates the internationally accepted principles⁹ regarding the rights of the victims which include:

- The duty to respect and to ensure that the international regulations are respected with regard to human rights and the international humanitarian rights, including that of impartial, effective and rapid access to justice and the right to sufficient, effective and rapid reparations.
- The principle of being treated with respect and compassion from which derives the principle of not causing harm (“do no harm”) and that avoiding that the judicial and administrative proceedings destined to carry out the right of reparation and justice, do not in themselves lead to a new trauma (no re-victimization).
- The victim’s right to access justice not only for the violations of human rights, but also in terms of avoiding judicial and administrative proceedings or those of any other nature that affect their interests, as well as the duty of the State to adopt measures in order to reduce to a minimum the inconveniences to the victims and protect their privacy.
- The right to make collective claims and obtain collective reparation.
- The right to know the truth and to disclose it.
- The right to reparation of an integral form, taking into account the circumstances of the case, in the form of restitution, compensation, rehabilitation, satisfaction and of no repetition.
- The principle of no discrimination between victims as in not making any detrimental distinction using criteria unaffiliated with the reparations system.
- The right to reparations of cultural appropriateness.
- The principle of accessing publicly the information and the principle of participating in the design, implementation, monitoring and verification of the agreed measures.

2. OBJECTIVES OF THE REPARATION PLAN

2.1. General

2.1.1. That the Guatemalan State repairs the economic, social, anthropological-social, psychosocial, cultural and environmental damages and harm inflicted on the victims of the thirty three (33) communities affected by the construction of the Chixoy

9 “Basic principles and guidelines on the right of the victims of infringed international Human Rights norms of international law to interpose resources and obtain reparations”.

Hydroelectric Dam, in order to bring justice and recover the life project of the communities, using the established agreements, measures, mechanisms and terms.

2.2 Specifics

2.2.1. To promote a paradigmatic change in the formulation of public policies, the right to human rights, the dignifying of the victims and the processes of truth and justice as measures of satisfaction and not to repeat the actions that caused damages and harm to the affected communities.

2.2.2. Restore the environmental, cultural and social conditions to the affected communities, using environmental management, integral cultural programs, health systems, social assistance and food security.

2.2.3. Restore the economic, social and cultural conditions to the affected communities, using the recovery of the right to own property, that of lost infrastructure, the right to a name, free circulation and archaeological heritage.

2.2.4. Repair the moral, psychosocial, physical and material harm inflicted on the victims of the affected communities, via individual and collective compensation, which contributes to its social and economic development.

V. MEASURES OF REPARATION

1. AGREEMENTS REACHED IN 2009¹⁰

1.1 “Agreements on Partial Reparation”

In the process of dialogue and negotiation undertaken by the parties in the framework of the Technical Committee of Verification, in May 2009, Agreements on Partial Reparation were reached consisting of several projects aimed at assisting in Pacux Community (Rabinal, Baja Verapaz) and Colonies El Naranjo and Pacuxtin (Cubulco, Baja Verapaz). These agreements form part of this Reparation Plan, including all its annexes¹¹.

These projects, targeted at families affected by the building of the Chixoy Hydroelectric Dam, were included in the draft of the State Budget 2010 elaborated by the Government that was approved by the Congress of the Republic in the end of 2009 and they are currently under discussion for their incorporation in the budgets of the different government institutions responsible for their execution.

1.1.1. Related to housing

1.1.1.1. 150 houses will be built in Pacux community.

1.1.1.2. 44 houses will be build in Pacux Community for families of orphans affected by the building of the Chixoy Hydroelectric Dam, ignored by INDE Resettlement Program.

¹⁰ Official document of May, 2009 enclosed as an annex.

¹¹ See Annexes 2 and 3.

1.1.1.3. 194 houses will be built with cultural relevancy and will follow the design approved by CTV, that is, quality of materials, anti-seismic anchoring (columns and beams), reinforced and contained system, steel rafters, roof cover with thermal insulating system, enclosure with concrete blocks, concrete floor, smoothed, with minimal thickness of 5 cm, two bedrooms of 3m x 3m each.

1.1.1.4. 254 houses will be repaired in Colony El Naranjo-Chicuxtin (189 families in Colony El Naranjo and 65 in Colony Chicuxlin), according to the characteristics established in the technical draft generated after the field visit by COCAHICH and the Government.

1.1.2. Related to land:

Land will be acquired for families from Pacux Community and Colony El Naranjo, under the following criteria:

1.1.2.1. It will be taken as basis six manzanas* per family, from which will be deducted the amount previously provided by reparation initiatives of INDE.

1.1.2.2. The portion of land is considered bound for community use.

1.1.2.3. A total of 10 caballerías[†] is allocated for Pacux Community, from which 8,5 caballerías will be used by families and 1,5 for community use.

1.1.2.4. A total of 17 caballerías is allocated for Colony El Naranjo, from which 15 will be used by families and 2 for community use.

1.1.3. Related to paving of streets and avenues:

1.1.3.1. Streets and avenues in Pacux Community will be improved by paving, to benefit 294 families affected by the building of Chixoy Hydroelectric Dam.

1.1.3.2 Streets and avenues in Colony El Naranjo/ Chicuxtin will be improved by paving, to benefit 586 families affected by the building of the Chixoy Hydroelectric Dam.

1.1.4. Related to basic sanitation:

1.1.4.1. 50% of the cost of water supply will be covered, including a sanitation system for Pacux Community (sewer system and wastewater treatment plant, storm water and sewage water) to benefit 294 families affected by the building of the Chixoy Hydroelectric Dam.

1.1.4.2. A water supply system and sanitation will be installed (water for human consumption, sewage and wastewater treatment plant, storm water and sewage water) to benefit 254 families (189 families in Colony El Naranjo and 65 in Colony Chicuxtin) affected by the building of the Chixoy Hydroelectric Dam.

1.1.4.3 This work will include the building of a Treatment plant, the increase and extension of the sewer system (storm and sewage water¹²) and the increase and extension of the human consumption water. Colonies El Naranjo and Chicuxtin are

* Manzana is a land area equivalent to 6,987.29 m²

† A *caballería* is a land area of approximately 10 hectares

¹² Due to population growth, there are dwellings that do not have this service.

situated 500 m far from each other and currently are being supplied by the same water system for 586 families.

1.1.5. Related to the improvement and strengthen of Health.

1.1.5.1 Pacux Community will be provided with adequate health and medical support services, which will include building a Health Center, its equipment, hiring and allocating specialized human personal.

1.1.5.2. Health Center in Colony El Naranjo, will be improved and strengthened by providing with suturation equipment, remedial team, birth team, autoclave, asepto syringe, incinerator, sphymomanometer, stethoscope, weight scales for babies, benches, tables, curtains, linen, robes, filing cabinets, calculators, dustbins, boards, grass mower, machete, pick, water hoses, hoes, shovel, wheelbarrow, shelves, plastic chairs and supply of medicines.

1.2 “Urgent Projects”

Early in the process (2006) in the framework of the Roundtable for dialogue and negotiation, the Government requested from COCAHICH the submission of draft resolutions of high priority, offering to include them in the plans of the institutions competent in the field and to execute them urgently. On that occasion it was established that these projects, although targeting families affected by the building of the Chixoy Hydroelectric Dam, were not a compensation or reparation but they reflected pronounced socioeconomic needs of the communities. Nonetheless, for more than two years there was no progress in this area.

In 2009, the current Government retook its commitment by reaching an agreement with COCAHICH to organize and follow-up the priority projects, as well as its inclusion in the current Reparation Plan.

1.2 Enlargement to Two-Lanes of the unpaved Cubulco-Pacani-Hitomax road, Baja Verapaz. Length 21.45 Kms.

1.3 Construction of unpaved road from Chitomax-Chivaquito and Pajales-Cubulco, Baja Verapaz. Length 8Kms.

1.4 Replacement of the existing pedestrian bridge in Chitomax, Cubulco, Baja Verapaz, by one of 100 to 150 meters long to traffic, adding areas with structural fill and mechanically stabilized ground.

1.5 Construction of unpaved Pacani-San Juan Las Vegas road, Cubulco, Baja Verapaz. Length 4Kms.

1.6 Construction of new bridge on the river Pacani, Cubulco, Baja Verapaz.

1.7 Construction of unpaved Chitomax-Guaynep road, Cubulco, Baja Verapaz. Length 4Kms.

1.8 Construction of unpaved Xanacati II road, Cubulco, Baja Verapaz. Length 2.6 Kms

1.9 Construction of unpaved Pachijul road, Cubulco, Baja Verapaz. Length 1.5 Kms

1.10 Construction of unpaved road Pichal, Cubulco, Baja Verapaz. Length 1.5 Kms.

- 1.11 Unpaved road Chitomax-Chicruz via Patzulup, Cubulco, Baja Verapaz. Length 7 Kms
- 1.12 Unpaved road Chitomax-Chirramos-Patuy, Baja Verapaz. Length 13 Kms.
- 1.13 Construction of a school with four classrooms, attachment, storage room and kitchen. Chirramos, Cubulco, Baja Verapaz.
- 1.14 Construction of mini-irrigation system with mini-sprinkler technology, Los Pasajes, Cubulco, Baja Verapaz.
- 1.15 Construction of Institute of Basic Education, with six classrooms and multipurpose room. Chitomax, Cubulco, Baja Verapaz.
- 1.16 Construction of Institute of Basic Education with six classrooms and multipurpose room, Colony El Naranjo, Cubulco, Baja Verapaz.
- 1.17 Gravity-fed water supply system, household connections, drainage system, latrines, basins and Plan for solid waste disposal, Settlement Pacux, Rabinal, Baja Verapaz.
- 1.18 Gravity-fed water supply system, household connections, drainage system, latrines, basins and construction of drains for an adequate disposal of sewer water, Caserio Patzulup, Chicruz, Cubulco, Baja Verapaz.
- 1.19 Gravity-fed water supply system, household connections, latrines, basins and construction of drains for disposal of sewer water, Pancul, Chicamán, Quiché.
- 1.20 Gravity-fed water supply system, household connections, latrines and construction of basins and drains for disposal of sewer water, Plan Grande, Chicamán, Quiché.
- 1.21 Gravity-fed water supply system, household connections, latrines and construction of sinks and drains, La Campana, Chicamán, Quiché.
- 1.22 Construction of fishery ponds with a sustainable management plan, Río Negro, Rabinal, Baja Verapaz.
- 1.23 Purchase of an equipped speedboat, 'shark-boat' type, made of fiberglass, Agua Fría, Chicamán, Quiché.
- 1.24 Purchase of land for 76 houses. Agua Blanca, San Cristóbal, Alta Verapaz.
- 1.25 Construction of 76 houses, Agua Blanca, San Cristóbal, Alta Verapaz.
- 1.26 Purchase of land for 36 houses, El Zapote, Santa Cruz, Alta Verapaz.
- 1.27 Construction of 36 houses, El Zapote, Santa Cruz, Alta Verapaz.
- 1.28 Purchase of land for 20 houses, Santa Ana Panquix/Pueblo Viejo, Santa Cruz, Alta Verapaz.
- 1.29 Construction of 20 houses, Santa Ana Panquix/ Pueblo Viejo, Santa Cruz, Alta Verapaz.

1.30 Purchase of land for 109 houses¹³, Colony Rosario Italia, Santa Cruz, Alta Verapaz.

1.31 Construction of 109 houses¹⁴, Colonia Rosario Italia, Santa Cruz, Alta Verapaz.

1.32 Construction of 94 houses¹⁵, 15 San Antonio Panec, Santa Cruz, Alta Verapaz.

1.33 Purchase of land for 53 houses¹⁶, Camalmapa, San Miguel Chicaj, Baja Verapaz.

1.34 Construction of 53 houses, Camalmapa, San Miguel Chicaj, Baja Verapaz.

2. MEASURES OF SATISFACTION AND NO REPETITION

2.1 Paradigmatic change

2.1.1 The Executive Branch will create and promote a transparent model, focused on social development and with the active participation of the community in all the steps¹⁷ related to hydroelectric projects and mega-projects, including its participation in a fair distribution of all kinds of benefits generated by them.

The referred model will be based on the spirit and taking in account social clauses¹⁸ of the World Bank, Inter-American Development Bank and recommendations of the World Commission on Dams, as well as the best compared practices and experiences. Similarly, it will include, amongst other things, principles, relevant standards or rules and an Ethical Code.

2.1.2. The Executive Branch will develop – in a participatory way - will promote, and implement mandatory rules that oblige all those concerned in every hydroelectric project and mega-project, whether private, public or public-private, to satisfy the requirements above mentioned.

2.1.3. The Executive Branch, through the Government of the Republic, is committed to develop, submit and promote, within six months after signing this Reparation Plan, a legislative initiative that drives the necessary changes to make sure that legislation and the relevant institutions (General Electricity Law and other, CNEE) adjust, through reforms or creation, to the transparency model, social development and active participation of the communities in all the stages related to hydroelectric projects and mega-projects.

13 The children have built in the lands of the parents. 24 lands with titles.

14 Yet to verify the existence of 14 families. Some families owe 'Genesis Empresarial' the construction of their dwellings.

15 The need of buying land or not must be determined.

16 The families own the land, some live in their parents' lands. The population does not own the land legally.

17 From its start to its finish.

18 The social clauses establish, in the credit tranches disbursement conditions, the obligation of directing determined funds to the maintenance of certain social programs. In the credit agreements and bank documents, this type of clauses is called "social budget conditions". They were developed to mitigate the negative social impact that the bank conditions had, forcing the states to economic transformative processes with the objective of improving their competitiveness in global markets... which led to the dissolution of the key welfare state institutions, downgrading the labor law and the social security systems (see Abramovich, in Building an agenda for the justiciability of social rights, Cejil 2004).

2.1.4. The National Reparation Commission will follow up and encourage the application of the model previously described in the existing projects, for which they may create a specific commission.

2.1.5. Pending a ruling mentioned in the last subsection, the National Reparation Commission, in the case of complaints for violation of principles and regulations previously mentioned, will appoint immediately a commission to verify the same and present the conclusions to the competent authority. In case complain is filed by the communities the characteristics of this commission must be consensual between communities and the National Reparation Commission.

2.1.6. The parties are aware that the State, according to the collective agreement 169 from the OIT, has the obligation to adopt the legislative, administrative or any other measures, that are necessary to know and guarantee the rights of the indigenous communities to be effectively consulted according to their own traditions and customs. The parties confirm that this has not been effective and it does not exist a procedure to decide which is the responsible body to carry out the consultations.

In that regard, the Executive Branch is committed to consult with the communities by the adequate procedures and particularly through participatory institutions when legislative and administrative measures may be affecting them directly. The affected communities have the right to decide which are their own priorities concerning development inasmuch as affecting their lives, beliefs, institutions and spiritual welfare and land they are occupying or use in any way and also to control as far as possible its own socioeconomic and cultural development. Moreover, these communities must participate in the formulation, application and evaluation of the plans and programs for national and local development whose may affect them directly.

2.1.7. The Executive Branch will elaborate – in a participatory way - and will submit within six months after signing the Plan of Reparation, to the Congress of the Republic, a legislative initiative for regulation and will promote it widely. Once this regulation is adopted, it will assume its implementation.

Likewise, the National Reparation Commission will investigate the current situation of contracts and concessions regarding disposal of electric energy production surpluses for the Chixoy Hydroelectric Dam¹⁹ and look for impartial forms for the dissolution of the same. In due time, the National Reparation Commission will value the feasibility for these resources to be handled by the communities, if and when the legal framework allows it.

2.2 Knowledge and diffusion of Chixoy case.

2.2.1 For communities with existing Hydroelectric projects or mega-projects, either on plan or on consideration, the experience acquired in Chixoy must be promoted on all levels. The Executive Branch, through the Ministry for Environment and Natural Resources, by mutual agreement with COCAHICH, will finance, promote and comply with:

¹⁹ Promoting a model that allows communities of COCAHICH to take advantage of them will be dealt with as it is part of the non-repetition and/or rehabilitation measures.

2.2.2. Exchange of experiences and knowledge of affected communities in Chixoy with affected (or at risk for) communities by other projects through 30 Inter-community Meetings in the course of the next five years.

2.2.3. The production and presentation of didactic material, written publication, audiovisual material, and other material for dissemination. It is for an amount not greater than 600.000 quetzales and to be executed in the course of the next three years.

2.2.4. Five tours with a maximum of 20 representatives of COCAHICH to present and discuss these experiences, knowledge and materials in other areas with hydroelectric projects.

2.2.5. Promotion of awareness of social clauses from banks and of existing international regulations regarding this topic (resettlement, reparation, participation in design, implementation and execution of the projects, including production and benefits), including reports from the World Commission on Dams, Commission for Historical Clarification and REMHI.

2.2.6. Entire systematization of the process of demand, complaint and negotiation of affected communities, from the perspective of the Chixoy Hydroelectric Dam and also from the perspective of COCAHICH. It will be assigned an amount not greater than 300.000 quetzales. The process to select the consultants will be by mutual agreement with COCAHICH.

2.3 Dignifying the victims

2.3.1 On behalf of the State, the President of the Republic will accept a public apology in the presence of the holders of the INDE, of the Ministry of Defence and other involved institutions; and will publicize the Study of the Identification and Verification of Loss and Damages and the Reparation Plan. To this end, two events will be celebrated (one in the capital and another in the region) with the participation of the communities and/or its representatives, during the course of the first year of the Reparation Plan. The Presidency of the Republic will assume the costs of the activities and transportation of the affected communities.

2.3.2 Within the three months following the signing of the Reparation Plan, the Executive Branch will publicize the Study of the Identification and Verification of Loss and Damages and the Reparation Plan, with explicit mention that both were agreed and approved by both parties. The characteristics of said publications, the means of their distribution, quantity of copies, content, etc. will be submitted for consultation to the National Reparation Commission.

2.3.3 In the first two years, the Ministry of Education will include in its National Basic Curriculum (CNB), modules about the politics of repression and the grave violations of human rights in the context of the armed conflict and the right to reparation, including explicitly the Chixoy case, the experiences and the struggle of the communities affected by the construction of the hydroelectric dam, in addition to

apprenticeships with the World Commission on Dams. The mentioned modules will be developed in coordination with COCAHICH.

2.3.4 The Executive Branch, through its corresponding bodies, commits itself to formulate a plan to supply electricity to the communities that make up COCAHICH, that still do not have access to electricity or the equipment that would provide it²⁰. Said electricity supply should be for 24 hours a day, three hundred and sixty five days a year to all the affected communities, which also includes the communities that already have access to electricity. The electricity must be able to serve the uses of regular family consumption and the production of medium sized companies. In case of a failure to achieve the above-mentioned time-frame, the Executive Branch will immediately include in its next budget an emergency fund for the finalizing of the project in all the communities as soon as possible.

2.4 Truth and Justice

2.4.1 During the first three months of the Reparation Plan, the President of the Republic will instruct the Minister of Culture and Sport so that the Historical Archive of the National Police [AHPN]²¹ opens the collection of documents of the Departmental Authority of the National Police of the Department of Baja Verapaz, in order to process the identification, classification, ordering and description of the complete collection of documents, giving priority to the periods of 1975-1985, then 1986-1996 until finishing the complete collection of documents.

2.4.2 The Executive Branch, through the Ministry of Culture and Sport, commits to financing consultants chosen in agreement with COCAHICH, for the following:

2.4.3 The investigation of the collection of documents that contains the context of the construction of the Chixoy hydroelectric dam, of the control and repression employed in this context over the population of the region as a whole and the affected communities in particular, and of the collaboration and the acts of the security forces of the State among themselves and with INDE. The process of selection and contracting will be guided by COCAHICH. An amount that does not exceed Q400,000 will be assigned.

2.4.4 Publication and the public handing over to the President of the Republic of the results of this investigation and its recommendations, will be in the presence of INDE, the Director of the PNC, the Ministry of Defense, among other heads of government agencies. Said publication will be carried out within six months following the notification of COCAHICH to the Reparation Commission regarding the satisfactory completion of the investigation. For its completion an amount that does not exceed Q200,000 will be set aside.

20 Communities without electric power services: Chirramos, Chicruz, Chitomax, Guaynep, Pueblo Viejo, Panxic, San Juan las Vegas, Chisajap, Patzulup, Xinacati II, Pichal, Pachijul, Chivaquito, Los Pajales (Cubulco), Patuy, Río Negro, Camalmapa, Los Encuentros, Los Chicos, San Ana (Panquix), El Zapote, Puente Viejo, Agua Blanca, Los Pajales (Uspantán), Agua Fría (comunidad nueva), Plan Grande.

21 The historic archive of the National Police (AHPN), work that is performed at present from the Culture and Sport Ministry has a documentary collection ("fund") of the Departmental Headquarters of Baja Verapaz. This fund seems to contain relevant information regarding the construction of the Hydroelectric and the repression around its construction and implementation, including information regarding the coordination between the army and National Police in the region.

2.4.5 Develop and publicly present a DVD documentary about the repression suffered by the affected communities by the construction of the Chixoy hydroelectric dam and publish it in state mediums of communication as a way of bringing dignity to the victims.

2.4.6 The State of Guatemala will include from the 2011 budget funds of the National Budget for the Ministry of Culture and Sport and the work of AHPN to slowly reduce the contribution of the international community.

2.4.7 During the first three months of the Reparation Plan, the President of the Republic will request the Public Prosecutors' Office to investigate all the criminal offenses in which anyone employed or affiliated with INDE, the security forces or members of illegal bodies, may have been involved in, in the context of the construction of the Chixoy hydroelectric dam. The Executive Branch will provide the necessary resources so that these mentioned entities fulfill this task.

The President will instruct all Ministries and other state dependencies so that they collaborate with these efforts and, in particular, they will instruct the National Defense Ministry to hand over to the Public Prosecutors' Office all the existing information regarding the people involved in these crimes²².

2.5 Ceasing the violation of Human Rights

2.5.1 The Executive Branch will guarantee the free circulation of the communities in the area of the dam, including the passing for their perimeter road, taking in to account the inherent restrictions towards the security and protection of the people.

2.5.2 The Executive Branch will implement the necessary steps to permit the access of the communities to sacred sites and cemeteries where still possible.

3. MEASURES OF REHABILITATION

In compliance with the objectives of the Reparation Plan, the following measures for rehabilitation are set out:

3.1 At the latest in January 2011, the Executive Branch, through the Ministry of the Environment and Natural Resources, with the participation of COCAHICH, of the municipalities of the catchment area and the community organizations found in the catchment area, in coordination with the relevant institutions, will begin the implementation of the Management Plan of the Chixoy Catchment Area²³ on the basis of the Integrated Management of Hydrological Resources (IMHR) that includes as a minimum the following actions:

3.1.1 Reforestation programs with species native to the area, this will contribute to reducing the rate of degradation the hillsides and at the same time restore part of the habitat that was lost by the flooding, helping to restore the numbers of the bird and small mammal species.

22 The parts refer as the specific case to that of Colonel Jose Antonio Solares Gonzalez, Criminal Cause 772-93. Of. 30. District Court of Crimes, Drug Activity and Environmental crimes of the department of Baja Verapaz.

23 The catchment area is defined as the territorial unit in which rainfall water gathers and drains to a common place or that it flows all to the same river, lake or sea. In this area human beings, animals and plants live, all of them involved. It is also defined as a physiographic unit formed by the gathering of a system of watercourses defined by the terrain.

3.1.2 The Reparation Commission will create an appropriate environmental flow to guarantee the economic, social and environmental viability of the management of the river basin of Chixoy that protects the ecosystems, covers the basic human necessities and maintains the constant flow of river water along the basin in order to guarantee the protections of the natural conditions of the basin.

In addition, the Reparation Commission will work along the following principles:

3.1.2.1 To ensure, in the long term, an optimal social and economic benefit, environmentally sustainable, managing quantity, quality and reliability of water resources.

3.1.2.2 The quantity shall be reserved and the quality and reliability of the water shall be guaranteed to sustain the ecological functions on which humans depend, in a way that the utilization does not compromise, either individually or cumulatively, the sustainability of the ecosystems in the long term

The Executive Branch, through [the Ministry of Environment and Natural Resources] MARN, will deliver within 30 days after the signing of the present Reparation Plan, historical information flow of water entering the reservoir so that this information is taken into account for the definition of environmental flow.

The Executive Branch will implement the decision of the Reparation Commission in respect of the environmental flow within 3 months from the same.

3.1.3 Replacement of farmland impacted by the flooding caused by the dam, in quantities and qualities similar to those impacted.

3.1.4 Development of fruit activity with species that are adapted to the region, to take advantage of sloping land found devoid of coverage and which can be developed. This activity should be accompanied by appropriate technology such as localized irrigation to guarantee results.

3.1.5 Establishment of gene banks through the identification, reproduction and establishment of orchards with the purpose of conservation of fruit species, and medicinal plants; to be established in gene banks in the area for use in productive community projects.

3.1.6 Supply of potable water, suitable for human consumption, to an amount adequate to fifty liters per person per day (50L/ day/person), to communities, to avoid drinking contaminated water from the reservoir.

3.1.7 Recovery programs of native species (birds, fish, mammals etc)

3.1.8 Programs to counter the damage caused by sedimentation to the reservoir

3.1.9 National level program of awareness raising and comprehensive environmental education, both formal and non-formal

3.2 The Executive Branch, with the participation of COCAHICH and state, and non0state, institutions that have competence in the matter, will develop immediately the following comprehensive programs, whose implementation will begin in 2011:

3.2.1 Program to publicize, exploit and practice the culture, values, principles and philosophies of the Maya people, with emphasis on the experience of the

communities that were affected by the construction of the Chixoy Hydroelectric Dam and to promote actions aimed at promoting harmonious inter-cultural relations.

3.2.2 Program to rescue communality and harmonious coexistence between different human groups living in the affected region, culturally relevant.

3.2.3 Economic program for cultural sustainability that should include, at a minimum:

3.2.3.1 Development of a tourist plan, integrative to the Maya Achí culture, to identify a source of sustainable development to these communities.

3.2.3.2 The construction, strengthening and promotion of two museums that promote elements of culture (history, dance, costume) of the peoples affected by the Chixoy Hydroelectric Dam, managed and administered by the communities themselves and their organizational structures.

3.2.3.3 Creation of reproductive spaces for art and Maya Achí culture to promote certain cultural expressions, such as traditional dances, musical training, painting and spoken word.

3.2.4 Program to access existing documentation on the culture and history of the people affected to pedagogical present these files so as to get their content to all affected people.

3.2.5 Program to promote awareness, education and training that allows to present, evaluate and recover the culture Maya Achi, keeping the memory of these people alive.

3.3 The Executive Branch, through the Ministry of Health and Welfare and the participation of COCAHICH, will evaluate or diagnose, immediately, the conditions of the current public health system in the area, focusing on a particular model²⁴.

3.4 The Executive Branch, through the Ministry of Health and Social Assistance, and with the participation of COCAHICH, will implement, from January 2011²⁵, measures aimed at strengthening and effectiveness of SNSP covered in all communities, especially in the following areas:

3.4.1 Health clinics, adequately equipped.

3.4.2 Sufficient medication, according to the epidemiological profile.

3.4.3 Permanent and qualified human resources.

3.4.4 Equipped ambulances.

3.5 The Executive Branch, through the Ministry of Health and Social Assistance, and with the participation of COCAHICH, will immediately develop and implement, from 2011, a model of a health system with the following characteristics:

3.6 National public health system, of the Ministry of Public Health, efficient in the area, as a condition and starting point to implement the agreed measures.

3.4.5 Comprehensiveness including at least physical, psychological, dental health.

3.4.6 With programs directed at victims of human rights' violations.

²⁴ See point number 69.

²⁵ In 2010 the agreements expressed in points 12 and 13 of this Plan will be implemented.

3.4.7 With cultural relevance in all its components.

3.4.8 With local or regional mechanisms for monitoring, evaluation, warnings and recommendations to the general monitoring system of the Reparation Plan, made up of communities, multidisciplinary professionals, spiritual authorities, etc.

3.5 The Executive Branch, through the Ministry of Health and Social Assistance, and with the participation of COCAHICH, will design, immediately, a health system based on diagnostics or assessments and will implement it, from January 2011, with relevance to the said reparation, taking into account:

3.5.1 The recommendations of the 'Report of Identification and Verification of Damages and Detriments'²⁶, including training young people of the communities for them to be facilitators in the psychosocial treatment and so guarantee the cultural relevance, as well as that of gender.

3.5.2 The best practices and learnings generated in the country with regard to psychosocial treatment of victims of human rights abuses²⁷.

3.5.3 The creation of a specific mechanism responsible for the conduct and/or coordination of the system, formed by the State and the Communities.

3.5.4 Resourcing and installation of basic infrastructure sufficient for the operation of that mechanism.

3.5.5 The inclusion of third parties in the system, in view of the comparative advantages of their respective experiences (eg. Universities).

3.5.6 The creation of programs²⁸, specifically free comprehensive health, including the provision of medicines²⁹, addressing the needs of victims of human rights violations.

3.7 The Department of Food Security, with the participation of COCAHICH, will design, immediately, programs for food and nutrition security; and the Ministries of

- 26 (a) Psychosocial programs specialized according to the cultural and social context of the population, that answer the mental health problems caused by the violent happenings suffered during the internal armed conflict and the construction of the hydroelectric, (b) Psychosocial programs and actions targeted towards the municipalities of Cubulco, Rabinal and Tac-Tic with the objective of knowing the history of these communities and, in this way, reducing the labelling and stigmatization of displaced communities, (c) Committee for tracking and monitoring the psychosocial reparation measures, (d) Psychosocial program, which approach is present among the measures of economic, environmental, infrastructural, and cultural reparation, so that the reparation process does not cause greater damage to the community social fabric, where representatives of COCAHICH have a full involvement, (e) Mechanisms to solve conflicts that arise due to the implementation of the reparation measures, (f) Specific psychosocial programs for the youth of the affected communities that are involved in youth gangs, and especially for the youth that are currently in prison, (h) Evaluation of physical health conditions, (i) Project for mental health training directed to youth and adults in the affected communities, so that these can become the first responsible listeners and a psychological support in their communities. That the trained people can join the SIAS to have formal recognition from the local health sector, (j) Psychosocial plan that enables the recovery of the relations between Pajales, Xococ, and Rio Negro, strengthening the work started by ADIVIMA.
- 27 Interamerican Court decision in the case of the Sanchez Plan vs. Guatemala Massacre, Protocol for the psychosocial attention of the victims in cases of human rights, Indigenous peoples' health attention unit, intercultural Guatemala, and others.
- 28 Includes budget, infrastructure, furniture, equipment, human resources, etc. needed according to the design.
- 29 Including traditional natural medicine.

Public Health and Social Assistance, and of Food Agriculture and Livestock, will implement them from January 2011.

4. MEASURES OF RESTITUTION

4.1 Restitution of the right to land ownership.

1.1. Clarification of boundaries and registered land (not flooded)

1.1.1. The Executive Branch immediately mediate, through the Secretariat of Agricultural Affairs in the conflict of Cancún Finca³⁰ in order to find a negotiated solution to it and give security on property rights to the populations affected by the construction of the Chixoy Hydroelectric Dam.

The mediation agenda should include clarification of the boundaries and subsequent registration on behalf of the community of Río Negro. The latter includes, among other actions:

1.1.1.1. Legal advice and litigation

1.1.1.2. Land registry legal advice

1.1.1.3. Taking on the costs of registration

1.1.1.4. Assistance in transforming conflicts through the support of organizations specializing in this field.

1.2. Allocation of land and lots

1.2.1. The Executive Branch will purchase, in 2011, and will allocate lots and land³¹ to cultivate to 75 displaced families³² that were not taken into account by INDE and to 7 orphans, originally resident in Río Negro, most of whom currently reside in Pacux³³.

4.2 Recovery of archaeological artifacts

1.3. The Executive Branch, through the Ministry of Culture and Sports, will coordinate through the competent bodies, the following measures:

1.3.1. Establish a survey of existing archaeological artefacts existing when construction work began on the Hydroelectric Dam.

1.3.2. Recovery immediately any artifact that is in the possession of any state entity

1.3.3. Investigate the current location of the missing pieces in private hands (domestic or foreign) or public hands (foreign)³⁴.

30 It is an estate that has always belonged to the community of Río Negro and that is named "indigenous community" in the current deed. From the whole estate (approximately 58 stables), a considerable amount is not flooded. There are boundary problems with the neighbors.

31 For dimensional references see point 5(a) of this Plan.

32 Colonia El Naranjo (19), Colonia Pacux (44), Rosario Italia (4), San Antonio Panec (4) and Camalmapa (4).

33 There were 7 displaced children that lived as refugees in the mountains for some time as a consequence of the construction of the hydroelectric. Some do not have a (paternal) last name and several are orphans of both parents and did not have the opportunity of having a land.

34 One of the sources of this information referred by COCAHICH is the book: "Tesoros Mayas", of Walter Burgos (Ed) "La sociedad prehispánica de la Cuenca del Río Chixoy". First Edition in Spanish, June 2009.

1.3.4. In the case described above, perform steps leading to the recovery of the artifacts and the application of appropriate sanctions³⁵.

1.3.5. To design, in coordination with COCAHICH and construct, on the part of the Ministry of Culture and Sports, a museum for the exhibition of archaeological artifacts, which will begin with the existing pieces and increase through the progressive recovery of other pieces. This museum will be linked with with the museum

This archaeological museum will be linked to the museum of the history of the communities, their repression, eviction, referred to in the measures of satisfaction and non-repetition.

4.3 Recovery of Destroyed Infrastructure

4.3.1 The Executive Branch will take the following measures through the competent authorities:

4.3.1.1 The construction of the Chicruz bridge within the first three years.

4.3.1.2 The construction of Chitomax bridge³⁶.

4.3.1.3 The construction of approximately seven hundred and fifty (750)³⁷ urbanised homes with drainage and running water.

4.3.1.4 The improvement and refurbishment of approximately one hundred and eighty-nine (189) houses in the Colonia El Naranjo neighbourhood and sixty-five (65) in Chicustín³⁸, with paved streets, electricity and other relevant services.

4.3.1.5 The refurbishment, improvement and provision of equipment to thirty-three (33) primary schools in the affected communities³⁹.

4.3.1.6 The refurbishment and improvement of roads in thirty-three (33) local communities and highways⁴⁰.

4.3.1.7 To build a cemetery within the first three years in each of the following communities: Pacux, Colonia Naranjo, San Antonio Panec, Rosario Italia.

4.4 Reinstating the Freedom of Movement

4.4.1 Movement to and from sacred places to be regulated in accordance with the statements delineated in Chapter V. Compensation Measures, Article 2. Satisfaction measures and non-repetition, Article 2.5. The ceasing of human rights violations, sub-Articles 2.5.1 and 2.5.2.

4.4.2 The Executive Branch, in accordance with the following instances, and within the first eighteen months, will provide nine (9) fully equipped fibreglass boats of the "tiburonera" type to each of the following communities: Río Negro, Chicruz, San Juan las Vegas, Patzulup, Guaynep, Chitomax, Chirramos, Agua Fría, Zapote.

35 The procedures to achieve such goal should be identified and/or established.

36 Included in "Urgent Projects".

37 Includes the 75 displaced families and 7 orphans of point 75 of this Plan, described in the Partial Reparation Agreement and in the Urgent Projects.

38 Includes those described in the Partial Reparation Agreement for the 2010 budget.

39 The Institutes are not included.

40 Highways are included in the "urgent projects".

4.5 Reinstating the Right to a Name

4.5.1 The Executive Branch will ensure that orphans with only one surname will receive accurate information concerning their biological parent's surname. This will be done in coordination with the RENAP, and will provide judicial help to those who seek information on their biological parents' surnames.

4.5.2 The Executive Branch will provide information and counsel to the people who originate from the communities affected by the construction of the Chixoy Hydroelectric Dam. This will also be available to those who were adopted by other national families or foreign ones because they have the right to recognise their national identity and the surnames of their biological parents. The Executive Branch will manage the costs of the aforementioned procedures.

5. METHODS OF COMPENSATION

The reports agree that enormous damages have been caused and must be compensated for in the form of economic payments because other methods only have a limited ability to solve the current issues. For this reason, the payments listed in the following articles include: compensation for material damages (the loss of goods, the loss of work opportunities, the loss of life projects, and the loss of earnings), costs incurred by the victims and their organisations, and the costs for fighting for their rights and for the political persecution they have suffered. These also include the compensation for intangible damages such as physical, mental and moral harm linked to the damage to their reputation and dignity.

5.1 The total amount required for the proposed compensation will be one billion two hundred million Quetzales (Q. 1,200,000,000). Of these, two hundred million Quetzales (Q.200,000,000) are to be allocated to individual compensation and one billion Quetzales (Q.1,000,000,000) are to be allocated to collective compensation.

5.2 The total amount of the compensation measure will be paid in the following scheme of instalments:

5.2.1 Two hundred million Quetzales (Q. 200,000,000) in 2011.

5.2.2 One hundred and fifty million Quetzales (Q. 150,000,000) in 2012.

5.2.3 One hundred and six million five hundred thousand Quetzales (Q. 106,500,000) in 2013.

5.2.4 One hundred and six million five hundred thousand Quetzales (Q. 106,500,000) in 2014.

5.2.5 One hundred and six million five hundred thousand Quetzales (Q. 106,500,000) in 2015.

5.2.6 One hundred and six million five hundred thousand Quetzales (Q. 106,500,000) in 2016.

5.2.7 One hundred and six million five hundred thousand Quetzales (Q. 106,500,000) in 2017.

5.2.8 One hundred and six million five hundred thousand Quetzales (Q. 106,500,000) in 2018.

5.2.9 One hundred and six million five hundred thousand Quetzales (Q. 106,500,000) in 2019.

5.2.10 One hundred and six million five hundred thousand Quetzales (Q. 106,500,000) in 2020.

5.3 Any external addition to the Compensation Plan must be added to the first years' amount immediately upon receipt and is to be deducted from amount owed by the State from the last to the first year.

5.4 COCAHICH will make the decisions autonomously through its relevant structures or associations regarding the recipients of these payments as long as they act in accordance to the objectives and the spirit of the repayment plan and according to the agreements in Chapter IX. Funding.

6. FAILURE TO COMPLY

The report accepts that in case of a failure to meet the deadlines and the methods of repayment from the State's part, new damages will be caused. In this case, the Compensations Commission will immediately evaluate the reasons for said failure and the nature of the damages caused along with their effects. In accordance with the principle of good faith, the Compensations Commission will implement the necessary corrective measures in order to overcome such a situation, and will delineate a new compensation scheme accordingly.

VI. FOLLOW-UP MECHANISMS, MONITORING AND EVALUATION

1. PETITIONS

1.1. As a result of the Government's Compensations Agreement, the National Compensations Commission for the damages caused by the Chixoy Hydrelectric Dam (Compensations Commission from now on), the Executive Secretariat and a Consulting Council were created. These entities will be activated within fifteen working days of the agreement's validation.

1.2. The Compensations Commission will be a high-level representative, and referee, which will be assigned⁴¹ to the President of the Republic. It is defined as a governing organ of the Compensation Plan and its primary functions are to follow, monitor, and supervise the implementation process of the Compensation Plan. This will be carried out to guarantee that the process runs according to the spirit and the objectives of the Plan and its swift fulfilment.

1.3. The Executive Secretariat of the Reparation Plan for the damages caused by the Chixoy Hydrelectric Dam ('Executive Secretariat' from now on) will be the Reparation Commission's executing body, responsible for the

41 Entity attached to Presidency to perform inspection, vigilance and other activities that the government agreement assigns it within certain limits of financial and administrative autonomy.

implementation of policies determined by the Commission and to permanently inform this entity about the advances made, the obstacles faced, the challenges and the development of the implementation process of the Compensation Plan.

- 1.4. The Advisory Council of the Reparation Plan for the damages caused by the Chixoy Hydroelectric Dam ('Advisory Council' from now on) will be a consulting organ for the Compensations Commission in the event of any doubts or discrepancies with regard to the understanding and the interpretation of the spirit, the objectives, each individual norm, clauses, and chapters of the Compensation Plan. This will be carried out in order to accompany and guide the Commission towards the fulfilment of the Compensation Plan in accordance with its original spirit as agreed in the report.

2. NATIONAL REPARATIONS COMMISSION

2.1. The Integration of the National Commission

The National Compensations Commission will be comprised of:

- 2.1.1. The government of the Republic as signatory of the Compensation Plan, represented by:
 - A Commission President
 - The Finance Minister, who will be able to delegate their representation to a vice minister pending appointment.
 - The Secretary of SEGEPLAN, who will be able to delegate their representation to a sub-secretary pending appointment.
- 2.1.2. The Coordinator of the Communities affected by the Chixoy Hydroelectric Dam, COCAHICH, as a signatory of the Compensation Plan, represented by the three designated persons in the aforementioned branches of the Commission.

The Commission's Presidency will be renewed annually and will alternate between the governmental representative and that of the COCAHICH. The change will be initiated by the governmental representation.

Both the government of the Republic and the COCHICH can invite up to three assessors per session of the Compensations Commission, which will not be part of the National Commission.

2.2. The National Commission's Activity

- 2.2.1. The National Commission will gather regularly according to their internal norms. For the meetings to take place, at least half plus one of the Commission's members must be present. The decisions will be taken by a simple majority.

- 2.2.2. In case of a lack of quorum, a new meeting shall be organised in the following working day at the same time and in the same location as the former with the quorum being formed by the present members.

2.3. The Duties of the National Commission

- 2.3.1. The duties of the National Commission, as the governing organ and as the highest authoritative entity for the Compensation Plan, will be the following:
- a. To create and regularly update an implementation schedule for the Compensation Plan within three months of its validation.
 - b. To follow, monitor, and supervise the implementation of the Compensation Plan to guarantee that the plan is carried out fully, swiftly, and in accordance with the objectives and the spirit of the Compensation Plan accounted for in the schedule.
 - c. To take the necessary measures in order to accomplish the aforementioned functions such as to control and ensure the smooth-running of the project as well as alerting the relevant authorities, the public administration and/or the general public should any issue arise, whether it be a delay or a complication which may affect the swift and permanent implementation of this plan.
 - d. To instruct the Executive Secretariat in order to demand cooperation from state institutions which have a responsibility in the implementation process of the Compensation Plan for the collection of information according to the state's control and the circumstances of the implementation of the Compensation Plan and its possible obstacles. The governmental offices are to give the relevant information within the shortest delay.
 - e. To be present within state institutions in the relevant cases.
 - f. To watch over the mechanisms, the structures and the institutions generated by the COCAHICH in order to guarantee that the budget's destination and the projects that are sent over to this entity comply with the spirit of the agreed Compensations.
 - g. To name the Executive Officer by consensus.
 - h. To approve the internal norms for the entity's adequate functioning.
 - i. To approve the organisation and budgetary projects in order to ensure the smooth running of the Executive Secretariat.
 - j. To propose, promote and/or create committees or commissions with a regional and thematic focus to guarantee a shadowing programme which stays close to the implementation process of the Compensation Plan. This will be done by defining its reach, functions and how these issues are dealt with.

- k. To propose, promote and/or create committees or commissions in order to address the other issues relating to the fulfilment of the Compensation Plan which will be submitted for consideration.
- l. To analyse, with the help of the Executive Branch, the information obtained from the office's execution of the functions and the decisions it has taken.
- m. To guarantee a good level of coordination between the Commission, its Executive Secretariat and the eventual committees or commissions, the governmental offices and the COCAHICH for the fulfilment of the Plan's ends.
- n. To call together the Consulting Council once a year with a minimum of three of its members being present.
- o. To determine the regularity of meetings as well as the summons mechanisms.
- p. To organise and/or coordinate awareness and experience-exchange campaigns around hydroelectric projects with public, private, financial institutions, and communities.
- q. Any other function that is deemed necessary as the governing organ and as the highest authoritative entity for the Reparation Plan.

2.3.2 The Organisation of the American States (OAS) will fulfil its functions as an advisory entity. It will be summoned by the Compensations Commission once every two months as well as by any other of the representative entities. The OAS will be represented by a civil servant designated by special appointment.

3. THE EXECUTIVE SECRETARIAT

3.1 Integration of the Executive Secretariat

- 1.1 The Executive Secretariat will consist of an executive secretary that, appointed by the National Commission with the professional qualities in line with corresponding regulations, will provide the necessary technical personnel available to carry out their duties.

3.2 Duties of the Executive Secretariat

3.2.1 The duties of the Executive Secretariat as an Executive Branch of the Commission, amongst things, will be as follows:

- a. Implement policies determined by the National Commission.
- b. Cooperate and help in fulfilling the duties of the National Commission.
- c. Liaise and coordinate with all the organizations and entities involved, be they the government, COCAHICH or any third parties that have some responsibility

and have a legitimate role in the implementation process of the Reparation Plan. Their aims would be to learn, to detect and analyze obstacles, problems and challenges in this process, to warn of risks and to propose measures to ensure a prompt and permanent implementation of the Reparation Plan, in accordance with its purpose and objectives.

- d. Inform the National Commission about issues that may affect or limit achieving the targets and objectives of the Reparation Plan during its different stages. For this, they must carry out any necessary studies and reports that the Commission may request.
- e. Monitor, supervise and follow up on the actions of the public and private organizations that are involved in the development of the Plan, in permanent coordination with the National Commission and in accordance with the approved schedule, which they will report about, on a frequent basis, as and when the National Commission determines.
- f. Cooperate with the implementation of the Reparation Plan and the respective operations of relevant authorities and/ or regional ones (committees or commissions) who will accompany the process, its development and smooth running.
- g. Follow, listen and take into account the opinions of the key persons involved in this process who help to understand the course of the implementation process of the Reparation Plan, its obstacles and operational, conceptual and strategic risks.
- h. Propose measures and actions to the National Commission for the best and prompt fulfilment of the Reparation Plan that guarantee its aims and objectives are met.
- i. Manage the administrative and financial tasks of the Executive Secretariat, taking into account the regulations of the Public Sector.
- j. Manage the financial resources assigned to the Reparation Committee.
- k. Design and implement a management system. The system must generate enough qualitative and quantitative information to strengthen the decision of the Commission. The quality and timeliness that it provides will allow for a follow up of any obstacles and operative, conceptual and strategic risks that can affect the proper development of the Plan.
- l. In consultation with the Commission, develop a terms of reference for hiring two professional assistants, as well as consultants and advisors (permanent and/or temporary).

- m. Monitor and supervise the performance and results of these new staff and/or organisations to ensure their good performance, in line with the Reparation Plan objectives.
- n. Put together the operating Budget for the National Commission and the Executive Secretariat and submit it to the National Commission for approval.
- o. Any other duties as assigned by the National Commission within the administration and management realm that will make for a better understanding and improvement of the implementation process of the Plan.

- ***Special consideration***

The Secretariat shall consider as high priority and importance the observations and considerations that COCAHICH, its structures and its communities, bring up about the functioning of the Secretariat.

For cases in which the Reparation Plan does not assign an organisation to implement certain measures, the representative of the President of the Republic will, in the presence of the National Reparation Commission, liaise with the Executive Branch to facilitate overseeing of the implementation of said measures. They will also coordinate this with the corresponding executive institutions.

4. ADVISORY COUNCIL

4.1 Integration of the Advisory Council

4.1.1 The Advisory Council will consist of, in a personal capacity, up to twenty members who have recognised participation in the dialogue and negotiation of the Reparation Plan. For this purpose, we ask the following people to join the Council:

- a. Roberto Menéndez
- b. Herbert Ortega
- c. Rolando Yoc
- d. Francisco Guaré
- e. Hugo Us
- f. Fernando Paredes
- g. Ambassador of Norway
- h. Ambassador of Switzerland
- i. Fernando Fuentes
- j. Catalina Soberanis

- k. Vivian Lemus
- l. Víctor Hugo Mejicanos
- m. Gustavo Arévalo
- n. Juan de Dios García
- o. Michael Mörth
- p. Ramón Cadena
- q. Mara Bocaletti
- r. Carlos Chen Osorio
- s. Luis Zurita
- t. Carlos Beristain

4.1.2 If any of these members belong to the National Reparation Commission, the Executive Secretariat or has a role as a representative of the OAS, specifically as an advisor for the National Commission, they will not be able to join the Advisory Council.

If any of the named persons has any institutional impediment that restricts their participation in the Council, they will be able to join the Council upon terminating this impediment.

4.2 Duties of the Advisory Council

4.2.1 The Advisory Council will usually meet up once a year and, in exceptional circumstances, at the request of at least 3 members of the Reparation Commission. They will have the following duties:

- a. Respond to enquiries by the Reparation Commission.
- b. Offer their opinion regarding any doubts or discrepancies presented by the Reparation Commission with respect to understanding, comprehending or interpreting the contents and purpose of the objectives, rules, clauses and chapters of the Reparation Plan, in order to guide the Commission towards its goal.
- c. Follow-up on its observations and recommendations forwarded to the Reparation Commission.
- d. Assist the National Commission and the Executive Secretariat by providing sound advice, acting as an historical memory bank of the negotiation process for the Reparation Plan.

VII. FINANCING

1. Financial Mechanism for Individual and Collective Compensation

- 1.1. The executing unit responsible for individual and collective compensation measures will be the Coordinating Presidential Commission for Human Rights (COPREDEH) who are allocated a specific budget line item, which will take into account payments already scheduled. The said Commission will be the government body responsible for complying with the compensation plans, which are due to the human rights violations already recognised by the State.
2. The current and capital transfers will be directly allocated to COCAHICH by COPREDEH.
3. COCAHICH will set up one or two private trusts for the implementation of the individual and collective compensation measures.
4. For an efficient implementation of the compensation through COPREDEH, the agreed topics in the Reparations Plan, the relevant Government Agreement and the respective budget items are taken into account.

Logistical aspects to take into consideration to conclude the process: In order to establish the logistics of the delivery ceremony of the Reparation Plan and the reproduction of the Identification and Verification report about loss and damages and the Plan itself, as well as the previous activities to this implementation plan, the representation of the government and COCAHICH shall agree on relevant aspects and mutually agree on the respective budget. The National Commission of the Reparation Plan, once up and running, will monitor any aspects that remain outstanding.

Guatemala, 20th April 2010.