



USCIS Update

January 25, 2008

USCIS ANNOUNCES NEW GUATEMALAN ADOPTION LEGISLATION

Intercountry Adoptions Under the Hague Convention

On Dec. 11, 2007, the Guatemalan Congress passed new adoption legislation, which is a necessary step toward meeting the Government of Guatemala's obligations under the Hague Convention on Intercountry Adoption. The new provisions are effective as of Dec. 31, 2007.

Guatemala acceded to the Hague Convention in 2002. The new legislation is intended to implement Hague requirements. All intercountry adoptions initiated in Guatemala on or after Dec. 31, 2007 are subject to new requirements to comply with the Hague Convention and the new Guatemalan legislation. The legislation also establishes the National Council on Adoptions as the Guatemalan Central Authority for intercountry adoptions and provides new safeguards for children and families in the process of intercountry adoption from Guatemala.

Adoptions in process before Dec. 31, 2007, may be completed under former procedures but must comply with both Guatemalan and U.S. laws. Article 56 of the Guatemalan legislation discusses the requirements for the completion of such cases. Guatemala is developing procedures for registering cases already in process. See U.S. Department of State announcement at: http://www.travel.state.gov/family/adoption/country/country_3908.html.

It is the responsibility of the proper Guatemalan authority, and not USCIS, to determine how Article 56 and other provisions of the new Guatemalan law will be applied to a specific adoption case.

In addition to noting the requirements of Article 56, USCIS reminds all prospective adoptive parents who are seeking to adopt a Guatemalan child, and who want to have their cases processed under the existing U.S. orphan regulations, rather than the U.S. regulations for Convention adoptions, that U.S. law requires that the prospective adoptive parents must file either Form I-600A or Form I-600 with USCIS prior to April 1, 2008.

Prospective adoptive parents should proceed with caution when considering an adoption in Guatemala. To process adoptions under the Hague Convention, Guatemala must put into practice an adoption process that is compliant with the Hague Convention. The U.S. Department of State posted an advisory regarding Guatemalan adoptions stating that after the Hague Convention enters into force for the U.S. on April 1, 2008, there may be a period of time during which the U.S. would not be able to approve newly-filed adoptions from Guatemala. See U.S. Department of State Guatemala advisory (Jan. 2008) at: http://www.travel.state.gov/family/adoption/intercountry/intercountry_3927.html.