

**Stockholm Group for Development Studies**

**THE Sida/UNDP PROGRAMME OF SUPPORT FOR THE REFORM  
AND STRENGTHENING OF THE GUATEMALAN STATE  
WITHIN THE FRAMEWORK OF THE PEACE ACCORDS**

***DRAFT***

**Report of the Monitoring Mission**

**April 1999**

**The UNDP Programme of Support for the Reform and Strengthening  
of the Guatemalan State within the Framework of the Peace Accords**

**REPORT OF THE MONITORING MISSION**

**Table of Contents**

	<b><u>Page</u></b>
<b>PREFACE</b>	<b>4</b>
i) <b>Organization of the Mission</b>	
ii) <b>Acknowledgements</b>	
<b>I. EXECUTIVE SUMMARY</b>	<b>5</b>
<b>II. OVERVIEW</b>	<b>8</b>
<b>III. THE Sida/UNDP PROGRAMME</b>	<b>11</b>
i) <b>The Programme and Its Components</b>	<b>11</b>
ii) <b>Building the Institutions of Reform</b>	<b>14</b>
iii) <b>Land Cadaster and Registration</b>	<b>17</b>
iv) <b>Inter-cultural and Gender Aspects</b>	<b>18</b>
<b>IV. COOPERATION AND MANAGEMENT ISSUES</b>	<b>21</b>
i) <b>External Cooperation for Democratization and Peace</b>	<b>21</b>
ii) <b>UNDP Management Capacity</b>	<b>25</b>
iii) <b>The Project Cycle</b>	<b>26</b>
iv) <b>Financial Issues</b>	<b>29</b>
<b>V. CONCLUSIONS AND RECOMMENDATIONS</b>	<b>31</b>

**ANNEXES:**

- A) Terms of Reference**
- B) List of Persons Met**
- C) External Aid in Support of Programme Objectives**
- D) Application of Results-Based Management Indicators**
- E) Institutionalization of Peace-Building**
- F) Status of Legislation Called for in the Peace Accords**
- G) Gender Equality and Inter-Cultural Issues**
- H) Land Tenure and Cadaster**
- I) Resource Pooling through Trust Funds and Cost-Sharing**
- J) List of Abbreviations Used**
- K) Bibliography**

## PREFACE

1. The present Mission has been organized by the Stockholm Group for Development Studies at the request of Sida to monitor the progress of the ongoing UNDP Programme of Support for the Reform and Strengthening of the Guatemalan State within the Framework of the Peace Accords, towards which Sida has pledged to contribute SEK 150 million (US\$ 18.5 million equivalent) over a period of 3 years. The Terms of Reference are attached as Annex A.
2. The mission team consisted of five members, covering the various areas of interest to the programme, as follows:
  - Bernt Bernander, Coordination and programme management (Team Leader)
  - Anja Linder, External cooperation (Executive Assistant)
  - Enrique Roig, Institutional development and post-conflict peace-building (Consultant)
  - Leslie Castro, Social policies, gender issues and intercultural matters (Consultant)
  - César Darce, Land tenure, registration and cadastral issues (Consultant)

In addition, the Mission benefited from inputs by the following advisers: Carlos Santiso (democratization and governance indicators), Karen Musalo (legislative issues) and Yvon Le Bot (intercultural issues).

3. The five core members of the Mission assembled in Guatemala on 8 March 1999 and, with varying periods for the different members, spent the next three weeks in the country. In the course of their stay, individual members made field visits to Flores (Department of Petén), to La Democracia (Department of Escuintla) and to Huehuetenango (Department of Huehuetenango). Three members of the team made a stop-over visit in New York for consultations at UNDP headquarters. The Mission submitted its draft report to Sida on 12 April.
4. The Mission takes this opportunity to thank all those persons, from government institutions, multilateral and bilateral aid agencies, from organizations of civil society as well as private individuals, who willingly gave of their time to meet with Mission members and candidly responded to their many and various inquiries. In particular, it wishes to state its appreciation to the Swedish Embassy staff and to UNDP for orienting the Mission in the substance of its work, and especially to UNDP for helping with official and other contacts, and for providing an office and local transportation. Their guidance and support materially assisted the Mission in its task.

## EXECUTIVE SUMMARY

- 1. Programme consolidation.** The Sida/UNDP Programme in support of Reform and Strengthening of the Guatemalan State within the Framework of the Peace Accords represents a consolidation of activities undertaken jointly with UNDP since 1994 and particularly following the conclusion of the peace agreement in 1996. Its unifying themes are the commitments made by the Government in the peace accords. The nature of these commitments, the concerns they reflect and their critical importance to the future of Guatemala are in complete accord with the principles and basic criteria of Swedish cooperation and amply justify the support provided by Sida.
- 2.** Swedish cooperation is not undertaken without risk. The assistance provided is strongly linked to the political dynamics of Guatemalan society, and a careful evaluation was made by Sida a year ago to assess the prospects of a successful outcome before embarking on a more structured form of cooperation. The Mission has therefore reviewed events during the past year and likely developments in the coming year. On fundamentals, in terms of assumptions and risks, it believes that the political environment has not materially changed over the past year, and that the basis for the Sida/UNDP multi-bilateral partnership remains solid.
- 3. The strategic factor.** While constituting only a fraction of total external aid provided to Guatemala in fulfillment of the peace agreements, most if not all of the components of the Sida/UNDP Programme are situated at strategic points of policy formulation and institution-building. In particular, the support given to SEPAZ and SEGEPLAN, to the justice sector and to modernizing the administration of land ownership, as well as the planned assistance in the decentralization of governance, are critical elements of the process of reform. Other projects as presently conceptualized, while fully consonant with overall programme objectives, have less of a strategic dimension.
- 4.** The ability of the Programme to mainstream cross-cutting issues, such as promoting indigenous participation and gender equality, is implicitly a strategic concern. In this regard, the Mission believes that more can be done, and that opportunities to further these objectives in the context of some projects are not always seized. Projects should be systematically reviewed to develop such opportunities in the course of project implementation.
- 5.** The Mission believes that the strategic quality of the activities undertaken constitutes a distinctive feature of the Sida/UNDP Programme, and that every effort should be made to preserve it. In line with this concern, the Mission recommends that the strategic element should be explicitly defined when considering modifications of ongoing operations and any new activity proposed within the framework of the Programme.

6. In this context, consideration should be given to increasing the earmarkings already made in support of the Government's decentralization policy, once the present legislative hurdles have been overcome, taking into account the pivotal nature of decentralization measures to the process of democratization.
7. **Performance benchmarks.** The fact that Sida assistance to Guatemala, much of it cost-shared with UNDP and other donors, did not begin with the present Programme makes it difficult to develop benchmarks or base-line indicators against which the performance of the Programme as such could be measured. The Mission's intent to suggest a current set of benchmark indicators was further made problematic in the light of the proposed introduction by UNDP of a new results-based management system, which is to replace the logical framework analysis and indicator measurement. In Annex D, the Mission offers some ideas on how the new system can be applied to the Sida/UNDP Programme.
8. **Multi-bilateral cooperation** The UN system, under the leadership of the Resident Coordinator, enjoys a close relationship of trust with the Government at all levels. This relationship translates into active UNDP participation, along with MINUGUA, in a broad range of national committee work moving the reform agenda and in support of the overall coordination of external assistance by SEGEPLAN. Since early 1999, the Resident Coordinator represents the UN system in a high level committee consisting of Ministers directly concerned with the implementation of the peace accords and chaired by the Minister of Foreign Affairs. A more recent development still is the participation of a UN adviser, as Secretary, in an independent committee established to review taxation and budget expenditure issues, in preparation for concluding a new and comprehensive "fiscal compact" by the end of 1999.
9. It is unusual for UNDP, or the UN system for that matter, to have this breadth and depth of participation in the national processes of consultation that support the formation of government policy. No other single multilateral or bilateral organization in Guatemala can match it. Bilateral donors such as Sida have every reason to draw on UNDP's comparative advantage, insights and contacts to help plan and implement projects of interest to them. For its part, UNDP sees a particular benefit in the programme relationship with Sida, as Swedish cooperation is regarded as disinterested and catalytic in the Guatemalan context.
10. The UNDP field office in Guatemala manages a very substantial programme funded from a variety of sources, totaling US \$ 194 million over the 5-year period 1997-2000. Only 5-6 per cent of the funds managed come from UNDP's regular programmes. Yet about 60 per cent of field office administrative costs are charged to UNDP, while 40 per cent derive from income received from trust fund and cost-sharing projects, at the rate of 3.5 per cent of programmed funds. In terms of UNDP's overall administrative requirements of the field office, this therefore appears to be a subsidized rate.

- 11.** The field office is judged by the Mission to have adequate management and technical capacity to operate a programme of the kind considered. In staff terms, it has grown rapidly from 40 posts in 1995 to 75 posts in 1999. Notably, the expansion has been directed to enable the office to play a more substantive role, and its programme divisions were reorganized to conform to the substantive areas covered in the peace accords.
- 12. Need to preserve the programme perspective.** An important rationale of the Sida/UNDP Programme is that activities can be planned with an extended, medium term horizon and in conformity with the timetable set for the implementation of the peace accords. At the same time, flexibility and ability to make adjustments in the light of unfolding events are equally important gains. In this connection, there would be advantage in setting aside a small reserve of unallocated funds to meet urgent and unexpected contingencies.
- 13.** Part of the programme perspective is lost due to the inability of UNDP to budget for more than the annual amounts appropriated by Sida under the Programme. Also, the centralization of the payment, at headquarters level and on a semi-annual basis, of all trust fund and cost-sharing contributions made by Sida, leads to liquidity problems for some projects. The Mission believes that there would be a remedy for such difficulties and recommends that Sida and UNDP address these issues in a comprehensive manner.
- 14.** The requirement that UNDP maintain separate financial records for all disbursements from the Sida contributions has fostered a local UNDP practice under which donor moneys are tied to specific budget lines, although this is apparently unintended as far as donors are concerned (See Annex I). This practice represents a programming and accounting burden, which seems both unnecessary and at odds with programming concepts that emphasize holistic approaches.

## I. OVERVIEW

1. **A new social contract.** Guatemalan society is living through a process of historic change, or as some might put it, the hope of historic change. Taken together, the 11 separate but interrelated peace accords negotiated with the guerilla movement by three successive governments and concluded in the period 1994-96, add up to a new social contract between the rulers and the governed. In all, they constitute a watershed event that could relegate to history centuries of inequity, exclusion and repression and make way for a new democratic, social and political order.
2. The instrumentality of change is contained in over 400 official commitments that are prescribed in the timetable for the implementation of the agreements. These undertakings have been further developed through the establishment of 19 separate commissions, covering the substance of each agreement, with memberships reflecting a wide range of interests, five of them composed of an equal number of representatives of indigenous organizations, the so-called parity commissions. In particular, the task of the commissions has been to lay the groundwork for legislative proposals and other measures consolidating the process of change.
3. **A tortuous process.** It is not the purpose of this report to present an analysis of the process, but rather to situate it in the present. The burden of history, armed conflict, economic injustice, ethnic exclusion and ingrained distrust of officialdom is such that the passage cannot be smooth. Change does not come with irresistible force. Rather, it proceeds tortuously, in fits and starts, ups and downs. Its future hinges on the efforts of dispersed but interacting groups of committed leaders and people in state institutions, in existing and nascent organizations of civil society, indigenous and women's groups in particular. New spaces allowing cross-cultural dialogue and democratic expression have been opened. It seems unlikely that they can now be closed. The international community continues to provide support. In sum, there is a critical mass of pressures moving the reform agenda forward.
4. There are negatives. Even as this is written, the United Nations Verification Mission in Guatemala (MINUGUA), in its ninth report (19 February 1999), draws attention to the fact that the drop in the number of human rights violations observed earlier has leveled off. It notes that lynchings, threats to personal life and torture, breaches of the rights of assembly, still occur with disturbing frequency and that few steps are taken to prevent or prosecute offenses. More disturbing still is the observation that undisciplined members of state authorities continue to be responsible for some of these violations. The report further castigates Congress for the delays in amending the Electoral Law and on Political Parties, which was to open up the electoral system to wider citizen participation.
5. **Electoral uncertainties.** For 1999 is election year, due to take place in October, bringing to the process of change the uncertainties and tactical calculations that are invariably associated with electoral campaigns, new presidential candidates and

office-holders. Their net effect is expected to, if not stall, at least slow down the programme for reform. Land tenure and registration issues are particularly exposed.

6. It is also a year in which the Constitutional Amendments already passed by Congress are to be submitted to a referendum scheduled to take place in May. These amendments relate to central reform requirements, such as the rights of indigenous peoples, the administration of justice and public security, the role and functions of the army in a democratic society, and the relationship between the legislative and executive branches, including the establishment of local government structures for development.
7. The details and implications of such amendments are in the nature of things beyond the grasp of the ordinary voter, and a relatively low voter turnout is anticipated. Political parties are unlikely to commit resources to marshalling their constituents to the ballot box. Votes are to be cast separately for or against four "issue blocks" with a view to simplifying choices, but the method carries a risk in offering multiple alternatives. Campaigns to familiarize voters with the issues are already under way, particularly on the part of women's and indigenous groups.
8. While an exercise in democratic expression, the outcome of the referendum is at the same time pivotal to the continuation of reform, for much of the planned legislation related to the peace accords hinges on it. There is a prospect of organized boycotts by opposition groups. Among those hoping for a clear national endorsement through the referendum, concerns range between the negative significance of a very low voter turnout, say below 20 per cent, and the fearsome possibility that, as a result, no-votes will carry the day for one or more, if not all issue blocks.
9. **The balance sheet.** On the positive side, the publication of the report of the Truth Commission<sup>1)</sup>, with its candid account of the massive human rights abuses that occurred in the recent past, has attracted wide public attention and convinced many that the peace and reconciliation process is genuinely on track. Although several related issues, such as compensation to victims and the prosecution of mal-factors remain unresolved, the report is cited as evidence that there is a limit to official cover-up and obstructionism.
10. For the government's part, it continues to claim that it is doing what is in its power to comply with the undertakings made in the peace accords and to pursue the path of peace, reconciliation and sustainable human development. One such commitment relates to augmenting budget allocations for the social sectors, health and education in particular, by 50 per cent. This pledge has been formally adhered to, although many claim that social sector expansion has been at the expense of the quality of services provided. For the first time, in 1998, the constitutional requirement to allocate 1 per cent of the national budget to literacy work has been met.

---

1) Comisión de Esclarecimiento Histórico: Guatemala, Memoria del Silencio

11. Another important commitment designed to strengthen the state sector and to enable it to pursue reform and development work relates to the planned increase of the overall tax burden, from the present level of 9 per cent of GDP, the lowest in Latin America, to 12 per cent. This figure was to be reached by the year 2000, and in this regard, the government has admitted to failure. Within the framework of the main supervisory commission (Comisión de Acompañamiento), which rules on all issues related to the peace agreements, it has requested that the 12 per cent target be reset for the year 2002.
12. The delays in meeting the 12 per cent target, in which cooperating countries and multilateral institutions also have a significant stake, have led to counter-proposals, amounting to a package agreement called the "Fiscal Compact", or *Pacto Fiscal*. This commits the government to engaging in a comprehensive review of tax and expenditure policies and to a process of consultation, negotiation and consensus decision focusing on the implications and budgetary requirements of the peace accords. The Compact is seen as a last opportunity for the government to put its fiscal house in order.
13. In Guatemala's work to build peace, democracy and justice, there are thus entries on both sides of the balance sheet, as may well be expected in a process aiming at a far-reaching transformation of society and demanding much longer gestation than that foreseen in the peace accords. On the one hand, Guatemala has been taken off the United Nations list of countries experiencing serious human rights problems. On the other, there is still some distance to travel before the rule of law is secured. The year 1999 is fraught with challenges, in the economic and tax area, in firming up the institutional apparatus for constitutional reform, in maintaining the momentum towards resolving land tenure issues, and in providing personal security for all and a functioning justice system in which citizens have faith.
14. In so far as the present scenario affects the work of the Sida/UNDP Programme, it is the Mission's view that the basis for their multi-bilateral partnership and cooperation with the Guatemalan government remains solid. On fundamentals, in terms of assumptions and risks, the political environment has not materially changed from that which prevailed a year ago when the Programme was launched. While slippage in the established timetables is inevitable, the prospects for continued progress along the path embarked upon are judged to be favourable.

### **III. THE Sida/UNDP PROGRAMME**

#### **i) The Programme and Its Components**

1. The present section attempts to describe the general features of the Sida/UNDP Programme<sup>2)</sup> and what distinguishes it from the overall external support to the peace process in Guatemala. Consideration of the main sub-components of the programme, which can only be in very synthesized form, is brought together under the sub-headings ii) Building the institutions of reform, iii) Land cadaster and registration, and iv) Inter-cultural and gender aspects. Project activities are reviewed in more detail in the related annexes.
2. **An overarching objective.** A programme may be defined as a set of coherent activities bound together by one or more unifying themes and objectives. While the actors can be many and varied, and while different interests and perspectives are continuously applied to the various programme components, there is in the final analysis a common frame of reference which gives cohesion to the whole.
3. By this token, the different activities supported under the Sida/UNDP Programme all meet any applicable test in terms of their relevance to the objective of advancing the process of social change. Its aim is to assist the Guatemalan State in engineering the inclusion and participation of marginalised segments of society and in moving towards a new democratic order. In Guatemala, policies to this effect cannot be purely a matter of political rhetoric. The existence of a series of solemn commitments by successive governments, duly endorsed by the Guatemalan Congress, lends credibility of purpose and realism to the reform effort.
4. The nature of these policies are entirely consistent with the corporate goals of Swedish development cooperation; in that regard, the criteria for Sida subscribing to UNDP's support of the Government's reform programme are fully met.
5. Many other externally funded programmes follow a similar rationale, and indeed the Government has structured the external cooperation it receives in terms of the support these programmes provide to key elements of the peace accords. Indeed, several other donors are subscribing to the Sida/UNDP Programme by making important cost-sharing and trust fund contributions to the projects it contains.
6. **Policy and methodological development.** To make it distinctive, the Sida/UNDP Programme is attempting to aspire to something more, by engaging in activities that are markedly strategic to attaining complex societal and political objectives. The strategic quality is achieved in different ways. The type of assistance provided can be linked to policy development or to the elaboration of methodologies that can be replicated or generalized. The support provided can also be strategic by preparing the ground for substantially increased investment by the Government or other donors in a

---

<sup>2)</sup> Although other donors are also subscribing to the programme, it was formulated on the initiative of Sida and UNDP. It is referred to throughout this report as the Sida/UNDP Programme for easy identification.

particular sector, or even by having readily available flexible financing for urgent and important needs.

7. Most components and sub-components in the Sida/UNDP Programme meet these criteria. The sub-component concerned with institutional development in the justice sector has a strong element of policy formulation as well as sets the stage for substantial investment by the World Bank and IDB in this sector. The programme to introduce country-wide cadastral records and land registration is in itself of strategic social and economic importance to Guatemala. Sida and UNDP support to the technical and legal unit within the Ministry of Agriculture which coordinates the entire land registration programme, is designed to ensure that proper technical and legal standards are followed, and is therefore equally strategic in nature.
8. The programme component concerned with the follow-up and institutional arrangements designed to consolidate the peace process, is by definition a strategic undertaking. Some of the agencies created for this purpose may be temporary, but the channels of communication, the legislative initiatives and public policies they develop are, or at least can be, instruments of durable change.
9. With respect to the component in the Sida/UNDP Programme providing development support to uprooted populations and victims of the armed conflict, the strategic element lies in devising methods of support that are sustainable over the long term. Whether the projects financed from the trust fund established in this connection will be able to devise sustainable methods of support remains an open question. The planned credit scheme to assist communities is encountering resistance among the beneficiaries. A recent evaluation of the reintegration programme for demobilized soldiers points out that externally funded programmes have by now spent a total of \$ 8,700 on each former combatant, raising the question whether this population should be targeted for further assistance.
10. In the case of the literacy programme, Sida is helping to fund literacy work in two departments, in line with a pattern of support where different donors are associated with the development of the programme in specific geographic areas. The strategic element in this instance lies outside the project, and with the policy and methodological work undertaken centrally.
11. As regards the organizations of civil society, and cross-cutting issues such as decentralization and participation, intercultural and gender dimensions, the strategic challenge lies in the ability of projects in the entire programme to mainstream policy and action that are relevant to these concerns. Punctual assistance to non-governmental and women's groups is in the form of institutional support, with some programme support, and is not necessarily strategic. On the whole, the Mission believes that more can be done in the programme to integrate intercultural and gender aspects in all projects.

- 12. Decentralization.** Beyond its cross-cutting dimension, support for decentralization is a key strategic component of the Sida/UNDP programme. The proposed reactivation of rural and urban development councils and the planned devolution of powers to the municipal level, now officially declared to be the guiding principle of state organization, would have a profound influence on Guatemala's system of governance. No other legal dispensation is likely to have as far-reaching an impact on the situation of the indigenous peoples, who have already strengthened their representation and presence in elected municipal positions. Because of the delay in the enactment of the constitutional amendments, and of related legislation, the project has been held in abeyance so as to avoid any inconsistencies in the implementation of the programme. Although the project document is written, and despite some preparatory work, the Mission believes that various activities could have been initiated, notably in the field of training. A similar situation prevailed in the justice sector where project activities commenced before the enabling legislation had been passed.
- 13. The programme continuum.** The Sida/UNDP Programme under review should be seen in the context of the continuum it represents in Swedish assistance to Guatemala since 1994. A number of projects have been implemented since the conclusion of the peace accords on a cost-sharing basis with UNDP. Some of the projects included in the Programme were in fact launched well before the related Statement of Intent and Programme Agreement were signed. Most activities receiving Sida support outside the Programme, i.e. the bulk of Sida's assistance, pursue objectives similar to those of the Programme.
- 14.** It is accordingly difficult to assess the specific contribution to overall objectives that can be ascribed to the Sida/UNDP Programme as such. The Mission initially took the view that the present monitoring exercise could be instrumental in developing a system of current benchmarks and base-line indicators, against which the progress of projects could then be measured in future. However this is in turn rendered problematic in the light of the introduction by UNDP of the new results-based management system, which is described in Annex D.
- 15.** On the whole, project implementation is judged to be satisfactory so far and projects are meeting their targets in terms of outputs, results and process indicators, as recorded in the different project documents. Aspects of implementation that need further attention are dealt with below and in subsequent sections in the corresponding annexes.
- 16.** One of the advantages gained by consolidating activities in a 3-year programme is in extending the planning horizon beyond the termination dates of individual projects and in creating a formal frame of reference for this planning. The Mission believes however that some of this gain is lost by the fact that the programme can only be budgeted for and move forward on the basis of annual appropriations of the planned funding.

17. Another programme gain is greater flexibility, within the formal planning framework, and ability to modify strategy choices and make adjustments as required. This advantage could be further enhanced if some funds could be set aside as unallocated, but that would still be part of the general programme allocation, for use to meet urgent and unforeseen needs.

## ii) Building the Institutions of Reform

14. The Sida/UNDP Programme has as one of its main objective the institutionalization of reforms called for in the peace accords. The sub-programme dealing directly with the institutional support to the peace process comprises two projects **GUA/97/014** *Support for Compliance with the Accords for a Firm and Lasting Peace*, and **GUA/98/026** *Support to the Planning and Programming of Internal and External Resources for the Peace Process*.
15. In addition, as part of its strategy to assist Guatemala with modernizing the justice sector, the Programme further includes three projects: **GUA/98/027** *Programme for Strengthening the Rule of Law/Ministry of the Interior/Coordinating Body for Modernizing the Justice Sector*; **GUA/98/023** *Programme for Strengthening the Rule of Law/Judicial Branch*; and **GUA/97/004** *Strengthening the Rule of Law (PROFED)*.
16. These five programmes are nationally executed, and while concerned with many interrelated matters, they are separated by virtue of the fact that they are located in different government institutions. In these instances, therefore, the Sida/UNDP Programmes provides the unifying and coordinating element as well as technical backstopping and the application of UNDP's more flexible procedures for contracting consultants and for procurement.
17. The relevance of these sub-programmes to the overall institutionalization of the peace process cannot be overstated. The resources provided under the Sida/UNDP Programme, along with those of the Government, have stood as a guarantee for achieving progress in the implementation of the accords and in the modernization of the state. Both the Secretariat for Peace (SEPAZ) and the General Secretariat for Planning and Programming (SEGEPLAN) have received critical financial and technical support allowing SEPAZ to work for ensuring compliance with the accords and SEGEPLAN to plan public sector investments more effectively and to coordinate national and external resources.
18. In the justice sector, the Programme has contributed to modernizing judicial administration, and to improving coordination between the Judiciary Branch, the Ministry of Interior and the Prosecutor's Office (*Ministerio Publico*), through the newly created Coordinating Body for Modernization of the Justice Sector (ICMSJ). The Programme is also supporting the work of the Coordinating Unit of the Programme for Modernizing the Judicial Branch (UCPMOJ), a unit within the Judiciary Branch responsible for modernizing judicial administration.

19. Support is further provided to the Ad-Hoc Commission created to follow-up the recommendations made by the Commission for Strengthening the Judicial Sector. A key contribution of the Sida/UNDP Programme has been its strategic role as “bridge” funding until the World Bank and IDB loans in this sector were approved.
20. The justice sector in Guatemala is acknowledged to be one of the weaker institutions in the country. Surveys conducted by USAID in 1993, 1995, and 1997 indicate that the level of public confidence in the justice system has been chronically low. There has been some steady improvement, however, and the decline in the percentage of the population expressing “no” confidence is a hopeful sign.<sup>3)</sup> If the trend continues, there are however many administrative structures in need of reform. As one of the peace accords<sup>4)</sup> points out, “one of the main structural weaknesses of the Guatemalan State resides in the system of judicial administration”. It also states that one of the main national priorities is the reform of the administration of justice, improving efficiency, eradicating corruption, guaranteeing access to justice and impartiality in its application, establishing judicial independence, setting ethical standards, and promoting modernization.”<sup>5)</sup>
21. **Areas of reform.** The specific reforms related to the Judiciary Branch are *inter alia* intended to create a legal career path; establish a public defender’s office; reform the penal code; modernize the administration of justice; allow for oral defense; promote greater access to justice, particularly among indigenous peoples; strengthen the school for judicial studies; and establish technical selection criteria for nominating judges and magistrates.
22. The institutionalizing of the peace process is designed to translate into reality the commitments outlined in the accords, and in particular the Accord on Identity and Rights of Indigenous Peoples (AIDPI). The intent of this accord is to reverse five hundred years of discrimination by legally mandating the state to recognize the cultural, economic, and social rights of the indigenous peoples. The work of the parity commissions is crucial to this end.
23. Perhaps most of the institutions established to advance the peace process are of an *ad hoc* nature and have a time horizon of two more years. Many are expected to continue in one form or another, as the business of reform cannot be completed in such a short space of time. The sustainability of the peace process therefore rests heavily on the Government's ability to increase its tax base and revenue. The commitment made in the accords calls for raising the tax burden to 12 percent of GDP by the year 2000. Unable to meet this objective, the Government has reset its target to the year 2002. At the same time, it has conceded to the creation of a special body called the Preparatory Commission for the Fiscal Pact, which is to examine a whole range of tax and budget expenditure issues and make recommendations.

---

<sup>3)</sup> Third Report: Guatemala Values and the Prospects for Democratic Development, Commissioned by USAID/Guatemala, Development Associates, Inc., September 1997, p. III-1.

<sup>4)</sup> Accord on Civil Power and the Role of the Military in a Democratic Society

<sup>5)</sup> *Informe Final de la Comisión de Fortalecimiento de la Justicia*, Guatemala, April, 1998, p. 171.

- 24. Corruption and impunity.** Specific risks affecting the judicial sector continue to be corruption and impunity. Corruption has been identified as the main problem affecting the Judiciary Branch, the Prosecutor's Office, and the security forces. Eradicating structures and practices that favour corruption needs constant attention. The Commission for Modernizing the Judiciary Branch has itself identified combating corruption as one of the five priority areas within its Plan to Modernize the Judicial Branch. The Sida/UNDP Programme is playing a strategic role in combating corruption through its work to modernize the administration of justice. The effectiveness of these programmes will depend on political will and effective technical assistance.
- 25.** A key area in the justice sector will be recognition of indigenous customary law. The Commission for Strengthening the Judicial Sector has identified the lack of recognition of other forms of justice outside the official system as a major weakness and in contradiction to the multi-ethnic, multi-lingual, multi-cultural nature of Guatemala. This issue is a complex one, and the Commission recognized that much work will be required to ensure that indigenous customary law is integrated effectively into the official system.
- 23. Training Judges.** If approved in the May 1999 referendum, the constitutional reforms related to the justice sector would establish a judicial career and base the selection of judges and magistrates on technical criteria. In anticipation of constitutional reform and in accordance with the recommendations made by the Commission on the Strengthening of the Justice Sector, the Sida/UNDP Programme has supported the establishment of a School for Judicial Studies with the objective of training judges and auxiliary court personnel.
- 24.** Six-month courses are organized for district court judges (*Jueces de Primera Instancia*), with candidate judges selected on merit and provided with scholarships. Courses to upgrade municipal Justices of the Peace (*Jueces de Paz*) last for one month and stipends are also provided. The professional training of judges and court personnel is crucial in a country where little attention has been paid to the qualifications of judicial employees. In this connection, every effort should be made to target potential indigenous and women lawyers as candidates for training as judges in the School for Judicial Studies. Subjects pertinent to the indigenous community such as customary law are also particularly relevant.
- 25. Mediation.** The Sida/UNDP Programme has further contributed to the establishment of an innovative Pilot Center for Mediation and Conciliation. This first pilot center is located in the Supreme Court in Guatemala City. Its aim is to provide an alternative venue for the resolution of civil and criminal cases. Given the slow process of the courts, mediation provides an option for resolving disputes where citizens cannot afford counsel. The Center is staffed by trained mediators who set the ground rules for resolving the disputes. It accepts any civil, family, labor, and penal cases, which have not previously been tried in a court of law.

26. Convincing judges and lawyers of the merits of mediation has not been an easy matter, and more work is needed in this area. For the Center to be successful, the staff will have to focus on an effective outreach strategy involving court colleagues and potential clients. The Center can provide an effective addition to the court system in the resolution of cases and should be considered as a possible model for replication elsewhere in the country.

### iii) Land Cadaster and Registration

26. **A reform overdue.** As part of the peace accords, the Government is committed to introducing a decentralized system of land registration. Its objectives are to regularize systems and practices of land tenure and adapt them to private systems of land ownership that are consistent with the workings of a modern real estate market.
27. In many parts of the country this reform is long overdue. In others, it encounters political resistance, often because of tax implications, the unlawful occupation of national lands and the setting of municipal boundaries. It also runs into problems associated with communal entitlements to forest and pasture lands, to established usufruct, to unregistered customary rights, the location of sacred places, water points and local environment concerns.
28. Cadastral surveys and official land registers are a prerequisite to tackling this national problem. It will be a long-term effort. Current estimates have it that it will take some ten years to secure coverage of the whole country. The full cost of the enterprise is at this stage unknown, and there will be a need for substantial external support and technical assistance to see the effort through.
29. Several ministries and agencies of the government are involved, coordinated by the Ministry of Agriculture. Policies and progress are overseen by the Parity Commission on the Rights to Land of the Indigenous Peoples. A Land Fund has been created by the Government to act as a banking facility to effect land transactions in favour of landless farmers.
30. **Setting technical and legal standards.** Project **GUA/97/009** *Implementation of Land Tenure Strategies* provides support to the special unit (Unidad Técnico-Júridico, or UTJ) that has been set up to coordinate all technical and legal issues, to develop standards and to initiate training activities. Its work is inscribed in the Sida/UNDP Programme, with allocations in the amount of US \$ 2.7 million.
31. Geodetic and cadastral survey work has already commenced in four pilot areas, with the support of different donors, selected on the basis of their technical, technical, cultural and social characteristics, but representing the different conditions prevailing in the country at large. Pilot areas have also been chosen taking account of local attitudes to land ownership and the acceptance and cooperation the project is likely to encounter on the part of the beneficiary municipalities.

32. By virtue of the normative and standard-setting functions of the UTJ, assistance through the Sida/UNDP Programme is a contribution of strategic importance. It is also judged to be effective, in the management and technical areas. Although qualified national technical administrative capacity exists to staff the pilot projects, there is however a question as to whether it is adequate for a generalized expansion of cadastral surveys and register operations.
33. In terms of sustainability, uncertainties will always attach to long-term programmes of this kind, as future administrations may not be politically committed to see it to completion. Financing over the long term could present a serious problem. Cadastral and public land registers generally generate sufficient income to meet operating costs from transaction and registration fees and services sold to municipalities and private enterprises. Such income is likely to be very limited in the early years, given also the large rural population. At present the programme obtains support from 14 multilateral and bilateral donors, totaling over US \$ 100 million. External support of this order is improbable once the ongoing projects have been completed.
34. **Social communication.** This sub-programme in the Sida/UNDP Programme is bound to meet with resistance in many areas, often for reasons that are not well justified. To avoid a situation where land registry brings to the surface latent agrarian and land disputes, it will be necessary to intensify the social communication approaches already tested in the pilot areas, emphasizing the benefits they can derive from security of tenure and better access to formal credit.
35. The experience made needs to be incorporated in public information campaigns. These should highlight the resolution of such issues as communal boundaries, the frequent overlap of collectively owned land and individual property rights, informal title deeds held by more than one person, discrepancies between customary rights and legal rights to ownership, national lands occupied by large land-owners or squatters.
36. Because of the lack of clarity in regard to land tenure, the cadastral and land registration operation is of the utmost relevance to the Government's programme of reform. It will make a decisive contribution to enshrining the right of women to own land in their own name, free many farmers from the uncertainty that the land they occupy is actually their land, and help resolve a plethora of potential inter-cultural disputes.

#### iv) Inter-cultural and Gender Aspects

37. Guatemala has the largest indigenous population in Central America, making up some 55 per cent of the population of 11 million. Despite their numeric importance, the indigenous peoples have long suffered discrimination, have been denied education in their vernacular languages and encountered disrespect for their cultural traditions. Their forms of social organization have been disregarded, and they have been left in a state of political isolation and exclusion from social programmes and economic activity.

38. The marginalization of the indigenous populations is reflected in scarce representation in the legislature and in the judicial and executive branches of government. In the administration, indigenous people only occupy positions of secondary importance. Only six out of the 80 members of Congress are of Indian extraction, elected through parties controlled by ladinos. At the municipal level, indigenous representatives elected through civic committees have strengthened their position in the last ten years, but it remains that only 80 of the 330 municipalities are headed by indigenous mayors.
39. **Double discrimination.** Indigenous women face a particularly difficult situation, being discriminated against not only for their ethnicity but also because of the prevailing gender attitudes. The highest illiteracy rates are found among indigenous women. Their participation in political life is extremely limited. There are no women among the 80 indigenous mayors, and there are only two female indigenous representatives in Congress. Work within civil society continues to be a training ground for politically active women.
40. The peace accords have now widened the space for the political participation of all segments of Guatemalan society. In particular, the basic rights of the indigenous peoples have been recognized in the Accord on the Identity and Rights of the Indigenous Populations (AIDPI), which has acquired the status of a new charter granting respect for the Mayan and other indigenous languages, access to plurilingual education and recognition of Mayan places of worship and spirituality. There are several other civic, political and economic gains: reactivation of local indigenous communities and authority, establishment of consultative and participatory mechanisms according to regional and linguistic criteria, and recognition of customary law and rights pertaining to land.
41. The principles contained in AIDPI are reinforced by several of the other peace agreements, and five Parity Commissions are attempting to achieve their implementation. Dealing as they do with ingrained customs, cultural habits and practices, the transformation they entail will be a long process.
42. **Linkages with public policy.** Two projects in the Sida/UNDP Programme focus on intercultural issues, first **GUA/97/015 -*Q'Anil B***, which is oriented towards the elaboration of intercultural public policies and towards raising awareness in public institutions of the need to create avenues for intercultural communication and dialogue. Second, support for bilingual literacy training in two geographic areas **GUA/98/019 - *Expansion of Bilingual Literacy Training in the Departments of Huehuetenango and San Marcos***. Between them, the two projects absorb more than 16 per cent of the resources of the Programme.
43. The first project has so far placed emphasis on awareness raising activities. The Mission believes that, for the future, greater attention should be paid to defining in concrete terms the nature of the public policies contemplated and to identifying valid

formulas for enacting public policy, as a prerequisite to devising gearing mechanisms for translating better awareness into draft legislation and administrative regulations.

44. In the case of the literacy programme in Huehuetenango, the central responsible entity, CONALFA, has long experience in administering successful literacy schemes, and an evaluation by UNESCO of the particular methods used in Guatemala is to take place this year. The Mission noted however that, contrary to what might be expected in a project concerned with literacy training among indigenous populations, supervisory staff are predominantly non-indigenous; as in the Q'Anil B project, there is scope for strengthening indigenous participation in senior and technical capacities.
45. The Sida/UNDP Programme contains three relatively small projects related to gender equality, absorbing some 5 per cent of the total programme allocation. The intent of these projects is to provide institutional and programme support to women's organizations, particularly in the field of advocacy. One project dealing with household violence against women is still at the preparatory stage, there being some uncertainty as to which organization can most effectively be utilized for this purpose.
46. Project **GUA/96/015** - *Women and the Peace Accords*, aims at strengthening the Women's Forum, an umbrella organization for three networks of women's organizations, and is judged to have been productive, in terms of the level of mobilization created and the relevance of issues discussed among women. The prospect these networks have in securing sources of sustainable financing constitutes a problem in the long term. The future of the Forum itself is in some doubt, in the light of the pending legislation proposing to create an independent Women's Institute, which would take over many of the present functions of the Forum.
47. Project **GUA/96/017** - *Gender Statistics*, implemented by National Statistical Institute, has now completed its work involving training and developing documentation containing statistics and indicators on gender-related matters. These data are about to be published, and the impact of these documents can only be assessed once they have been made available to state institutions and civil society. Its influence could be far-reaching.

#### **IV. COOPERATION AND MANAGEMENT ISSUES**

##### **i) External Cooperation for Democratization and Peace**

1. **Support for the peace process.** It is important to place the Sida/UNDP Programme in the overall context of external assistance to the country. While only a fraction of the total volume of aid to Guatemala, the Programme nevertheless occupies a strategic position giving it special significance.
2. As a post-conflict society engaged in the consolidation of peace and in the development of democratic institutions, Guatemala has attracted attention and resources from a number of multilateral and bilateral cooperating agencies. In a short space of time, after the peace accords, external resources made available to support government programmes more than trebled in annual volume from the relatively low level of 1 per cent of GDP or \$ 140 million a year in the period 1990-95.
3. Donors present a second strong underlying rationale for their support to the building of peace and democracy. Although Guatemala possesses a relatively high per capita income by Central American standards, income is distributed very unevenly. Extreme poverty in rural areas is the result of centuries of social and economic exclusion of the indigenous population. Beyond the maintenance of peace, poverty is the most important challenge confronting Guatemala and its system of governance.
4. The scale of the international cooperation effort was set at the meeting of the IDB-led Consultative Group on Guatemala held in Brussels in January 1997. At the time the donor community pledged over \$ 1.9 billion in development support over the coming four years. Although this amount fell short of the Government's own estimates of its needs, at \$ 3.6 billion, further pledges have since been made.
5. The most recent compilation of data provided by SEGEPLAN, the economic planning agency, records contributions from 19 bilateral agencies, 4 international financial institutions and 4 international organizations, which aggregate as follows:

in US \$ million

- |  |                |
|--|----------------|
| □ Pledged through the CG mechanism                                   | 2,723          |
| □ Pledged outside the CG mechanism                                   | 266            |
| □ Contributions in the phase of negotiation                          | 1,724          |
| □ Signed loan and project agreements<br>(of which amounts disbursed) | 1,397<br>(611) |
6. The heading of contributions under negotiation represents a pipeline of relatively firm and some soft undertakings, along with government requests against which no donor has yet been found. While constituting a measure of felt needs, it is not a clear

indicator of assistance that will actually materialize and is therefore not further accounted for in this analysis of the total assistance to Guatemala.<sup>6)</sup>

7. As of the end of 1998, the category of signed loan and project agreements (\$ 1,397 million) make up 47 per cent of total pledges. Among donors in this category, IFIs account for 53 per cent of the total. Bilateral agencies (including the European Union) contribute 45 per cent, and international organizations make up the balance, 2 per cent. The leading bilateral donors are Japan, the United States, China (Taiwan), the European Union and Sweden, in that order.
8. Taking the aggregate volume of signed commitments, the Guatemalan Peace Programme divides in the following components:

in US \$ million

<input type="checkbox"/>	Reintegration of ex-combatants and uprooted populations	208.3
<input type="checkbox"/>	Integrated human development	733.6
<input type="checkbox"/>	Sustainable productive development	229.7
<input type="checkbox"/>	Strengthening and modernization of the democratic state	224.9
		-----

Total: 1,396.5

9. Integrated human development absorbs more than half of all allocations, and spans a wide array of programme sub-components and projects, covering the education, health, and housing sectors, as well as targeted poverty reduction programmes. It further includes programmes directed at gender inequality and at improving the access of indigenous populations to social services and at their participation in economic life.
10. As apparent from Table I, Annex C, the full cost of the Sida/UNDP Programme amounts to almost US \$ 30 million, with the following participations:

in US \$ thousand

<input type="checkbox"/>	Government of Guatemala	1,011
<input type="checkbox"/>	UNDP	3,045
<input type="checkbox"/>	Sida	18,040
<input type="checkbox"/>	Other bilateral donors	6,800
<input type="checkbox"/>	IDB	145
		-----

Total: 29,041

- The Sida contribution to the Programme is accordingly over 60 per cent. If the full costs of the Programme are expressed as a ratio of other external resources applied to

---

<sup>6)</sup> Some World Bank and IDB loans, about to become effective, are however included in Annex C, Table II; this only list amounts directed to the specific development objectives of the Sida/UNDP Programme.

the same strategic objectives as those of the Programme (listed in Table II, Annex C), the percentage is 5.5.

11. **Coordination.** Overall government responsibility for the coordination of the external aid programme rests with SEGEPLAN. It is assisted in this complex task by the existing Consultative Group mechanism whose coordinating role is enhanced by informal technical or sector sub-committees that meet locally between the CG annual meetings on such topics as education, land issues and the administration of justice.
12. The government is above all supported in the coordination work by the UN system under the leadership of the Resident Coordinator, who with the UN agencies enjoys a close relationship of trust with the government at all levels. It is a relationship that has grown through the association with successive governments as the peace effort unfolded, and through the assistance the UN system was able to provide behind the scenes in the negotiations leading up to the peace accords, both in the political and technical areas. The relationship of trust accordingly extends to a wide spectrum of organizations of civil society.
13. This privileged relationship now translates into active participation by UN system in a broad range of committee work moving the peace agenda. The Resident Coordinator, on behalf of the United Nations system and along with MINUGUA (a regular member), has official observer status in several commissions and ad hoc bodies created to implement the provisions of the peace accords. His staff, or staff from other UN agencies delegated to represent him, attend not only the meetings of some of the main commissions but also of sub-committees dedicated to following up commission recommendations.
14. Since early 1999, the Resident Coordinator further represents the UN system in a high level committee (Comisión de Alto Nivel) consisting of Ministers most directly involved in the implementation of the peace accords, chaired by the Minister of Foreign Affairs and meeting monthly. A technical sub-committee chaired by the Vice-Minister of Planning, again with UN and ministry representatives as needs dictate, prepares the agenda for the high level meeting and disposes of current issues.
15. A more recent development still is the direct participation of a UN adviser, as Secretary, in an independent committee established to prepare for the conclusion of the so-called fiscal compact (Comisión Preparatorio del Pacto Fiscal). Its four members include former heads of the Ministry of Finance, the Central Bank, the Constitutional Court, as well as a prominent economist, and co-opt technical advisers as necessary. The Committee is to engage in a comprehensive process of consultation, negotiation, and congressional approval of current tax issues. It will offer, by the end of 1999, a set of proposals constituting a revised regime of tax administration and collection, in an attempt to remedy both tax evasion and corruptive practices. It is also intended to achieve the 12 per cent fiscal target, a process that will affect not only the tax base but also budget expenditures related to the peace process.

16. Within the UN system, the Resident Coordinator meets bi-monthly with the other heads of UN agencies represented in the country to discuss work programmes and other general matters. The group also constitutes the UN Disaster Management Team and, after Hurricane Mitch, met several times weekly to help the government coordinate the international response. In relation to MINUGUA, a programme and project coordinating office has been set up to ensure consistency between programmes financed from the MINUGUA Trust Fund and other UN-sponsored projects.
17. Guatemala is furthermore one of the countries selected for piloting UN reform at the field level, with the intent to integrate the operations of the different UN agencies present, to harmonize programme cycles and build up joint services. The work on reforming UN field representation is supported by Sweden to the tune of \$ 500,000. In the course of 1999, at the programme level, work will focus on producing a Common Country Assessment (CCA), as a preliminary to formulating the UN Development Assistance Framework (UNDAF). The latter will constitute the principal reference document for all UN agencies and is *ipso facto* also expected to become a valuable guide for bilateral donors.
18. The account of UN system coordination would not be complete without mentioning the Human Development Report on Guatemala<sup>7</sup>), whose first version was issued in October 1998 and which has attracted considerable attention on the local scene, with its independent assessment of the state of human development in the country. A rarity for documents of this kind, it went into two printings. The next version, to be published in mid-1999, will have rural development issues as its principal theme.
19. **UNDP's comparative advantage.** It is unusual for UNDP, or even for a UN Resident Coordinator's Office, to have this breadth and depth of participation in the processes of fact-finding and consultation that support the formation of government policy. Indeed, outside the government, no other single bilateral or multilateral organization present in the country would be able to match it.
20. Bilateral donors have every reason to draw on the comparative advantage that UNDP presents in helping plan and implement projects of interest to them. For Sida, its cooperative venture with UNDP in support of the implementation of the peace accords offers particular synergy, in that projects can be selected in terms of their strategic potential. It is noteworthy that one third of its bilateral assistance to Guatemala, which runs at the annual rate of SEK 120 million (US \$ 15 million), is channeled through UNDP.
21. The perception of neutrality on the part of UNDP is a part factor in a two-way programme relationship. By the account of many, Swedish cooperation is seen to have a catalytic quality, derived from the fact that it is seen as disinterested assistance delivered with empathy and understanding of the country's predicament. As shown in Annex C, six other donor countries are participating in the Sida /UNDP programme,

---

<sup>7</sup>) Guatemala: Los Contrastes del Desarrollo Humano, Edición 1998

to the tune of US \$ 6.2 million, a significant contribution. Other donors also appear interested in making similar joint programme arrangements with UNDP.

22. Sida support is also provided with an understanding of the need for flexibility. It is in the nature of things that the peace process will be tortuous. New requirements surface at every turn, which have to be met at short notice. From the point of view of the donor, joint programmes with UNDP allow the interested embassies, with a minimum of staff, to follow closely the programming and implementation of the activities they finance. In this regard, the Sida financing of a 3-year programme in support of the peace accords enables Sweden as a cooperating country to better understand and promote the national process of change.

### ii) UNDP Management Capacity

23. The UNDP field office in Guatemala manages a very substantial programme funded from a variety of sources. Only about 5-6 per cent of funds managed originate from UNDP's regular programmes. Over the 5-year period 1997-2001, the totals under the various headings are:

	<u>in US \$ million</u>
□ UNDP core funds	10.3
□ Global Environment Fund (Montreal Protocol)	4.9
□ Management Service Agreements	11.8
□ Trust funds	9.8
□ Cost-sharing:	
a) with IFI's	66.5
b) with bilateral agencies	40.3
c) with the Government	51.1
	-----
Total:	194.6

24. The UNDP Guatemala office charges the major part of its administrative costs to the regular UNDP field office budget, in the approximate ratio of 10:7.5. The smaller portion is covered from charges against programme contributions, generally at the rate of 3.5 per cent of programmed amounts. There are no restrictions on the use of the 3.5 per cent administrative overhead, except in the case of projects funded from the Global Environment Fund, which only allows administrative charges directly associated with the project.
25. A number of staff positions are however obtained in other ways and outside the above sources of administrative income. Of a current total of 75 posts, 19 posts are funded from the UNDP general office budget. Office strength is augmented through the assignment of 3 junior professional officers financed under the Associate Expert Scheme and of 3 UNVs. Twenty-one professional and support staff posts are financed

from cost-sharing income, and the remainder (29 posts) are charged against special projects located in the UNDP office, such as the Human Development Report, the UN Programme for Field Office Reform, various directly executed projects, and a procurement project operated by UNOPS.

26. The expansion of the UNDP office, simultaneously housing the Office of the UN Resident Coordinator, from about 40 to 75 posts, has occurred in the last four years, coinciding with the programme growth that has accompanied the peace process. Notably, the expansion had a technical orientation, through the recruitment of technical advisers, to enable the office to play a more substantive role. Its programme divisions were reorganized to conform with the principal substantive areas covered in the peace accords. At the same time, office payment and contracting procedures were rationalized and streamlined.
27. The rapid growth of the office, in the view of some of those present, has been associated with the expected stresses and strains. Some concern has also been expressed in terms of UNDP taking on too many varied work assignments, particularly in areas where it does not have a track record of special competency. Doubts are furthermore expressed as to the ability of an office to fully service a programme of this magnitude with cost recovery set at 3.5 per cent of any additional programmed funds.
28. Administrative cost recovery at 3.5 per cent is clearly a subsidized rate. From the viewpoint of cost-sharing contributors, when selecting implementing agents, it is also a competitive rate for predominantly technical assistance projects. From the standpoint of UNDP, the low rate of cost recovery from an ever-increasing volume of non-core funding, at the same time poses a risk that the quality of services might suffer.
29. On this subject, the Mission learned that UNDP headquarters, concerned about the growth of non-core funds and its overall policy that regular funds should not subsidize non-core activities, is about to launch a comprehensive study on the matter of administrative cost recovery by field offices.

### iii) The Project Cycle

30. **Project identification and development.** UNDP's capacities for programme development and project formulation derive from and are enhanced by its participation in much of the committee work surrounding the implementation of the peace accords and its resulting widespread network of contacts. The office has at its disposal competent and technically oriented staff, able to draw on the professional insights gained from much of this work and to judge the relevance and potential effectiveness of the activities undertaken.

31. For project formulation, the normal approach is to prepare draft documents in-house and in close consultation with the responsible officials of the government. There is rarely any need to rely on outside consultants, except for the most technical aspects of some projects. The extensive involvement of government counterparts in many instances was noted, a benefit that merits to be stressed, even at the cost of quality presentation. Since project document drafting is often a committee product, the quality of project documents is somewhat uneven, but seen to be at an acceptable level of expression of programme linkages, structure and detail. The projects GUA/98/L04 on agroforestry development and GUA/98/026 on support to SEGEPLAN are seen as particularly well-formulated documents.
32. The programme document covering Sida's contribution to the entire reform programme contains financial earmarkings over three years for the different sub-components of the programme. In the large majority of cases, however, projects are not planned and budgeted for their entire duration. Individual projects only commit funds for one year or eighteen months, an inescapable consequence, it appears, of the fact that Sida can only firmly commit its contribution in annual appropriations.
33. While it may be argued that this arrangement adds flexibility, it also - perhaps more importantly - leads to the loss of programme perspective in the manner the project is planned and implemented. Uncertainties are created regarding the project's long-term viability, inter-action between expected results and the further activities that need to be pursued, the extent to which it may be vulnerable to temporary reverses, and potentially to loss of stability and motivation among project staff.
34. The Sida/UNDP Programme Agreement, further stipulates that only costs for activities carried out in the first year period may be financed from the Swedish contribution related to that year. In a project spanning several years, this requirement similarly results in a weakening of the programme perspective and flexibility.
35. **Implementation arrangements.** Most individual projects are implemented under the national execution modality (NEX), reflecting UNDP policy to place responsibility for implementing projects as far as possible with government agencies. In the case of activities where no appropriate government agency exists or is judged suitable for the task, the project is implemented directly by the UNDP field office (DEX).
36. Of the projects listed in the programme document, five projects are foreseen for direct execution by UNDP representing about 25 per cent of the overall allocation. Six of the remaining 12 projects are implemented by government agencies. In only one case, the planned support to civil society groups in selected geographic areas, is traditional execution by a UN agency contemplated (UNOPS), but this project is for the time being dormant.
37. The Mission endorses the programme emphasis on the national execution of projects, as a method of enhancing national ownership and improving local capacities. While it cannot make any precise assessments in this regard and with respect to individual

projects, it found in all cases knowledgeable and articulate project managers and other interlocutors, judged fully able to benefit from the project experience. National execution, in conjunction with the training programmes described elsewhere in the report, is seen as materially assisting the overall capacity-building objective of the programme.

38. **Monitoring and evaluation.** Substantive aspects of project monitoring, as they relate to specific programme components and projects, are covered in Chapter III; financial reporting is discussed in the next section. Only the formal aspects of programme and project monitoring, including the issue of indicators, are dealt with in this section.
39. In terms of substantive or progress reporting, the Sida agreement with UNDP prescribes an "annual report on the results obtained by the programme", presumably on a project by project basis, and as an input for the annual review of the entire programme. As a result, individual project documents generally follow this arrangement, stipulating an annual progress report followed by a tripartite review to assess any new initiatives or recommendations made.
40. If followed to the letter, annual project progress reporting will tend to accumulate in the period immediately preceding the annual review, placing a burden on all concerned staff. Also, points of lesser scope and importance will tend not to be addressed. Given furthermore that project budgets are segmented on a 12-18 month basis, the Mission believes that a more frequent regime of formal progress reporting, say every six months, would be in order, and that tripartite reviews combining all projects in one sub-programme be held on a systematic basis.
41. Admittedly, monitoring is not only a matter of formal progress reporting. Much is learned about project activities in informal ways, through ad hoc meetings with national and UNDP staff and through visits to project sites. However, the nature of many activities is such that each project should have a general "audit trail" of positives as well as negatives to facilitate subsequent assessments.
42. In terms of more comprehensive evaluations, the Mission learned that the UNDP Evaluation Office had recently carried out an evaluation of the programme of demobilization and reintegration of ex-combatants in Guatemala, supplementing another evaluation already performed by USAID. This is a programme towards which several donors have subscribed, including Sida, which continues to provide resources for the final phase of reintegration under the Sida/UNDP programme.
43. Another UNDP-sponsored investigation of interest to Guatemala - although it does not figure as a case study - is one carried out by the Management Development and Governance Division of UNDP, entitled Governance in Countries in Transition.
44. **Indicators.** As standard operating procedure, UNDP has for the past 15 years or so used logical framework (logframe) analysis and indicator matrices and integrated these in project documents. In reviewing their current use in the Guatemalan

programme, the Mission found that indicator measurement was applied somewhat mechanically. Any changes in base-line indicators are usually not monitored in progress reports. There is also a tendency to confuse project outputs and outcomes with process indicators, and these in turn with indicators of impact, let alone coping with the difficulty of identifying or isolating the operative factors leading to changes in the measurement.

45. On the whole, the system, as currently applied, seems unsatisfactory. Greater attention to different types of indicators and an accompanying narrative analysis could, in the Mission's view, improve the use of the logframe method. At the same time, various aid agencies are testing out variations of "results-based" programming, USAID in particular. During the Mission's visit, UNDP for its part issued new directives on results-based management (RBM), which will be introduced over the next 3 months. Considerable thought has gone into their elaboration, and it is clear that the directives are the beginning of a serious effort to deal with the issue.
46. No logframe system or indicator measurement can apply to the Sida/UNDP Programme alone. It will need to be introduced throughout the UNDP programme in Guatemala and indeed system-wide. Under the circumstances, the Mission does not feel that it can contribute constructively by way of recommending any modifications to the present system, which in addition would probably entail a cost factor. Annex D however attempts to elucidate how the new RBM system could work in the context of the Sida/UNDP Programme.

#### **iv) Financial Issues**

47. Whether implemented under the NEX or DEX arrangement, the Sida contribution to the Guatemalan reform programme is broken down, for the purposes of implementation and budget control, into a series of third party cost-sharing projects. In some of these only UNDP and Sida hold a stake. In other projects, costs are shared with other donors, as well as with the Government. There are a few so-called 100 per cent cost-sharing cases, in which UNDP does not participate with funds of its own, such as the literacy project operated by CONALFA and the gender equality projects.
48. For the programme component concerned with the reintegration of populations directly affected by the armed conflict, the Sida contribution is pooled with those of other donors in a trust fund used for programmes designed to reintegrate demobilized former combatants, returning refugees and internally displaced people. The trust fund, which was established in 1997, has received contributions totaling some US \$ 10 million. Three projects in the Sida/UNDP Programme receive financing from the trust fund.
49. During the past year, Sida has paid over SEK 42,444,000 (or US \$ 5,305,500) to UNDP. Two earlier contributions of SEK 2,600,000 (or US \$ 325,000) and SEK 6,900,000 (or US \$ 860,000), for Q'anil B and the UN Volunteer project respectively,

are included in the Sida/UNDP Programme. Difficulties arise in reconciling data emanating from UNDP headquarters and the field office and are primarily due to the application of different exchange rates at different times.

- 50.** By UNDP definitions, cost-sharing are mingled or pooled funds, and financial statements of expenditure can only be prepared on the basis of the entire project budget, with the donor portion(s) expressed as a percentage of the whole. The same applies to multi-donor trust funds. In the event a donor wishes to have its contribution accounted for and audited separately, it has to establish a separate sub-trust fund and budget.
- 51.** As elaborated in Annex I, the requirement that "UNDP maintain separate records in respect of the Swedish contribution and disbursements"<sup>8</sup>) leads to a local UNDP practice under which Sida and other donor moneys are tied to specific budget lines. As far as could be ascertained from contributing donors, this is not intended. Apart from being contrary to the purposes of engaging in a joint project, the practice adds considerably to the accounting burden of the UNDP field office.
- 52.** In line with an omnibus agreement between Sida and UNDP, the payment of all contributions to trust funds or cost-sharing projects negotiated by field offices is effected centrally twice a year, regardless of when the project is to start. Funds may therefore not be available for the specific project when needed. UNDP at times finds itself in the position where it has to borrow from its own resources or use the funds of other contributors. It was learned that UNDP headquarters plans to rationalize its 400 separate trust funds (and a similar number of sub-trust funds) by negotiating umbrella trust funds with individual donors so as to overcome the problems of liquidity which inevitably accompany the establishment of trust funds.
- 53.** UNDP internal and external audit procedures do not readily lend themselves to the types of financial audit required by donors in programme agreements. Special external audits have therefore to be contracted for to cover the specific project(s) concerned. This is a substantial cost factor and can draw disproportionately on the administrative support costs allowed for.

---

<sup>8</sup>) Agreement between the Government of Sweden and UNDP on support to the Guatemala programme, dated 31 March 1998 (Articles 9 and 10)

## **V. CONCLUSIONS AND RECOMMENDATIONS**

1. The Sida/UNDP Programme represents a consolidation of activities undertaken jointly with UNDP since 1994 and particularly following the peace agreement concluded in 1996, and provides an overarching objective as the framework for their cooperation. It expands the planning horizon in conformity with the various commitments made through the successive peace accords and with the timetable set for their implementation.
2. While only a small fraction of total external aid provided to Guatemala in fulfillment of the peace accords, the Sida/UNDP Programme is programmed and delivered at particularly strategic points of policy reform and institution-building, as its distinctive feature. This is particularly true with respect to the support given to the justice sector, to SEPAZ and SEGEPLAN, to land registration, and last but not least the planned support in the area of decentralized governance. Other projects included in the Programme, while fully consistent with overall programme objectives, have less of a strategic dimension, as presently conceptualized.
3. The ability of the Programme to mainstream cross-cutting issues such as promoting indigenous participation and gender equality is a particularly strategic consideration. The Mission believes that more can be done in this area and that opportunities arising in some projects to further these objectives are not always exploited.
4. The Government's intent to move towards a decentralized system of governance is a pivotal element in the democratization process and in moving towards a new social and economic order. About 12 per cent of programmed funds are earmarked for support to planned decentralization measures that have yet to be put into effect. To the extent that any resources are freed in the course of programme implementation, consideration should be given to expanding work in this area.

The Mission recommends that

- ◇ the strategic element of individual projects be used as the principal criterion in the further elaboration of the Programme. If adopted as a guideline, the strategic element should be explicitly defined when considering proposed modifications of ongoing activities and any new activity undertaken within the framework of the Programme;
- ◇ all projects be systematically reviewed to develop any opportunities that arise in the course of project implementation for advancing the intercultural and gender perspectives;
- ◇ consideration be given to increasing programme earmarkings in support of the Government's planned decentralization measures, which are pivotal to the democratization process;
- ◇ an unallocated amount be held in reserve for urgent and unforeseen needs that arise in the course of programme implementation.

5. The fact that projects can only be budgeted for a limited period in line with Sida's annual appropriations leads to some loss of the medium-term planning perspective that should go with a programme of this nature. The Mission believes that the caveat contained in the last paragraph of Article 6 of the Sida/UNDP Programme Agreement constitutes an adequate safeguard for both parties if faced with unforeseen contingencies that might jeopardize the programme or parts of the programme. In this regard, the Mission realizes that central-level negotiation may be needed to allow UNDP to budget an activity for its full planned duration.
6. In the matter of indicators, UNDP is presently embarking on a new system of results-based management (RBM), which would replace the current logical framework analysis and indicator measurement. In the light of this development, the Mission believes that it cannot usefully suggest modifications to the logframe system used in the Programme. Some ideas are nevertheless presented in Annex D on how the RBM can be introduced to the advantage of the Programme.

The Mission recommends that

- ◇ in negotiating revised arrangements with UNDP regarding the central administration of trust funds and cost-sharing contributions, efforts should be made to enable UNDP to budget cost-sharing projects for their full duration, as foreseen in the relevant programme agreement;
  - ◇ a uniform and standard practice of formal progress reporting be introduced for all projects in the programme;
  - ◇ a special study be conducted locally to see how the new RBM system can best be applied to the Sida/UNDP programme, and if any cost factors are involved.
7. On the whole, the transfer of funds has operated satisfactorily. Liquidity problems, and problems of reconciling figures converted at different exchange rates, result from the agreement between Sida and UNDP to centralize the payment, on a semi-annual basis, of all contributions to trust fund and cost-sharing projects negotiated by field offices. Funds are not always available for specific projects when needed. It was learned that UNDP headquarters has approached Sida with a view to negotiating new comprehensive arrangements for the administration of trust funds and cost-sharing contributions.
  8. The requirement that UNDP maintain separate records for all disbursements from the Swedish contribution has contributed to a local UNDP practice by which donor moneys are tied to specific budget lines. This practice appears inappropriate where financing partners emphasize holistic programme concepts and the synergy derived through joint funding.
  9. UNDP internal and external audit procedures do not readily lend themselves to the type of financial audit required by donors in programme agreements. Special external audits have therefore to be contracted for to cover the specific project(s) concerned.

This is a substantial cost factor and draws disproportionately on the administrative support costs allowed.

The Mission recommends that

- ◇ the central negotiation between Sida and UNDP on the custody of trust fund and cost-sharing contributions contain provisions to overcome the liquidity problems that field projects encounter as a result of implementation schedules that are not consistent with the periodicity of payments;
- ◇ cost-sharing and trust fund donors meet locally with UNDP to harmonize financial reporting by adopting a common model financial statement covering all expenditures against a given project budget and indicating the percentage of expenditure incurred by each contributor to the budget;
- ◇ Sida allow the costs for any external audits of individual projects towards which they have contributed to be charged against programme funds.