

National Immigration Forum

To: Caroline Fredrickson
Company : WH-LEGISLATIVE AFFAIRS
Fax Number : 202-456-6468
Phone Number : 202-456-6493

From : Angie Kelley
Fax Number : 202-544-1905
Phone Number 202-544-0004

Time Sent : Wednesday, Feb 24, 1999 06:25PM
Pages : 3
Description :

FYI - A similar letter was sent to the INS Commissioner.

Please call me if you have any questions, 202-544-0004 ext.
19.

Thanks

Angie.

NACARA

United States Senate

WASHINGTON, DC 20510

February 23, 1999

The Honorable Janet Reno
Attorney General
United States Department of Justice
10th & Constitution, N.W.
Washington, D.C. 20530

Dear Attorney General Reno:

We write to bring to your attention our concerns regarding the proposed rule published in the Federal Register on November 24, 1998, implementing Section 203 of the Nicaraguan Adjustment and Central American Relief Act (NACARA). A copy of the comments submitted by a bipartisan group of Senators to the Immigration and Naturalization Service are enclosed for your review.

Our particular concerns involve the issue of a group specific determination of "extreme hardship" for *American Baptist Churches, et al. v. Thornburgh* (ABC) class members who will comprise the vast majority of applicants for relief under Section 203 of NACARA. As NACARA's principal supporters in the Senate, we envisioned that a group-specific determination of extreme hardship would be permissible in adjudicating these cases. The ground work for implementing this requirement was set forth in the Explanatory Memorandum introduced in the Congressional Record which describes NACARA's purposes. Cognizant of the hardships ABC class members had already endured in fleeing their homelands, and the protracted delays and legal uncertainty they experienced in pursuing legal status in the United States, that memorandum directed the Department of Justice and the Immigration and Naturalization Service "to adjudicate applications for relief under this Act expeditiously and humanely." In our view, this intent can best be implemented by adopting a group-specific determination of extreme hardship for these Salvadorans and Guatemalans.

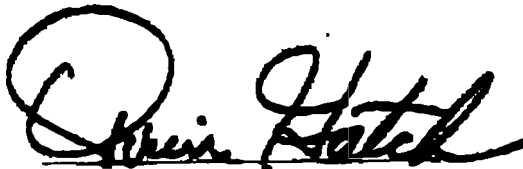
Similarly, the experiences shared by this group as a class support a determination of extreme hardship. Chief among these factors are the current political and economic conditions in El Salvador and Guatemala. Even before Hurricane Mitch, these countries were considered among the poorest in the Western Hemisphere. When Hurricane Mitch struck the region in November 1998, the little progress these countries had made in rebuilding their economies, infrastructures and communities after the end of the civil wars was substantially reversed.

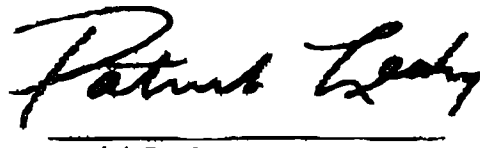
In our view, such a determination would also foster administrative efficiency and be fundamentally fair. Already-taxed adjudicators will be relieved of the substantial burden of reviewing and assessing each individual hardship claim, thereby reducing the processing time for

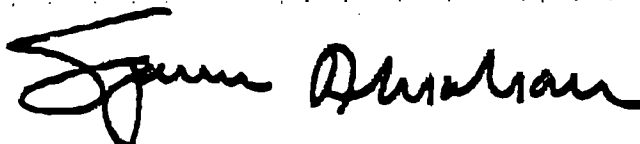
each application and the aggregate amount of time needed to implement this program. Applicants, the majority of who will not be able to secure legal representation, would also benefit from a group-specific extreme hardship determination that would take less time to prepare than would an application requiring an individualized extreme hardship determination.

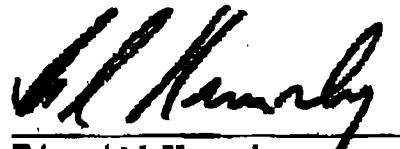
We hope that the INS will reconsider its proposed rule and adopt the recommendations we have made which are necessary to implement congressional intent to fairly and quickly adjudicate these cases.

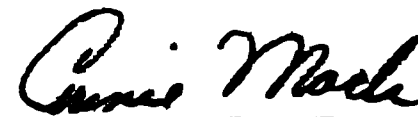
Sincerely,


Orrin Hatch


Patrick Leahy


Spencer Abraham


Edward M. Kennedy


Connie Mack


Bob Graham


Richard Durbin

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

March 2, 1999

The Honorable William Jefferson Clinton
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

We have heard disturbing reports that you have ordered the Immigration and Naturalization Service to reverse its position and publish its final rule implementing Section 203 of the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA) in a manner that contains a "presumption of extreme hardship" for all Guatemalans and Salvadorans covered under NACARA. As you know, a "presumption of extreme hardship" means de facto amnesty for hundreds of thousands of illegal aliens. This position would show a complete disregard for legislative intent and longstanding caselaw. Such a major shift from the case-by-case adjudication process detailed by the proposed rule to a presumption of "extreme hardship" has no reasonable explanation.

In NACARA, Congress made a conscious decision to provide relief to certain Salvadoran and Guatemalan illegal aliens if they could establish that they would experience "extreme hardship" should they be deported. All parties involved in the negotiations, including the Administration, understood that the law merely returned NACARA eligible applicants to the rules regarding suspension of deportation prior to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Congress in no way intended that there be a presumption of "extreme hardship." If that were the case, the law would have treated Salvadorans and Guatemalans in the same manner as Nicaraguans and Cubans, to whom we gave permanent residence with no extreme hardship requirement.

We understand that at the time you signed NACARA into law, your public statements were at odds with your official action, in that you expressed a desire to treat all nationalities in the same manner. The appropriate remedy would have been to issue a Presidential veto, not to order the agency to implement the law in a manner that contradicts legislative intent and decades of caselaw on suspension of deportation.

The Honorable William Jefferson Clinton
Page Two

The phrase "extreme hardship" is a long-standing term of art of the immigration law. The INS' proposed rule (entitled "Suspension of Deportation and Special Rule Cancellation of Removal for Certain Nationals of Guatemala, El Salvador, and Former Soviet Bloc Countries," published in the *Federal Register* on November 24, 1998) acknowledges that the term "extreme hardship" "is not a definable term of fixed and inflexible content or meaning. It necessarily ends upon the facts and circumstances peculiar to each case" (emphasis added). 63 Fed. Reg. 64,903, citing *Matter of Hwang*, 10 I&N Dec. 448, 451 (BIA 1964). The proposed rule lists many of the factors to be considered but cautions: "Ultimately, 'extreme hardship' must be evaluated on a case-by-case basis after review of all the circumstances in the case" *Id.*

Most importantly, "[t]he Supreme Court has held that a narrow interpretation of extreme hardship is consistent with the exceptional nature of the suspension remedy." *Matter of Ige*, 20 I&N Dec. 880, 882 (BIA 1994), citing *INS v. Jong Ha Wang*, 450 U.S. 139 (1981). A presumption of "extreme hardship" would contravene both legal precedent and common sense. Just as the adjudicator cannot presume "good moral character" or seven years continuous physical presence, the adjudicator cannot presume "extreme hardship."

It appears that, in publishing its proposed rule, the INS recognized that Congress intended a case-by-case adjudications process under Section 203 of NACARA. There is no justifiable reason for the Administration to make the INS change its position to a "presumption of extreme hardship" for all 240,000 Guatemalans and Salvadorans. Accordingly, we strongly urge that INS be allowed to do the right thing and not alter its proposed rule.

Sincerely,

Lamar Smith

Mike Lamm

Ed

Ray Blunt

Ed
Tom Latham

Jon Shadegg
Jon A. Cole

~~15th~~ ~~SSSIS~~
Tom Tancredi

Barbara Cuban

John Hostettler

Charlie Norwood

Nathan Deal

Dana Rohrabacher

Frank Lautenberg

Max Baucus

Don Bricker

Mac Collins

Ed Ray

John T. Goolittle

Brian Bell

Jack Metcalfe

Ken Brown

Wally Herger

Barack

Bob Goodlat

Tim Wicker

Bar Lewis

Bob

Stay of removal on 3/8/99

- Did not carry over any ~~stays~~ - ~~removal~~
- there was discussion do ~~not~~ continue



OFFICE OF THE VICE PRESIDENT
CORRESPONDENCE OFFICE
Phone: (202) 224-2424

To: Irene Bruno
From: Rick Rand
Pages: 3
Date: _____
Time: _____

Message:

Irene B

Hello!! Per my phone message,
do you have any good news
we can / should report?

Thanks. Let me know.
Rick

224-4397

NATIONAL CONGRESS OF GUATEMALAN ORGANIZATIONS

in the United States

P.O. Box 311 - Mount Vernon, Virginia 22121-0311
(703) 360-2997 FAX: (703) 360-3450 E-mail: orantesc@erols.com

Iris Contreras
SECRETARY
8 Haven Avenue (Suite 228)
Port Washington, NY 11050
(516) 944-0350 FAX: (516) 944-0351

Executive Board

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Demardo Villala, Chairman, National Commission on Immigration

February 26, 1999

The Vice President Albert Gore, Jr.
The White House
Washington, DC 20500

Dear Mr. Vice President Gore:

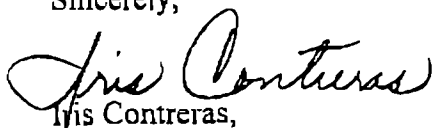
During the press conference at the White House last February 16, 1999, it was mentioned that any relief to immigration issues concerning Central Americans will be decided by the U.S. Attorney General before the dateline of March 8th, 1999.

On behalf of thousands of Guatemalans, the National Congress of Guatemalan-Americans Organizations in the United States and the Guatemalan-American Committee of Long Island, New York, we respectfully request your support for a Temporary Protective Status (TPS) for a period of eighteen months for Guatemalan and Salvadorean citizens who are presently in the United States. This is the same period already provided to Hondureans and Nicaraguans.

This action will help a great degree in the recovery of the aftermath left by Hurricane Mitch.

We are sure that your assistance and decision on this matter will serve in a positive way.

Sincerely,



Iris Contreras,
Secretary, GUATENET
National Congress of Guatemalan-Americans Organizations in the United States
President, Guatemalan-American Committee of L.I., New York

Rolando Martinez

E-Mail COWBAYIND1@aol.com

8 HAVEN AVE. - SUITE 228 - PORT WASHINGTON, NY 11050
Phone: (516) 944-8284 • Fax: (516) 944-0351

February 26, 1999

The Vice President Albert Gore, Jr.
The White House
Washington, DC 20500

Dear Mr. Vice President Gore:

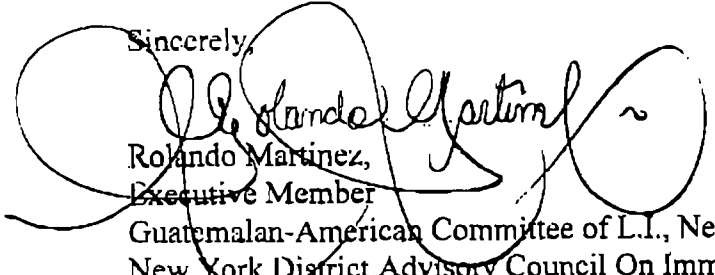
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This action will help a great degree in the recovery of the aftermath left by Hurricane Mitch.

We are sure that your assistance and decision on this matter will serve in a positive way.

Sincerely,



Rolando Martinez,
Executive Member

Guatemalan-American Committee of L.I., New York
New York District Advisory Council On Immigration Matters
Former Executive Director of Economic Opportunity Commission of Nassau County, Inc.

Moe Vela

Irene -

Rm 217
DEDB

Thank you so
much for your
help!

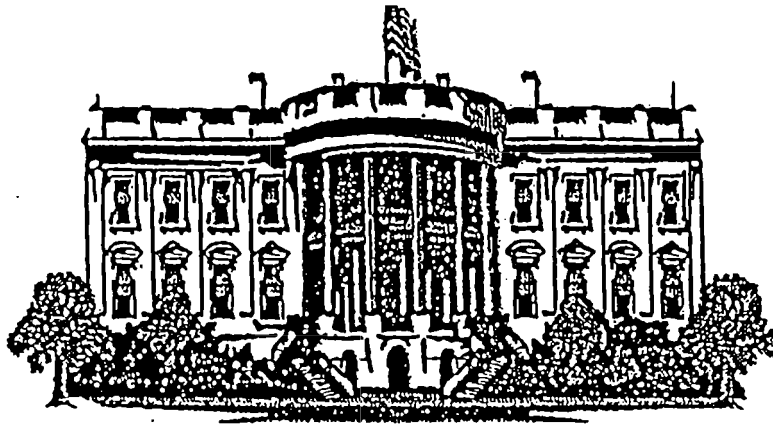
Moe
69002

Inene =

Could you help us
w/ a draft
response to this
letter?

Thx

Re 69002



THE WHITE HOUSE

Domestic Policy Council

DATE: 3/22/99

FACSIMILE FOR: Bob Bach

PHONE: () -

FAX: (202) 305 - 0134

FACSIMILE FROM: Jane Bruno

PHONE: () -

FAX: () -

NUMBER OF PAGES (INCLUDING COVER): 3

☐ FOR YOUR REVIEW

☒ PER MY E-MAIL OR VOICE-MAIL MESSAGE TO YOU

☐ PER YOUR REQUEST

COMMENTS: Please provide guidance for response.



Moel - Please Help w/ This Request - Bism.
514 C Street N.E.
Washington, DC 20002
Tel. (202) 546-2536
Fax (202) 546-4121

March 1, 1999

The Honorable Albert Gore
Vice President of the United States
Old Executive Office Building
Washington, DC 20501

Dear Mr. Vice President:

Thank you for meeting with members of the National Hispanic Leadership Agenda (NHLA) on January 22, 1999 to discuss issues affecting the Latino community in the United States. As you already know, the NHLA is a national, nonprofit, nonpartisan coalition of major Hispanic national organizations, as well as distinguished Hispanic leaders from across the nation. The NHLA is committed to ensuring proper attention by the Administration to issues affecting the Hispanic community.

This letter is to follow-up on immigration, especially the issue of Temporary Protective Status (TPS) granted to Central Americans. There is a growing sense within the Latino community, especially the Central American community, that the Administration did not ensure an equitable extension of TPS to nationals for El Salvador, Guatemala, Nicaragua, and Honduras. An increasing number of Latino residents in the United States voices this sentiment.

We believe that the Administration demonstrated a sense of compassion and responsiveness to the critical situation of Central Americans by granting a long-term extension of TPS to Nicaraguans and Hondurans. As we know, nationals from these two countries were granted a 18 month period extension on December 30, 1998. However, Salvadoran and Guatemalan nationals were granted only a 60-day extension.

Although we recognize and praise the Administration's noble action, the more important point we must consider in this case is to what extent we can reasonably expect this particular policy decision to bring equal treatment to nationals from all four countries. Regardless of the scope of the damage caused by Hurricane Mitch in these countries, a departure at this time for Salvadorans and Guatemalans is more likely to cause extreme hardship to them as human beings and to the countries, which are in critical need for revitalization. For instance, El Salvador now has 150 communities destroyed in nine of the fourteen provinces, an agricultural sector seriously damaged, and entire parts of the country disconnected because of the destruction of 20% of the nation's bridges.

The Administration is already playing a significant role in solving this situation. However, the approach can be enhanced in two ways:

Vice President Gore

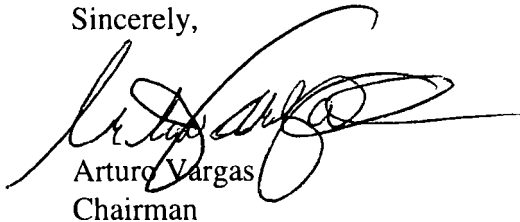
Page 2

- Bring equality to the process by granting an eighteen months TPS to nationals from El Salvador and Guatemala retroactive to December 30th, 1998.
- Consider Deferred Enforced Departure (DED) as another policy option to assure equal treatment.

Mr. Vice President, there is a great opportunity at this time for the Administration to further expand its noble act of relief for Central Americans. The Administration must consider in this process not only the specific damage to a particular country, but also whether the policy assures equality for all Central Americans. This is the time to reduce the disparity and assure equality.

Thank you again for taking the time to meet with members of NHLA. Members of the NHLA's civil rights committee will be requesting a meeting with representatives from the White House to follow up on this important issue.

Sincerely,



Arturo Vargas
Chairman



OFFICE OF THE VICE PRESIDENT
CORRESPONDENCE OFFICE

Phone: (202) 224-2424

To: Drene

From: Rich 4-4397

Pages: 4

Date: _____

Time: _____

Message:

Drene

It was good to catch up with you.

Attached is the material we discussed. Please glance at them and give me a call to discuss when you can.

Thanks!

Best!

Rich

Wednesday, February 17, 1999

Vice-President Al Gore,

**Talk of amnesty is enticing
an invasion of illegal aliens
at our southern border**

Dear Vice-President Al Gore,

We are facing a national security emergency at our southern border. The Washington Post and San Diego Union report larger and larger numbers of Central Americans illegally forcing their way across the border.

The chief cause is the belief, by these Central Americans, that Congress will pass another amnesty for illegal aliens.

In fact, Congress is being heavily pressured to pass an amnesty for some 600,000 illegal aliens from El Salvador, Honduras, Guatemala and Haiti who entered the U.S. before December of 1995.

INS chief Doris Meisner recently traveled to El Salvador and announced the Administration's intention to win that amnesty.

According to lower INS officials, the possibility of an amnesty has been perceived as a green light to tens of thousands of Central Americans.

That's the problem with amnesties. They reward the lawbreakers - and, in addition, entice many more people to break the same laws.

The pre-1995 illegal aliens moved to the U.S. knowing that Congress had rewarded 2.7 million illegal aliens in 1986 with a path to U.S. citizenship. If Congress proves these illegal aliens accurate in their belief that they will receive the same "gift," you can count on millions of others from around the world taking the same risk with hopes of a future amnesty.

If something isn't done fast, military mobilization may be needed on the border to stop the invading "army" of illegal workers from the south.

All of Central America needs to hear that there will be no amnesty.

That is why it is so important for you to publicly announce that you will not support another mass amnesty for illegal aliens. Even if you think the 600,000 illegal aliens deserve an amnesty, granting it will draw hundreds of thousands of new illegal aliens. I know you don't want that.

I hope you will publicly note your opposition to this 600,000-person amnesty.

Any support on your part for an amnesty would make you guilty of cruelly enticing Central Americans to abandon all they have and to risk crime and injury traveling through Mexico. And this would entice these aliens to enter the U.S. and a life of secrecy, fear and intimidation.

Anything less than full rejection of another amnesty will raise the question: will we put a stop to this mass movement, or allow these Central American countries to virtually empty out?

These 600,000 illegal aliens asking for amnesty have no moral claim on us to reward them for breaking our immigration laws.

It may be true that, when these illegal aliens first came to the United States, their countries were in civil turmoil. But, these civil wars ended and these dictatorships fell many years ago. Now some people say these illegal aliens should have the right to remain in the U.S. via a huge amnesty.

The proposed amnesty is not for refugees. These illegal aliens have failed to qualify as refugees or asylees. They desire to remain in the U.S. for economic benefit. Hundreds of millions of people around the world could make just as clear of a case for themselves.

Please take a strong stand against illegal immigration.

Announce your opposition to the Central American amnesty.

Sincerely,

**Ruth Bateman
12214 Millbanks
Houston, TX 77031
281-498-0917**

Wednesday, February 17, 1999

Vice-President Al Gore,

Do not allow the release of illegal and criminal aliens from detention centers

Dear Vice-President Al Gore,

Please do not allow Doris Meissner to release illegal and criminal aliens from detention centers.

She has had more than two years to come up with a plan to obey the law that requires the lockup of criminal aliens and then their speedy deportation.

This Administration must commit the emergency money and personnel to keep all criminal aliens in detention. You must not allow American citizens to be endangered.

Sincerely,

Cebrun Gaustad
910 10th Street W #201
Billings, MT 59102
406-238-9755



OFFICE OF THE VICE PRESIDENT
Office of Legislative Affairs

United States Capitol Building
Room S-212
Washington, DC 20510
Telephone (202) 224-8391
Facsimile (202) 224-0291

Old Executive Office Building
Room 269
Washington, DC 20501
Telephone (202) 456-9003

Facsimile

To: Irene Bueno

Facsimile Number: 456-5581

From: Kay Casstevens

Date: _____

Pages (Including Cover Sheet): 4

Comments: Here's the call sheet we're
working on for Congressman Gentry.
We still need more talking
points.
Would appreciate your
input.
Thanks,
Kay

This transmission may contain information that is sensitive or confidential in nature. Its contents are exclusively intended for the person(s) identified above.

RECOMMENDED PHONE CALL

Congressman Luis Gutierrez
Spouse: Soraida (pronounced So-rye-da)

Call requested by:

Call sheet prepared by: Kay Casstevens

CONTACT INFORMATION

DC Office, staff contact: Lisa Esquivel, (202) 225-8203

PHONE CALL

You are placing a call to Rep. Luis Gutierrez.

BACKGROUND

Rep. Gutierrez may raise these two issues with you: the Administration's FY2000 budget proposal to restore medical and disability benefits to legal immigrants; and current immigration policy towards Guatemalan and Salvadoran nationals under the Nicaraguan Adjustment and Central American Relief Act.

MEDICAL AND DISABILITY BENEFITS FOR LEGAL IMMIGRANTS

Last month, Rep. Gutierrez requested a meeting with you to discuss restoring full medical and disability benefits to legal immigrants (see attached letter). These benefits, which included eligibility for SSI, Medicaid and Food Stamps, were discontinued under the 1996 welfare-to-work reform act to non-citizens arriving after the legislative deadline. The cuts were partially reinstated in the 1997 Balanced Budget Act, which "grandfathered" eligibility for SSI and Medicaid for legal immigrants already in the country, and the Agricultural Research Act, which addressed Food Stamp eligibility. The Administration's FY2000 budget proposal would allow all future legal immigrants entering the country to be eligible for these programs after a five-year waiting period.

After receiving the initial letter, Janet Murguia in White House Leg Affairs followed up with the Congressman to arrange a meeting at the staff level. The Congressman appreciated the effort but responded that he would still like to talk to you.

Soraida
NACARA

Subsequent to the passage of the 1996 immigration law, which significantly toughened regulations against illegal immigrants, President Clinton asked that former, more lenient immigration rules applying to Central Americans be reinstated. (Previously, nationals of Central American countries who could prove "extreme hardship" to themselves, their family, or American-citizen children, could petition for a "suspension of deportation.") Congress acquiesced. However, in adjusting the law, Congress made a distinction between most Central American countries and former communist countries, such as Nicaragua and Cuba. Thus, under the Nicaraguan Adjustment and Central American Relief Act (NACARA), Congress granted nationals of Nicaragua and Cuba blanket amnesty, or eligibility for a permanent green card. Nationals of other Central American countries, such as Guatemala and El Salvador, reversed

back to the initial requirement to prove "extreme hardship" to attain a "suspension of deportation."

President-elect Flores of Guatemala brought both of these issues to the attention of President Clinton during recent bilateral discussions. He said there was a certain irony to U.S. immigration laws, in that they treat Nicaraguans differently than nationals of countries that had been the victims of repression from the right. He appealed to the United States to apply a more consistent immigration policy against all Central American countries.

Rep. Gutierrez proposed legislation in January to amend NACARA to allow nationals of El Salvador, Guatemala, Honduras and Haiti blanket eligibility for permanent resident status adjustment as well. The legislation has been referred to the House Judiciary Subcommittee on Immigration and Claims. This subcommittee is chaired by Lamar Smith (R-TX), who is vehemently opposed to allowing such an amnesty, and shot down similar legislation last year. Gutierrez currently has 78 sponsors for the bill (H.R.36), and is working to amass the 218 House votes necessary to bypass the subcommittee.

TALKING POINTS

- Hi, Luis. How are you?
- I got your letter in support of our efforts to restore benefits to legal immigrants in the U.S.; **thank you for your consistent leadership in working to achieve this goal.**
- I know you are concerned about reinstating the benefits that many legal immigrants lost under the 1996 welfare-to-work act. So am I. As you know, the Administration's FY2000 budget proposal contains major restorations of these benefits - we are seeking \$1.3 billion to restore SSI, Medicaid and Food Stamp eligibility.
- The measures would directly assist over 216,000 immigrants. The proposal would also allow states the option of providing health coverage to immigrant children who entered the country after the 1996 welfare reform was enacted, prenatal care for immigrant women, and establish new nutritional programs for legal immigrants.
- Again, I appreciate your hard work in this area. With your assistance, we were able to restore partial benefits to legal immigrants in the 1997 Balanced Budget Act - I look forward to working with you and the Hispanic Caucus to get this budget proposal approved by Congress.

Regarding NACARA

- The Administration is trying to work within the context of the current law to soften its impact ~~but is not seeking to have the statute rewritten~~ *and seriously considering legislative*
- The INS will be issuing the final NACARA regulations soon, and will suppose a general presumption of hardship on behalf of the immigrants. This would lower the definition of "extreme hardship" so as to interpret the phrase more compassionately.

BIOGRAPHICAL INFORMATION

Born: December 10, 1954; Chicago, Ill.

Education: Northeastern Illinois U., B.A. 1975.

Military Service: None.

Occupation: Teacher; social worker.

Family: Wife, Soraida Arocho; two daughters, Omaira and Jessica.

Religion: Roman Catholic.

Political Career: Chicago City Council, 1986-93.

The Washington Times

DATE: 4.30.99
PAGE: A1

Central American migration predicted 600,000 reported headed for U.S.

By August Gribbin
THE WASHINGTON TIMES

A vast migration of Central Americans is moving toward the U.S. border.

Some 600,000 generally poor, jobless Central Americans, many of them victims of Hurricane Mitch, plan to flee to the United States, where most intend to enter the country illegally. Roughly 280,000 have already headed north.

The figures come from a U.S. Information Agency "briefing paper" and are based on research developed at the agency's request by CID-Gallup of Costa Rica, a U.S. Gallup Organization subsidiary.

Despite the USIA report, Immigration and Naturalization Service officials see no problem. An INS spokesperson said:

"The information we have is based on border crossing counts, and they show a decreasing number of immigrants from Central America. Figures indicating an influx of immigrants are not ours, so we have no reaction."

However, Rep. Lamar Smith, Texas Republican, refers to the situation as "a growing illegal migration crisis."

And as one U.S. Border Patrol official notes, such a large influx of would-be immigrants would strain already stretched INS resources and would, of course, swell the nation's burgeoning illegal-immigrant population.

The Costa Rican researchers hired by the USIA personally interviewed a random sample of 1,000 persons in each of four countries: Honduras, Nicaragua, Guatemala and El Salvador. For the most part, the people interviewed spoke of their own plans or were "close relatives" of those who re-

cently had abandoned their homelands.

The researchers concluded that, "The United States faces two waves of emigrants on its southern border."

The first wave would be composed of those who are reportedly on their way and should arrive within the next two months. The second, and larger, group would be made up of those who said they will wend their way northward "in the next month or so."

The study also determined that "a majority" of the would-be immigrants in Honduras and Nicaragua harbor the mistaken belief that, in the wake of Hurricane Mitch, the United States is allowing a "great many" immigrants "to remain in the U.S., regardless of their legal status."

That misconception apparently resulted because the Clinton administration declared it would not immediately deport Nicaraguans and Hondurans who entered the United States illegally after Mitch ripped through Central America in early November, if they were here prior to Dec. 30, 1998. The reprieve is to last until June 2000.

When the deportation stay was

granted, Mr. Smith and other congressional leaders warned the administration's message was not clear and could be misconstrued.

But Mr. Smith said, "The administration ignored the warning, signaled that it would tolerate illegal entry, and now stands entirely unprepared to address the consequences."

Many of those saying they will emigrate to the United States could change their minds. It's also possible that many of those said to be making the long, tortuous journey north won't make it, for many have set out on foot.

Some 86,900 of the 99,900 Hondurans are walking, hitchhiking or occasionally catching public transportation. So are 17,000 Salvadorans and about 46,000 of the 66,000 who left Guatemala.

USIA researchers have completed their analysis of information obtained from Nicaragua and Honduras, but they're still reviewing the data from El Salvador and Guatemala.

At this point, though, they have concluded that nine in 10 of the Hondurans headed for the United States in the first wave do not have documents allowing them to enter this country. It's not clear how many of the 8,000 Nicaraguans en route are "undocumented."

The Hondurans are leaving their storm-torn country because of "the perceived deficiency of relief efforts," as the briefing states. But three out of 10 had thought of leaving before Mitch hit, and many departed or planned to depart because they've lost their jobs and can't find others. They lack money

and "want a better life," the study shows.

The Nicaraguans are on the move primarily because they're seeking work.

There is an added incentive for most of those heading north: They have relatives already living in the United States.

That's true for 77 percent of the 170,000 Hondurans planning to come to the United States in the next few months, for 63 percent of the 88,000 Nicaraguans, 64 percent of the 170,000 Guatemalans, and 76 percent of the Salvadorans.

If all or even a significant number of those seeking to enter the United States make it, INS agents will be swamped. Already there is a shortage of Border Patrol agents in some areas, and there is a severe shortage of detention facilities.

"The situation would be messy," says Ron Sanders, chief patrol agent of the U.S. Border Patrol in Tucson, Ariz. He explained that the INS has emergency plans for dealing with a surge of immigrants.

But he said that dealing with immigrants from far-away countries is complicated. The INS cannot simply return to Mexico any Central Americans who illegally cross the U.S.-Mexico border.

"It takes five times longer to process the paperwork on someone from Central America than it

does to process someone from a neighboring country," he said. "Then the Central American has to be shipped inland for incarceration and for bond to be set. It takes buses and airplanes and poses problems for administrative judges. Agents get tied up with administration, and the processing ultimately impacts on prevention efforts."

Since the INS lacks adequate de-

tention facilities, many illegals are released on bond, walk away and melt into the American landscape for good.

The Associated Press reported that in the first three weeks of January more than 1,000 migrants en route to the United States had stopped off at shelters on the Guatemala-Mexico border. That compares with a total of 160 for all of January 1998.

56

'Bill on Year 2000 Liability Is Set Aside in the Senate

By DAVID E. ROSENBAUM

WASHINGTON, April 29 — Legislation to limit lawsuits arising from Year 2000 computer breakdowns was shelved indefinitely by the Senate today, a victim of partisan politics and the running battle between lobbyists for business interests and those for trial lawyers.

Without the bill, some executives of high-technology companies argue, lawyers chasing cyberspace ambulances will drive the legal costs for fighting lawsuits related to the problem to more than \$1 trillion. Opponents of the measure say it would prevent consumers and small businesses from recovering legitimate losses caused by faulty computers.

Leaders from both parties said they hoped compromises could be reached that would allow the bill to be revived, but the political obstacles are formidable.

Democrats are refusing to allow a vote on the measure unless Republican leaders promise to permit votes on the Democrats' top priorities like an increase in the minimum wage. Republicans want to avoid that.

Democratic senators, even those sponsoring what is known as the Y2K legislation, voted as a solid block today against ending the debate and bringing the bill to a vote. As a result, the motion to invoke cloture, which requires 60 votes to succeed, failed by 8 votes, 52 to 47. Three Republicans — Thad Cochran of Mississippi, Richard C. Shelby of Alabama and Arlen Specter of Pennsylvania — joined the Democrats.

Senator Trent Lott of Mississippi, the Republican leader, then withdrew the bill from consideration, saying it was "unreasonable to waste the Senate's time further."

The problem results from the long-time reliance of computer programs on only the last two digits of a year, with 19 presumed to be the first two. When confronted by "00," some computers, software and electronically controlled machinery that have not

been updated might misinterpret it as 1900 rather than 2000, substitute another year or simply freeze.

The bill would give companies 90 days after a lawsuit was filed to solve computer problems related to Year 2000 bugs before the suit could proceed. It would also limit punitive damages that could be assessed against companies with 50 or fewer employees to \$250,000 or three times the financial damages, whichever was less.

President Clinton has threatened to veto the bill. The White House argues that computer companies will be less likely to address their customers' potential turn-of-the-century problems ahead of time, if they know their liability is limited.

The prevailing view in the Senate is that a bill can be written that will satisfy the White House if the political hurdles unrelated to the Year 2000 issue can be cleared.

The legislation is at the top of the agenda of business interests in the capital. The United States Chamber of Commerce has spent millions of dollars lobbying for the legislation and running advertisements supporting it, and other business lobbies have weighed in as well.

This is only the latest skirmish between the business lobbies and the lawyers. Businesses have tried recently with little success to limit lawsuits in areas like product liability, medical malpractice, smoking and patients' rights in managed-care health plans.

The battle lines are drawn because business interests are Republicans' most reliable donors, while trial lawyers are among the Democrats' biggest contributors.

Senator John McCain, Republican of Arizona, the bill's chief sponsor, accused the bill's opponents of trying to "protect the trial lawyers' stream of income."

Senator Ernest F. Hollings, Democrat of South Carolina, responded. "We've got problems in this country but it's not how the tort system hurts business."


Maria Echaveste

04/30/99 11:55:25 AM

Record Type: Record

To: Mickey Ibarra/WHO/EOP
cc: Janet Murguia/WHO/EOP, Irene Bueno/OPD/EOP
bcc:
Subject: Re: Arizona/INS 

there's a story today in the washington times re central america immigration---will you send me info re this other story--Douglas, Ariz---, but essentially, what happened was state/cia did briefing of hill staff to support supplemental by saying we need aid so there won't be migration--the folks who don't like immigrants and ins jumped on that to criticize ins and send panic alarms. there are issues but we don't see the kind of numbers that folks are reporting--does someone need to talk to your mayor--someone from ins?? let me know.

Mickey Ibarra



Mickey Ibarra
04/30/99 11:00:40 AM

Record Type: Record

To: Maria Echaveste/WHO/EOP, Janet Murguia/WHO/EOP, Mary E. Cahill/WHO/EOP, Fred DuVal/WHO/EOP
cc: William H. White Jr./WHO/EOP
Subject: Arizona/INS

Is anyone involved in responding to the concern reported in yesterday's Washington Times about a stampede of "illegals" from Mexico thru Douglas, Arizona? Mayor Ray Borane is quoted as "I'm worried about a possible shooting. Things are escalating. " Apparently some Douglas residents are threatening to stop this themselves.



OFFICE OF THE VICE PRESIDENT
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Washington, DC 20501
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Facsimile

To: Irene Bruno

Facsimile Number: 456-5581

From: Kay Casner / Sarah Shiner

Date: 4/16

Pages (Including Cover Sheet): 4

Comments: Here is our final
draft of the Intivary
call sheet.

Let me know how it
looks to you. *Vuy*

This transmission may contain information that is sensitive or confidential in nature. Its contents are exclusively intended for the person(s) identified above.

RECOMMENDED PHONE CALL

Congressman Luis Gutierrez
Spouse: Soraida (pronounced So-rye-da)

Call requested by:

Call sheet prepared by: Kay Casstevens

CONTACT INFORMATION

DC Office, staff contact: Lisa Esquivel, (202) 225-8203

PHONE CALL

You are placing a call to Rep. Luis Gutierrez.

(After receiving a letter regarding medical and disability benefits to legal immigrants, Janet Murguia in White House Leg Affairs followed up with the Congressman in an effort to arrange a meeting at the staff level. The Congressman appreciated the effort but responded that he would still like to talk to you.)

BACKGROUND

Rep. Gutierrez may raise these two issues with you: the Administration's FY2000 budget proposal to restore medical and disability benefits to legal immigrants; and current immigration policy towards Guatemalan and Salvadoran nationals under the Nicaraguan Adjustment and Central American Relief Act.

Medical and Disability Benefits for Legal Immigrants

Last month, Rep. Gutierrez requested a meeting with you to discuss restoring full medical and disability benefits to legal immigrants (see attached letter). These benefits, which included eligibility for SSI, Medicaid and Food Stamps, were discontinued under the 1996 welfare-to-work reform act to non-citizens arriving after the legislative deadline. The cuts were partially reinstated in the 1997 Balanced Budget Act, which "grandfathered" eligibility for SSI and Medicaid for legal immigrants already in the country, and the Agricultural Research Act, which addressed Food Stamp eligibility. The Administration's FY2000 budget proposal would allow all future legal immigrants entering the country to be eligible for these programs after a five-year waiting period.

NACARA

Subsequent to the passage of the 1996 immigration law, which significantly toughened regulations against illegal immigrants, President Clinton asked that former, more lenient immigration rules applying to Central Americans be reinstated. (Previously, nationals of Central American countries who could prove "extreme hardship" to themselves, their family, or American-citizen children, could petition for a "suspension of deportation.") Congress acquiesced. However, in adjusting the law, Congress made a distinction between most Central American countries and former communist countries, such as Nicaragua and Cuba. Thus, under the Nicaraguan Adjustment and Central American Relief Act (NACARA), Congress granted nationals of Nicaragua and Cuba blanket amnesty, or eligibility for a permanent green card.

Nationals of other Central American countries, such as Guatemala and El Salvador, reversed back to the initial requirement to prove "extreme hardship" to attain a "suspension of deportation."

President-elect Flores of Guatemala brought both of these issues to the attention of President Clinton during recent bilateral discussions. He said there was a certain irony to U.S. immigration laws, in that they treat Nicaraguans differently than nationals of countries that had been the victims of repression from the right. He appealed to the United States to apply a more consistent immigration policy against all Central American countries.

Rep. Gutierrez proposed legislation in January to amend NACARA to allow nationals of El Salvador, Guatemala, Honduras and Haiti blanket eligibility for permanent resident status adjustment as well. The legislation has been referred to the House Judiciary Subcommittee on Immigration and Claims. This subcommittee is chaired by Lamar Smith (R-TX), who is vehemently opposed to allowing such an amnesty, and shot down similar legislation last year. Gutierrez currently has 78 sponsors for the bill (H.R.36), and is working to amass the 218 House votes necessary to bypass the subcommittee.

TALKING POINTS

- Hi, Luis. How are you?
- I got your letter in support of our efforts to restore benefits to legal immigrants in the U.S.; **thank you for your consistent leadership in working to achieve this goal.**
- I know you are concerned about reinstating the benefits that many legal immigrants lost under the 1996 welfare-to-work act. So am I. As you know, the Administration's FY2000 budget proposal contains major restorations of these benefits - we are seeking \$1.3 billion to restore SSI, Medicaid and Food Stamp eligibility.
- The measures would directly assist over 216,000 immigrants. The proposal would also allow states the option of providing health coverage to immigrant children who entered the country after the 1996 welfare reform was enacted, prenatal care for immigrant women, and establish new ~~nutritional programs for~~ legal immigrants *eligible for Food Stamps*
- Again, I appreciate your hard work in this area. With your assistance, we were able to restore partial benefits to legal immigrants in the 1997 Balanced Budget Act - I look forward to working with you and the Hispanic Caucus to get this budget proposal approved by Congress. *who enter the country after 8/22/96*

Regarding NACARA

- The Administration is trying to work within the context of the current law to apply NACARA fairly to all immigrants covered under NACARA.
- We have asked the Attorney General to do all that she can, consistent with the law, to

address the disparities left by NACARA.

- As you know, the Attorney General is currently considering comments on proposed regulations relating to NACARA. Many of these comments include a recommendation that the Attorney General adopt a presumption of "extreme hardship" in favor of Salvadorans and Guatemalans.
- While the Attorney General has not yet make a final decision, we expect that they will issue a regulation soon. If the regulation does not fully address the disparities left by NACARA, we will push for legislation.

BIOGRAPHICAL INFORMATION

Born: December 10, 1954; Chicago, Ill.

Education: Northeastern Illinois U., B.A. 1975.

Military Service: None.

Occupation: Teacher; social worker.

Family: Wife, Soraida Arocho; two daughters, Omaira and Jessica.

Religion: Roman Catholic.

Political Career: Chicago City Council, 1986-93.

CA May - 3/25/99

Mr. [unclear]

Extreme Hardship § 203 Reg.

~~Change~~
Legislation.

Criminal deportation

- 120 Gu. deportees - 35% had some ~~hard~~ record but none of the others had records.
- Worried about this

⊗

- Discuss w/INS, Clarification of deport. why prior to
- almost everyday, getting notification & sit sit & notify that they their suspension

- Have ~~hard~~ heard rebut. prep of other hardship.
- Concern that if rebuttable presumption it will become burdensome ~~and to the process~~. that result in longer, ~~to~~ to INS + individuals.

- Legislation

- Support Gutierrez (but no other options) → 77 cosponsors
-

Take this opp'ty.

Remittance - if US will help + help ~~to~~ C. A.

~~§ 203 Reg. for § 203~~

⊗ TPS - Honduras - expired next year. What next?

sent
~~Secret~~
CAG/BBAN

Should apply ASAP.

- What will happen if not ABC Class

- NOT overly burdensome process - instead -

No jobs - ~~for those~~ those over 35.

No low skilled jobs - in the west + EL Sel b/c agriculture jobs ↓, urban center ~~too~~ overly crowded.

④ Difficult time readjusting to ES + G. b/c no jobs.

* Rebuttal people for NACARA Qualified not just for ~~that~~ NACARA (2 yrs in G + ES).

ABC Class member aged out ~~at~~ so deportation ^{process} ~~was~~ started + no work permit. - she would not have 2 yrs. Children/College-aged - b/c they age out.

II Work Reauthorization - some NACARA derivatives allow to get work permit.



SALVADORAN-AMERICAN NATIONAL NETWORK

c/o Central American Resource Center (CARECEN)

1459 Columbia Road, NW. Washington, D.C. 20009 • tel. (202) 328-9799 • fax (202) 328-0023

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National Coordinator

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Executive Director
CRECEN, TX

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CARECEN
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New Jersey
CEUS

Texas
CARECEN, Houston

Illinois
Centro Mons. Romero

Virginia
ASANOVA

Maryland &
Washington, D.C.
OSA

ABC Committees

Individuals

Herbert Hernandez
Mario Davila
Edwin Rodriguez

P R E S S R E L E A S E

For immediate release
March 23, 1999

For more information, please contact
Abel Nunez or Saul Solorzano at
(202) 328-9799

Central Americans will gather on the Capitol Steps to urge fair regulations for ABC class members and an amendment to the NACARA law so all Central Americans can be treated equally by the U.S. Congress

Washington, D.C. Over a thousand Central Americans residing in 12 different states will gather at the U.S. Capitol (West Side) on March 25, 1999 (12:00 noon) to request fair regulations for ABC class members and an amendment to the Nicaraguan Adjustment and Central American Relief Act (NACARA) approved in 1997. Representative Diaz-Balart (R-Fl) has stated unequivocally that ABC class members are "legally residing in the U.S."

ABC class members (240,000 Salvadorans and Guatemalans nationwide) are awaiting the final publication of regulations pertaining to section 203 of the NACARA law. ABC class members have been legally in the U.S. under temporary protective status, deferred enforced departure and the ABC settlement (*American Baptist Church v. Thornburgh*). President Clinton stated during his trip to Central America that he will use the power of his office to guarantee immigration relief to those Salvadorans and Guatemalans covered by NACARA. Even the most favorable regulations, however, could not alleviate the inequalities in the original NACARA legislation.

For this reason, the event on March 25 will also focus on asking the U.S. Congress to afford equal treatment to similarly situated individuals. NACARA section 202 provided a direct process for Nicaraguans and Cubans to apply for permanent residency. A proposal to amend NACARA to extend permanent residency to other Central Americans has been introduced by Congressman Luis Gutierrez (D-IL). The proposal (H.R. 36) now has 72 cosponsors. The proposed amendment to NACARA would allow Hondurans, Guatemalans and Salvadorans to apply for permanent residency. Support from both Republicans and Democrats is needed to pass this legislation.

The U.S. Congress and the administration worked together during the last three years to grant permanent residency to Nicaraguans, Cubans and Haitians. Central Americans came to this country seeking safe haven from human rights violations, civil wars and turmoil in their countries. They have now established roots in this country and built equities. Central Americans in the U.S. are self-reliant and are taxpayers, and are now also the largest source of foreign aid to their home countries' economies. Their remittances are playing a decisive role in reconstruction efforts after the destruction wrought by Hurricane Mitch.

The Washington Post

AN INDEPENDENT NEWSPAPER

Without Taxpayer Expense

THERE IS A way to provide hurricane-struck Central America with billions in prompt, steady and effectively targeted aid without a penny's expense to U.S. taxpayers. But it will take some legislative and bureaucratic agility to produce it.

The smart way would be to provide the option of immediate permanent residence to those who fled upheaval in Central America in the '70s and '80s and whose immigration status is uncertain now. That status is already given to Nicaraguans as a class, but it is offered to Salvadorans and Guatemalans only on a slow, costly and uncertain case-by-case basis. Permanent residence would allow the several groups of beneficiaries to continue sending home the billions in remittances crucial to a region that was still gasping for rebirth even before Hurricane Mitch delivered its once-in-a-century haymaker in November.

So why not make it fairer and easier for Salvadorans and Guatemalans, who otherwise face being deported or going underground?

Because the immigration law of 1997 compels them to prove *on an individual basis* that their deportation would result in "extreme hardship"—a proof, as we say, slow, costly and unreliable to make.

And why was the law written in this unequal fashion? Because Cold War immigration law has consistently favored those who fled communist-led regimes (such as Nicaragua in the '80s, unlike Guatemala and El Salvador). And, adds House immigration Chairman Lamar Smith of Texas, because this is what immigration groups asked for in a famous suit alleging unfairness in administration of the law.

To treat immigration privileges as foreign aid to friends in distress—this cannot be the law's first purpose. But in the special circumstances of Central America, which is (1) devastated, (2) close and (3) dependent, it is a good second purpose. The case is strong for touching up the law while administering it as flexibly as possible and otherwise supporting President Clinton's appeals for the reconstruction of the region.

Tuesday, March 9, 1999

LOS ANGELES TIMES EDITORIALS



[discussing
proposed
regulations
under
NACARA §203]

MARK H. WILLES, *Publisher*

KATHRYN M. DOWNING, *President and Chief Executive Officer*

MICHAEL PARKS, *Editor and Executive Vice President*

JANET CLAYTON, *Editor of the Editorial Pages and Vice President*

Rule Now on Immigrants

As President Clinton tours four countries in the storm-devastated Central American isthmus this week, he will be pressed to help solve the region's problems, and there is none more pressing than the fate of almost a quarter-million immigrants driven out not by storms but by war. They have lived in the United States since the 1980s and deserve a resolution of their status. Yes or no, stay or go.

Clinton should seize the occasion to state clearly, and immediately, that he intends to resolve the situation of the 190,000 Salvadorans and 50,000 Guatemalans who fled the Central American wars of the 1980s, most of them to Southern California.

At issue are the heads of families now living in the United States mainly under a disputed residence status. When they arrived, they were denied asylum by U.S. officials, despite the fact that most of them met the asylum requirement of being refugees fleeing from repressive regimes. The refugees sued and reluctantly Washington agreed to provide some relief, granting them permission to work in this country while their status was examined.

Then came the Nicaraguan and Central American Relief Act of 1997, which provided blanket amnesty to fleeing Nicaraguans and Cubans. The bill stipulated that Salvadorans and Guatemalans would have to apply on a case-by-case basis.

According to Rep. Lincoln Diaz-Balart (R-Fla.), one of the authors of the so-

called NACARA bill, the law intended that Guatemalans and Salvadorans "be provided with a fair and equitable opportunity to demonstrate that they should be permitted to remain in the United States and pursue permanent residency." But that is not the message coming from the Immigration and Naturalization Service, which has adopted an unnecessarily restrictive interpretation of the law.

Instead of presuming that these immigrants would suffer in their native countries if they were deported, the Immigration Service insists they present proof to an immigration official that deportation would mean

"extreme hardship" for them and their family members. Supporters estimate that requirement will cost each immigrant between \$2,000 and \$6,000 in lawyers' fees. And it will be up to an INS official to decide what constitutes extreme hardship.

Here, Clinton has an opportunity to redress a wrong. He can and should make a fair decision on this group of Central Americans who got caught up in wars in which Washington had a significant hand.

The president should consider that these immigrants have grown roots in America, borne children here and made a life and a living. That they became victims of war was largely a matter of chance. Clinton should eliminate that element in this situation and give a fair hearing and then amnesty to all deemed worthy of it. And he should hesitate no longer.

*Clinton should resolve the
situation of the 190,000
Salvadorans and 50,000
Guatemalans who fled the Central
American wars of the 1980s.*

[discussing
proposed
regulations
under
NACARA § 203]

Real help for Central America

The White House is in need of a few good foreign policy experts. Then again, anyone with a little common sense will do. This sensible White House employee would have told President Bill Clinton not to time his visit to storm-torn Central America with the imminent deportation of thousands of immigrants from Guatemala and El Salvador who came to the United States fleeing the aftermath of Hurricane Mitch.

The immigrants were given a stay of deportation, which allowed them three months to live and work in the United States, because of the damaged condition of their storm-struck native lands. Coincidentally, that stay expired on March 8, the very day Mr. Clinton began his tour of Nicaragua, Honduras, El Salvador and Guatemala. Unsurprisingly, the deportation of the Guatemalans and Salvadorans became a dominant theme of the president's trip, when other more conciliatory issues, such as trade, should have come to the fore.

But even in this area, Mr. Clinton had nothing material to offer. Mr. Clinton intends to give Central American countries expanded trade privileges in wake of Mitch, but hasn't yet hammered out a deal with Congress. Mr. Clinton should have been working overtime to get those countries tariff reductions. Since he didn't, he could talk about trade, as he often does, but couldn't offer anything up.

The trip was a positive step in and of itself, but it was a missed opportunity. The president need not offer billions of dollars in aid to significantly help the struggling region but should certainly have

offered freer trade with the United States.

Mr. Clinton could have also made a simple, but key, change in U.S. immigration policy before his trip which would have heartened many Central Americans. Under a 1997 law, Salvadorans and Guatemalans applying for residency have to prove that their deportation to their native countries would cause them or their family members in the United States extreme hardship while Nicaraguans and Cubans don't have to go through this bureaucratic step. It is an expensive, lengthy and daunting task that invariably requires the help of an attorney. Mr. Clinton could grant Salvadorans and Guatemalans a blanket presumption of hardship, which would facilitate the process and create a more even playing field.

During his tour, Mr. Clinton said he would "do everything I possibly can" to put Salvadorans and Guatemalans on more equal footing with Nicaraguans and Cubans.

"It's peculiar to us why the administration doesn't just go ahead," said Angela Kelley, deputy director of the National Immigration Forum, an advocacy group for immigrants and refugees. Peculiar indeed. The president should have made the change before touring Central America.

The immigrants from Mitch-ravaged countries who live and work in the United States serve a valuable function. Salvadorans living in the United States send home a whopping \$1.2 billion a year. This is aid which U.S. taxpayers don't have to foot and is badly needed in the beleaguered region.

The Washington Times

w.washtimes.com

WASHINGTON, D.C., FRIDAY, MARCH 12, 1999

Price may
vary

Make room for refugees

By Lincoln Diaz-Balart

In 1997, when my respected colleague Rep. Lamar Smith, Republican of Texas, and I came together to work out the details of legislation to help Central American war refugees achieve permanent residence in the United States, we agreed on a generous bill. Hence my surprise when Mr. Smith recently complained that the administration, in implementing Section 203 of the Nicaraguan Adjustment and Central American Relief Act (NACARA), is on the verge of granting a 'de facto' amnesty to... illegal aliens from Central America.

It is important to understand that

*In the wake of
Hurricane Mitch, it is
absurd to put
applicants through a
cumbersome process.*

NACARA was created to bring closure to backlogged asylum and suspension of deportation cases brought by Central Americans and Eastern Europeans. These refugees had acquired the right to an immigration hearing prior to the Immigration Act of 1996. The 1996 act retroactively changed the rules and the refugees' rights before they could reach their day in court.

As the Senate noted on Nov. 9, 1997, in the Congressional Record in passing the act, the purpose of the Nicaraguan Adjustment and Central American Relief Act was to ensure that certain refugees be provided with a fair and equitable opportunity to demonstrate that they should be permitted to remain and pursue permanent residence in

Rep. Lincoln Diaz-Balart represents the 21st U.S. House district in Florida.

the United States. Thus, NACARA was created to give such refugees a humane and expeditious hearing.

Secondly, unlike Nicaraguans and Cubans under NACARA, Salvadorans, Guatemalans, and Eastern Europeans are not eligible for automatic permanent residence. Section 202 of the law accorded Nicaraguan and Cuban refugees from Western Hemisphere communism an instant process with which to apply for a green card. Section 203 provided Salvadorans, Guatemalans, and refugees from the former Soviet Republics an opportunity to apply for relief under procedures in place before the 1996 Act took effect. Under Section 203, an individual applicant would still have to show that he or she is a law-abiding member of the circumscribed class, and would suffer extreme hardship if deported to his or her country of origin.

Thirdly, the Guatemalans and Salvadorans eligible for relief are not illegal aliens. By definition, all of the Central Americans covered in the bill have followed the law and waited for a hearing under rules in effect when they applied. They have lived in the United States with temporary legal status for at least eight years, worked hard, paid taxes, built strong families, bought homes, and opened businesses. If not for mistakes made by the federal government, they would have been granted permanent status or citizenship in the United States years ago.

Finally, I am not alone in my interpretation of NACARA. Republican Sen. Orrin Hatch, Sen. Connie Mack, and Sen. Spencer Abraham have joined with me in calling on the attorney general to implement our legislation more generously, not less so. In proposed regulations, the Clinton administration seemed intent on forcing eligible applicants to jump through unnecessary bureaucratic hoops in order to prove they would suffer hardship if deported. In the wake of the devastation visited upon Central America by Hurricane Mitch, it is absurd to put applicants through a cumbersome and expensive process to prove what is obvious to all.

And in light of the billions of dollars in remittances sent to the region by Central American immigrants in the United States, it is contrary to our national interest to make Central Americans here expend vast sums on legal fees in the United States rather than on loved ones in Central America who are helping to rebuild their homes and the region. The administration should implement NACARA in the spirit it was enacted.

[discussing
proposed
regulations
under
NACARA §203]

Congress of the United States
House of Representatives
Washington, DC 20515-1304

COMMITTEES
BANKING AND FINANCIAL SERVICES
SUBCOMMITTEES
HOUSING AND COMMUNITY OPPORTUNITY
CAPITAL MARKETS, SECURITIES AND
GOVERNMENT SPONSORED ENTERPRISES
VETERANS' AFFAIRS
SUBCOMMITTEE
HEALTH
RANKING DEMOCRAT

COSPONSOR THE
"CENTRAL AMERICAN AND CARIBBEAN REFUGEE ADJUSTMENT
AND RELIEF ACT OF 1999" (H.R. 36)

March 23, 1999

Dear Colleague:

I am writing to request your support for The "CENTRAL AMERICAN AND CARIBBEAN REFUGEE ADJUSTMENT ACT" (H.R. 36), a bill that amends the Nicaraguan Adjustment and Central American Relief Act (NACARA) to provide certain nationals of El Salvador, Guatemala, Honduras and Haiti, as well as their spouses and children present in the United States, the opportunity to adjust their status.

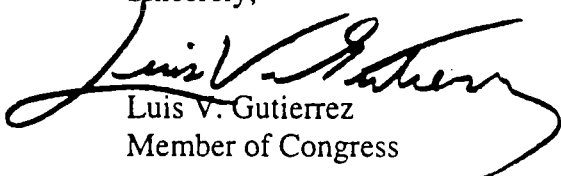
The need for this legislation was created with the passage of the Nicaraguan Adjustment and Central American Relief Act (NACARA). On November 19, 1997, the President signed the District of Columbia appropriations bill, which included NACARA, a bill that offers an amnesty program only to Nicaraguans and some Cubans. The legislation left similarly situated Central American immigrants without this kind of protection.

While this legislation was an incomplete and inadequate solution for many Guatemalans and Salvadorans, NACARA was an important first step toward fairness and common sense for Central American immigrants. The Central American and Caribbean Refugee Adjustment and Relief Act will finalize the process started by NACARA and make sure that the law allows for equal treatment of similarly situated Central American immigrants.

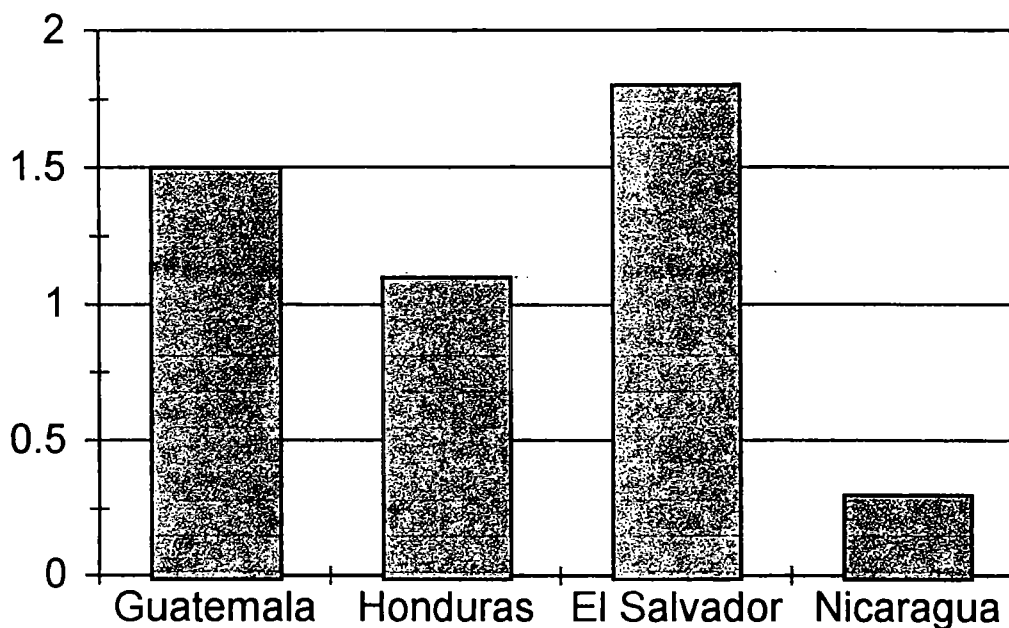
Your support for this legislation is vital. Passage of H.R. 36 would allow a Salvadoran, Guatemalan, Honduran or Haitian national who has been in the United States since December 1, 1995, and meets certain admissibility requirements, to become a lawful permanent resident.

I urge you to co-sponsor this reasonable and fair legislation. Please do not hesitate to contact me or my Legislative Director, Jennice Fuentes at 58203 if you have any questions or would like to have your name as a cosponsor.

Sincerely,


Luis V. Gutierrez
Member of Congress

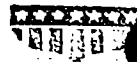
Imports from the United States 1997 (in billions of U.S. \$)



Imports from U.S. (in billions of U.S. \$)				
	1995	1996	1997	1998
Guatemala	1.4	1.4	1.5	n/a
Honduras	1.3	1.6	1.1	2.4
El Salvador	1.7	1.6	1.8	n/a
Nicaragua	0.3	0.3	0.3	n/a
Total	4.7	4.9	4.7	n/a

Sources: U.S. Department of State Country Reports on Economic Policy and Trade Practices. http://www.state.gov/www/issues/economic/trade_reports/97_toc.html.
Bureau of Inter-American Affairs, Background Notes: Honduras (March 1998) http://www.state.gov/www/background_notes/honduras_0398_bgn.html; (March 1999) http://www.state.gov/www/background_notes/honduras_0399_bgn.html.

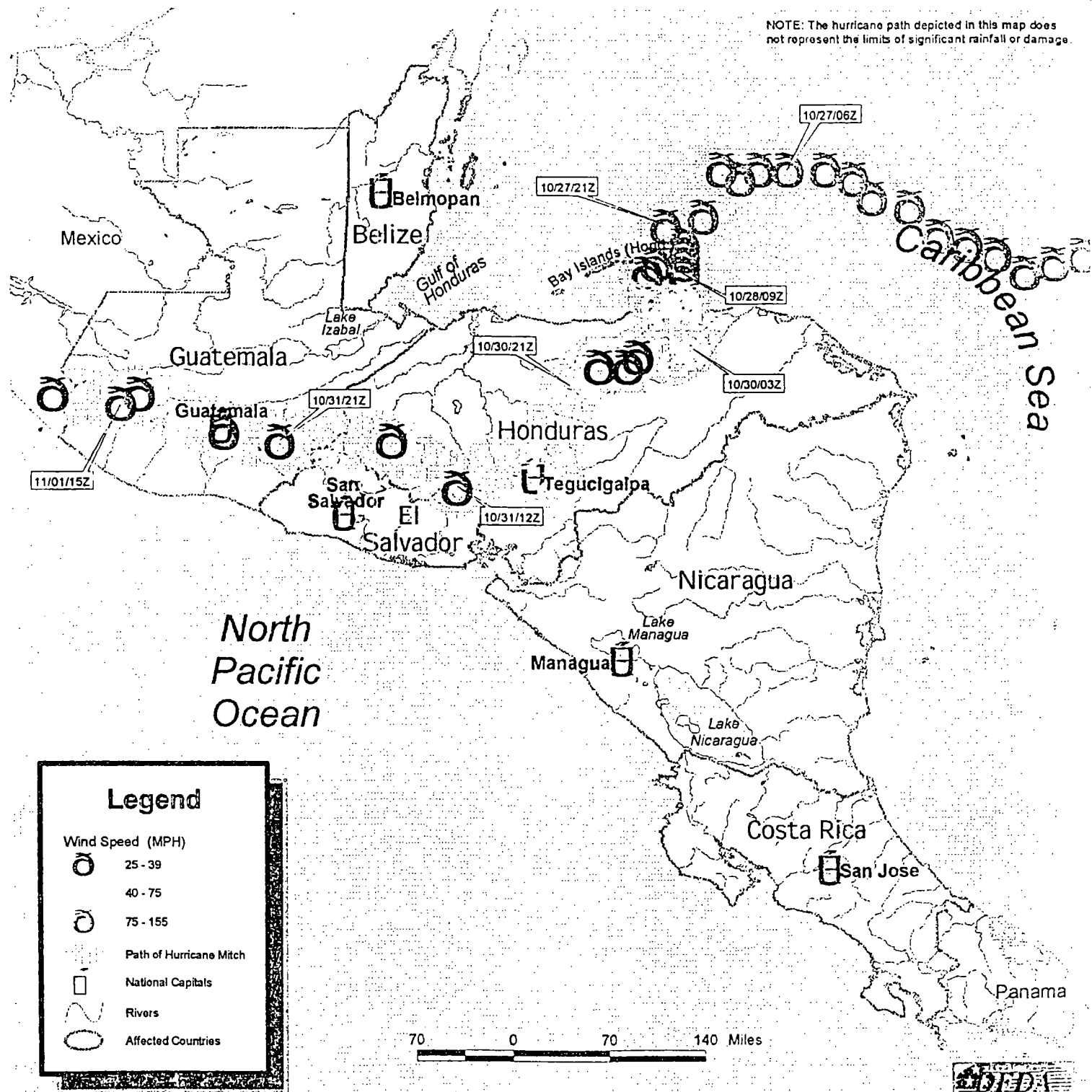
Chart and table prepared by the Central American Resource Center (CARECEN)
Washington D.C. 03/12/99



Track of Hurricane Mitch

From October 26 to November 1, 1998

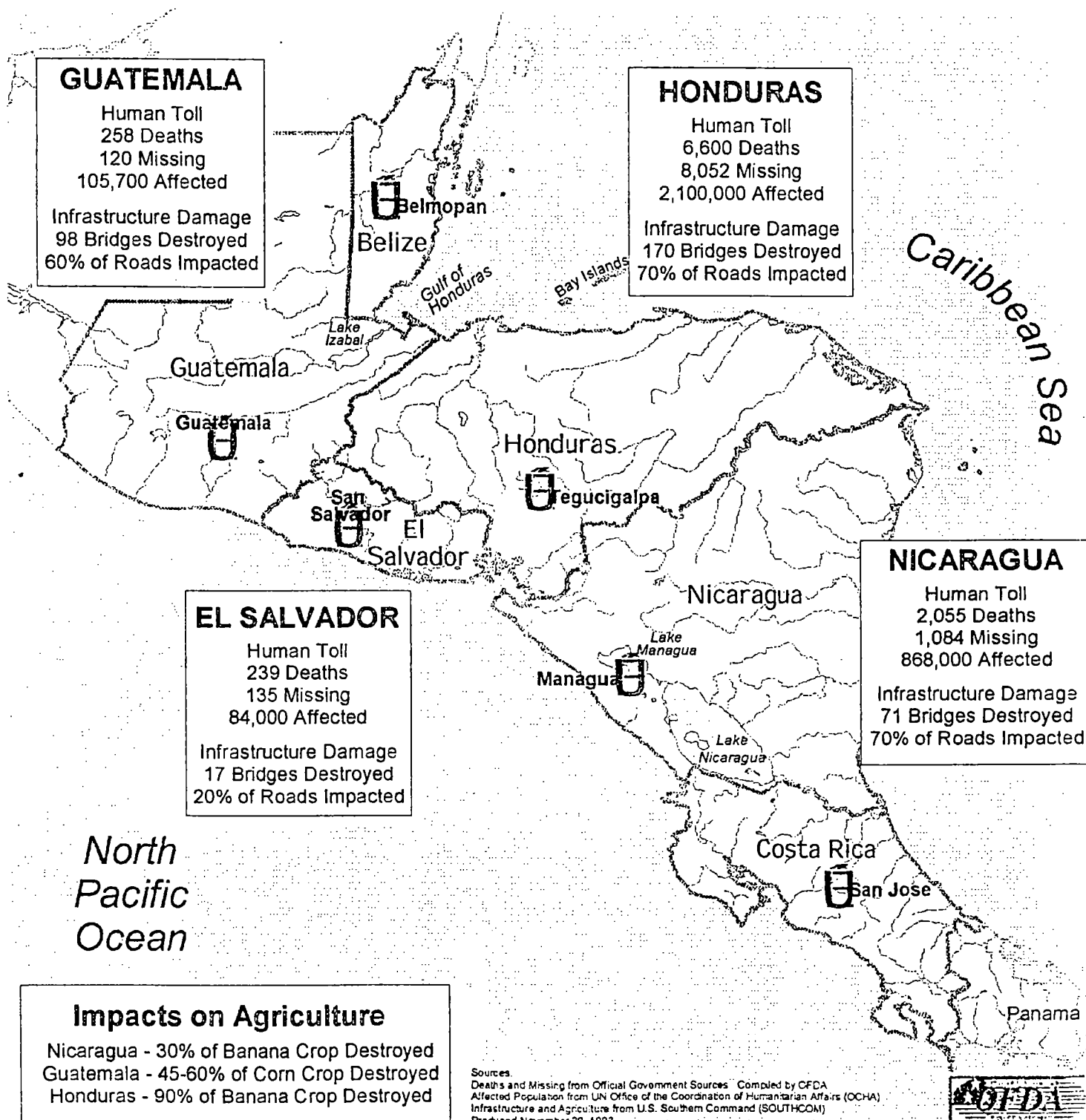
NOTE: The hurricane path depicted in this map does not represent the limits of significant rainfall or damage.



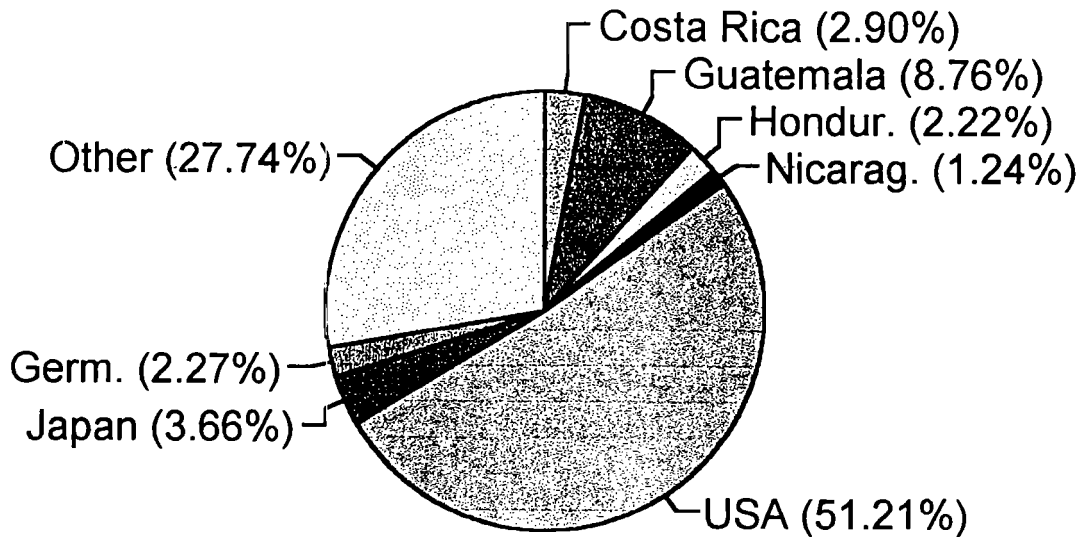
Effects of Hurricane Mitch

October - November, 1998

USAID



El Salvador - Imports by Origin 1998 - preliminary figures

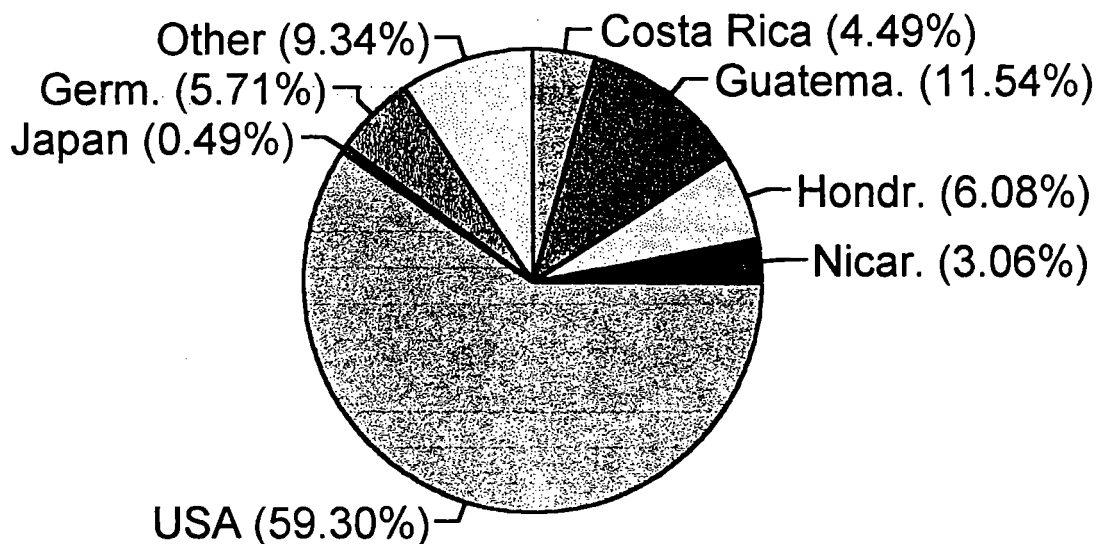


El Salvador - Imports by Origin (preliminary figures) in millions of US \$	1998
Costa Rica	115
Guatemala	347
Honduras	88
Nicaragua	49
USA	2029
Japan	145
Germany	90
Other	1099
Total	3962

Source: Central Reserve Bank of El Salvador
Annual Economic Indicators. <http://www.bcr.gob.sv>

Chart and table prepared by the Central American Resource Center, Washington, D.C., 03/04/99

El Salvador - Exports by Destination 1998 - preliminary figures



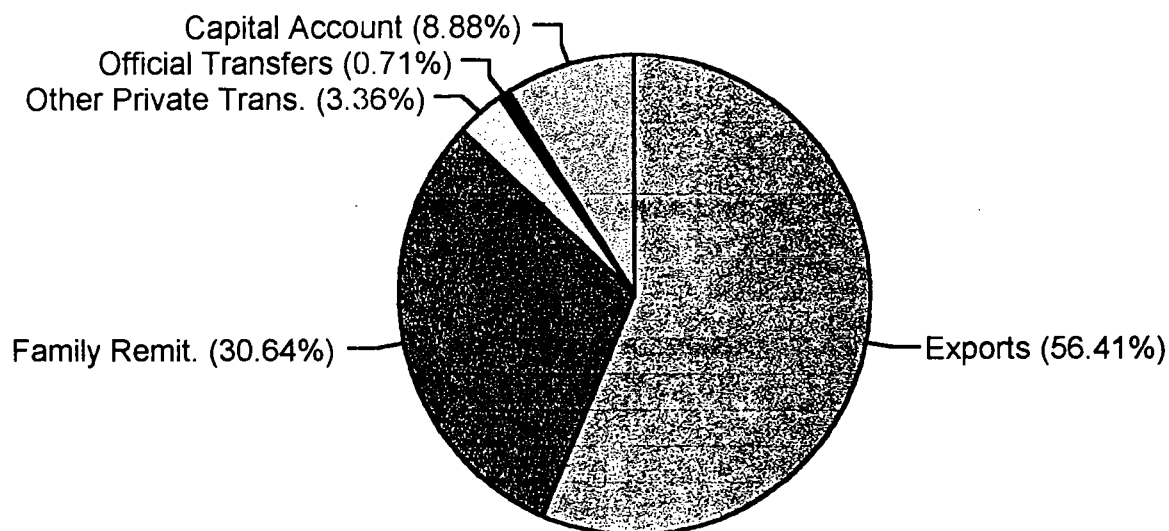
El Salvador - Exports by Destination (preliminary figures) in millions of US \$	1998
Costa Rica	110
Guatemala	283
Honduras	149
Nicaragua	75
USA	1454
Japan	12
Germany	140
Other	229
Total	2452

Source: Central Reserve Bank of El Salvador
Annual Economic Indicators. <http://www.bcr.gob.sv>

Chart and table prepared by the Central American Resource Center, Washington, D.C., 03/04/99

El Salvador - 1998

Net Sources of Foreign Exchange



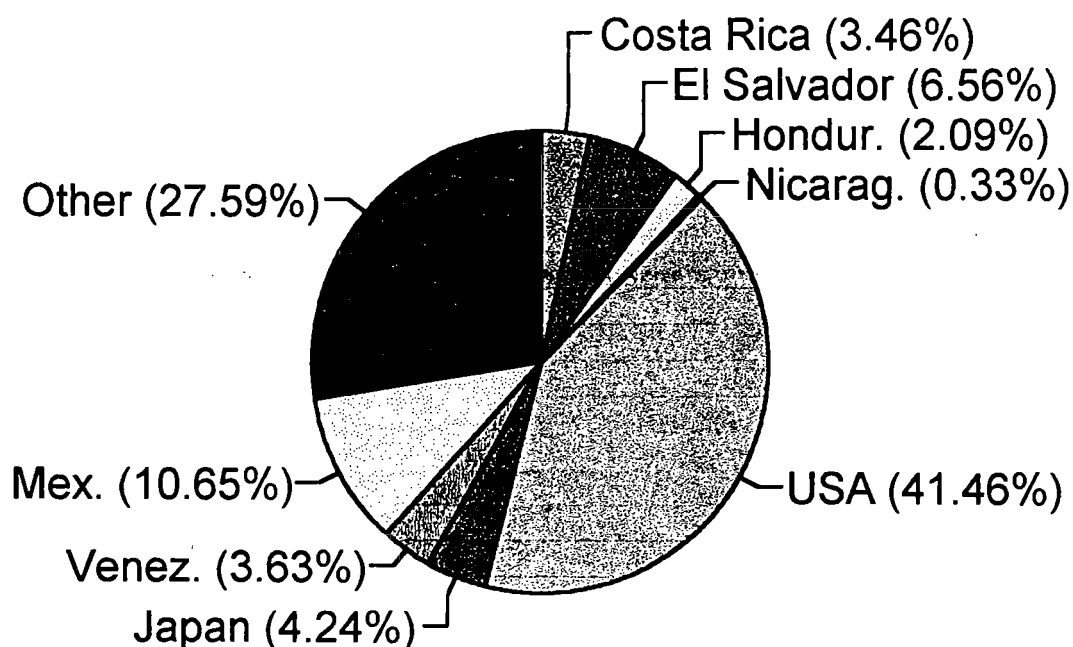
El Salvador- Balance of Payments	1998
(in millions of U.S. \$)	
FOB Exports	2452
CIF Imports	3962
Commercial Balance	-1510
Net Services	-82
Net Transfers	1509
Private	1478
Family Remittances	1332
Other	146
Official	31
Current Account	-83
Capital Account	386
Official Capital	-21
BCR Capital	-72
Others*	479
Balance of Payments	303

*Others in Capital Account includes Errors and Omissions, Private Capital, and Multisectoral Investment Bank.

Source: Central Reserve Bank of El Salvador
Short Term Indicators. <http://www.bcr.gob.sv>

Chart and table prepared by the Central American Resource Center, Washington, D.C., 03/04/99

Guatemala - Imports by Origin 1998 (Jan. through Sept.)

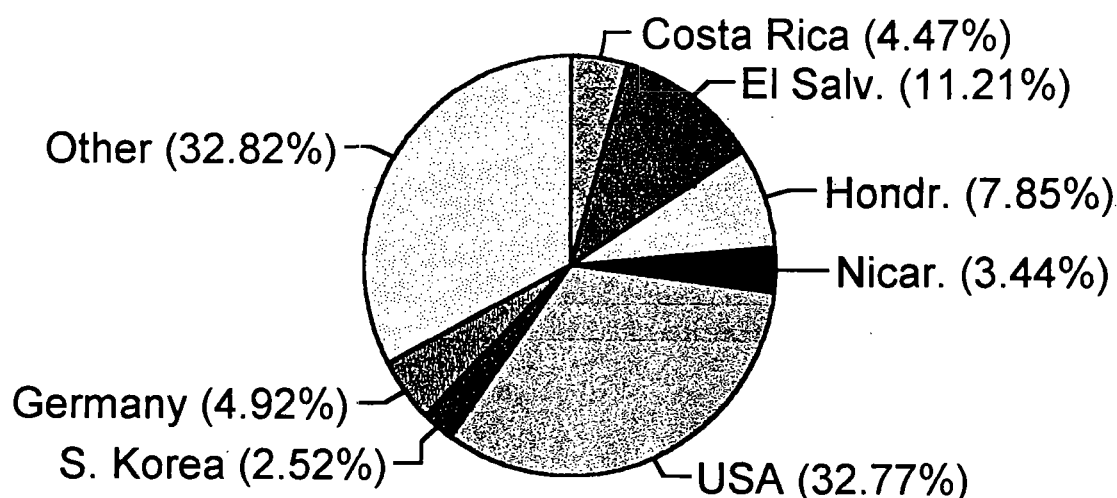


Guatemala - Imports by Origin	
1998 (Jan.-Sept.) in millions of US \$	
Costa Rica	117.3
El Salvador	222.7
Honduras	70.8
Nicaragua	11.1
USA	1406.8
Japan	143.9
Venezuela	123.1
Mexico	361.3
Other	936.1
Total	3393.1

Total 1997 Imports	
CIF Imports	3542.7

Source: National Bank of Guatemala; Publicaciones; Boletín Estadístico; Balanza de Pagos y Comercio Exterior; Exportaciones FOB e Importaciones CIF por Países Específicos. & . . . ; Balanza de Pagos. <http://www.banguat.gob.gt>
 Chart and tables prepared by Central American Resource Center, Washington, D.C. 03/08/99

Guatemala - Exports by Destination 1998 (Jan. through Sept.)



Guatemala - Exports by Destination	
1998 (Jan.-Sept.) in millions of US \$	
Costa Rica	92.7
El Salvador	232.2
Honduras	162.7
Nicaragua	71.2
USA	679.0
S. Korea	52.3
Germany	101.9
Other	679.9
Total (Jan. - Sept. 1998)	2071.9

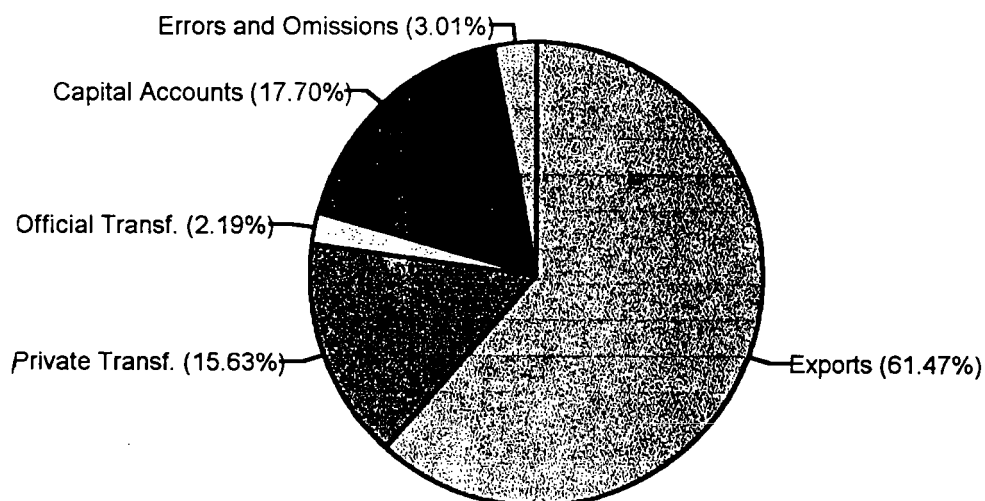
Total 1997 exports, in millions of US\$	
FOB Exports	2452

Source: National Bank of Guatemala; Publicaciones; Boletín Estadístico; Balanza de Pagos y Comercio Exterior; Exportaciones FOB e Importaciones CIF por Países Específicos.. <http://www.banguat.gob.gt>

Chart and tables prepared by Central American Resource Center, Washington, D.C. 03/08/99

Guatemala - 1997

Net Sources of Foreign Exchange



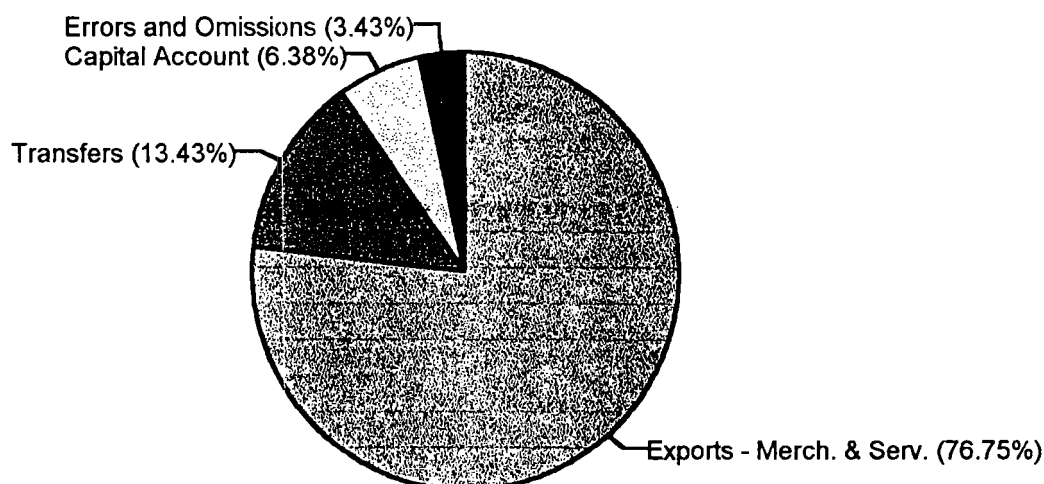
Guatemala - Balance of Payments		1997
(in millions of U.S. \$)		
Commercial Balance		-1156.8
FOB Exports		2385.9
FOB Commercial Balance		-3542.7
Net Services		-82.0
Net Transfers		691.7
Private Transfers		606.7
Official Transfers		85.0
Long-Term Capital		810.8
Direct Investment		-84.5
Official and Bank		277.0
Other		449.3
Short-Term Capital		-123.8
Errors and Omissions		116.9
Balance of Payments		256.8

Source: National Bank of Guatemala
 Publicaciones, Boletín Estadístico, Balanza de Pagos y Comercio Exterior,
 Balanza de Pagos. <http://www.banguat.gob.gt>

Chart and Table prepared by Central American Resource Center, Washington, D.C. 03/08/99

Honduras - 1998

Net Sources of Foreign Exchange



Honduras - Balance of Payments	1998
(preliminary figures, in millions of U.S. \$)	
Balance of goods & services	-584.6
Exports of merchandise & services	2446.1
Imports of merchandise & services	-3030.7
Net transfers	428.2
Balance in current account	156.4
Capital account	203.4
Errors & omissions	109.4
Total balance	156.4
Changes in international reserves	234.2
Total debt & arrearage changes	77.8
Debt renegotiation	70.7
Arrearage renegotiation	-31.3
Debt arrearage exchange	30.4
Debt conversion	0.0
Forgiveness for the year	8.0
Debt forgiveness	19.4
Arrearage reduction through debt forgiveness	-19.4

Source: National Bank of Honduras, Indicadores Economicos, Balanza de Pagos y Comercio Exterior. <http://www.bch.hn>

Chart and Table prepared by Central American Resource Center, Washington, D.C. 03/11/99



CENTRAL AMERICAN RESOURCE CENTER

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In Memoriam

Dr. Segundo Montes SJ
Central American University
San Salvador, El Salvador
(1932-1989)

Organizations listed only for
identification purposes

Saul Solorzano
Executive Director

Memorandum [abridged version]

**of the Central American Resource Center (CARECEN)
of Washington, D.C.**

in support of

H.R. 36

**The Central American and Caribbean Refugee Adjustment Act of 1999
Principal sponsor: The Honorable Luis Gutierrez**

prepared by

**Frank E. Howard, Esq.
Counsel for Policy, CARECEN**

March 19, 1999

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I. Introduction; II. Summary of H.R. 36; III. Temporary Programs affecting Central Americans and Haitians

I. Introduction

This memorandum summarizes the evidence which supports proposed immigration legislation now pending before the U.S. House of Representatives, H.R. 36, The Central American and Caribbean Refugee Adjustment Act of 1999. The principal sponsor of this legislation is Representative Luis Gutierrez. As of March 19, 1999 the bill had 70 cosponsors.

The bill H.R. 36 is substantially the same as the bill H.R. 3553 which Representative Gutierrez submitted before the 105th Congress, and which had received 112 cosponsors by the end of the last Congress. The only change in H.R. 36 from last year's bill is that H.R. 36 improves the protections for derivative family members of the principal beneficiaries of the proposed legislative class.

The need for H.R. 36 exists because present legislation, the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA), grants adequate relief to Nicaraguans and Cubans, but provides very limited protection to Salvadorans and to Guatemalans, and none at all to Hondurans. In addition, although separate legislation was passed last year for Haitians, that legislation nonetheless still falls short of the protections granted to Nicaraguans and Cubans under NACARA.

Many community agencies, including the Central American Resource Center, have urged the administration to adopt favorable regulations under section 203 of NACARA, the section which applies to certain Salvadorans and Guatemalans, so as to establish a procedure which is as simple and efficient as possible through which the beneficiaries of that section may apply for and receive permanent residence. Nonetheless, even the most favorable regulations under NACARA § 203 would be constrained by the inequities inherent in the NACARA statute itself. These statutory discrepancies would be eliminated by H.R. 36., which would grant to Salvadorans and to Guatemalans, as well as to Hondurans and Haitians, the same protections as are afforded to Nicaraguans and to Cubans under NACARA.

The need for H.R. 36 from a humanitarian point of view is even greater now than it was last year when Representative Gutierrez introduced H.R. 3553 before the 105th Congress. The damage caused by Hurricane

Mitch in October and November of 1998 has severely damaged the economies of Central America, making the reasons all the more compelling to grant permanent residence status to the Central Americans who would be protected by H.R. 36. With regard to Haiti, the deteriorating political situation in that country and its attendant economic difficulties are reasons for granting the stability of permanent residence to many of the Haitians now in the United States.

II. Summary of H.R. 36

H.R. 36 would grant to nationals of El Salvador, Guatemala, Honduras and Haiti the same treatment under NACARA section 202 as is now granted under section 202 only to nationals of Nicaragua and Cuba. The provisions in H.R. 36 regarding principal beneficiaries are identical to those in the previous bill, H.R. 3553.

In addition, H.R. 36 would also grant somewhat more favorable treatment to derivative family members, that is, to spouses, children and adult sons and daughters, by deleting the requirement in NACARA section 202 that derivative family members themselves be nationals of one of the named countries. The derivatives provision in H.R. 36 would mainly assure that all spouses of principal beneficiaries receive equal treatment, whether or not the spouses themselves are nationals of one of the named countries. This more favorable treatment of the nationality of derivative family members is already found in existing legislation under section 203 of NACARA for nationals of El Salvador, Guatemala and of the countries of the Former Soviet bloc. H.R. 36 would apply that same nationality standard to derivative family members of principals applying under NACARA section 202. Only the principal beneficiary would be required to be a national of one of the named countries, including principals who are nationals of Nicaragua and Cuba.

III. Temporary programs affecting Central Americans and Haitians

A. Honduran TPS and Nicaraguan TPS

Because of the damage to the country of Honduras from the flooding caused by Hurricane Mitch, Hondurans who were present in the United States as of January 5, 1999 have been granted an eighteen-month period of Temporary Protected Status, until July 5 of

the year 2000. Nationals of Honduras (or aliens having no nationality who last habitually resided in Honduras) who have been "continuously physically present" in the United States since January 5, 1999 and who have "continuously resided" in the United States since December 30, 1998, may apply for TPS within the registration period which began on January 5, 1999 and which ends on July 5, 1999.¹

Since Nicaragua was also severely damaged by the flooding from Hurricane Mitch, the same eighteen months of temporary protected status has been granted for Nicaraguans. Nationals of Nicaragua (or aliens having no nationality who last habitually resided in Nicaragua) who have been "continuously physically present" since January 5, 1999 and have "continuously resided" in the United States since December 30, 1998, may apply for TPS within the registration period which begins on January 5, 1999 and ends on July 5, 1999.²

B. Salvadoran and Guatemalan Stays of Removal

The Department of Justice has not granted Temporary Protected Status to nationals of El Salvador or to nationals of Guatemala. However, the Department of Justice granted stays of removal for Salvadorans and Guatemalans, initially until January 7, 1999. The stays of removal contained no provision for work authorizations for members of those nationality groups. The stays of deportation were later extended for 60 days until March 8, 1999.³ The stays were then allowed to lapse, thereby allowing deportations of Salvadorans and Guatemalans to resume as of March 9, 1999.

C. Haitian DED

With regard to nationals of Haiti, a presidential order of December 23, 1997 granted temporary protection of Deferred Enforced Departure (DED). That protection expired on December 22, 1998.⁴ Nonetheless, the work

authorizations of Haitians who registered for DED were automatically extended until December 22, 1999. According to an INS press release, the extension of work authorization was granted so that qualified Haitians "can continue to work while the INS develops regulations for the Haitian Refugee Immigration Fairness Act (HRIFA) of 1998."⁵ That Act is described below.

IV. Special legislation affecting Central Americans and Haitians

A. Nicaraguan Adjustment and Central American Relief Act of 1997

The Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA) provides for possible adjustment of status for permanent residence for members of certain nationality groups in the United States.

The two basic categories of protection in NACARA are section 202, which protects nationals of Nicaragua and Cuba, and section 203, which protects nationals of El Salvador, Guatemala, and former nationals of the former Soviet bloc.

Section 202 of NACARA allows for adjustment of status to permanent residence for nationals of Nicaragua and Cuba who have been continuously present in the United States since December 1, 1995.

Section 203 of NACARA is much more restrictive than section 202, and allows for adjustment of status to permanent residence to nationals of El Salvador, Guatemala and of the former Soviet bloc who were present in the United States as of certain specified dates in 1990 and who also satisfy the requirements for suspension of deportation or the requirements of a new relief known as special rule cancellation of removal, which is nearly identical to suspension of deportation. The elements of suspension of deportation and of special rule cancellation of removal include seven years continuous physical presence in the United States, a showing of extreme hardship if required to return to one's country of nationality, a showing of good moral character, and satisfying factors for the favorable exercise of discretion.

¹64 Federal Register 524 (January 5, 1999).

²64 Federal Register 526 (January 5, 1999).

³INS Press Release, December 30, 1998.

⁴INS Press Release, November 23, 1998.

⁵INS Press Release, December 14, 1998.

IV. Special legislation affecting Central Americans and Haitians

Section 202 and section 203 of NACARA also allow for adjustment of status of certain derivative family members, namely spouses, children and adult sons and daughters. Under section 202 the derivative family members themselves must also be nationals of Nicaragua or of Cuba, but they are not themselves required to have been continuously present in the United States since December 1, 1995. Under section 203, the derivative family members need not be nationals of El Salvador, Guatemala or one of the countries of the former Soviet bloc, but the derivative family members must individually satisfy the requirements for suspension of deportation or special rule cancellation of removal, including seven years physical presence in the United States, a showing of extreme hardship, good moral character, and favorable factors for the exercise of discretion. Sons and daughters, including children who have now reached the age of 21, have the additional requirement that they must have been present in the United States as of October 1, 1990.

Both sections 202 and 203 of NACARA incorporate the inadmissibility provisions pertaining to criminal offenses of section 212(a) of the Immigration and Nationality Act. In addition, section 203 of NACARA places additional restrictions on eligibility of persons who have certain other criminal convictions.

The Immigration and Naturalization Service (INS) implemented section 202 of NACARA promptly after it became law in November of 1997. Interim regulations were published in May 1998 which allowed section 202 beneficiaries, that is, Nicaraguans and Cubans, to begin submitting their applications for adjustment of status immediately.

The implementation of section 203 of NACARA by the INS has been greatly delayed, mainly because of efforts to integrate the benefits of section 203 with the benefits of a large class action settlement agreement known as the ABC case, which was settled in December of 1990 and which applied to many asylum applicants from El Salvador and Guatemala. Many of the beneficiaries of NACARA section 203 are also class members of the ABC settlement agreement.

Proposed regulations under NACARA section 203 were published on November 24, 1998. The official comment period ended on January 25, 1999. Final regulations have not yet been published as of March 19, 1999.

One of the issues in the proposed regulations which has generated the most discussion is the issue of extreme hardship. The proposed regulations under NACARA section 203 did not include the full exercise of the Attorney General's authority on the extreme hardship issue. Instead, the proposed regulations left that issue for individual adjudication by lower-ranking Department of Justice officials, following the same practice as had been used for similar applications for relief prior to the NACARA legislation.

Many nonprofit agencies submitted comments to the Department of Justice on the NACARA proposed regulations, specifically requesting that the Attorney General make group findings of extreme hardship for nationals of El Salvador and of Guatemala. The Central American Resource Center of Washington D.C. (CARECEN), the agency which has prepared the present memorandum in support of H.R. 36, was among the agencies which submitted official comments on the extreme hardship issue under the proposed NACARA section 203 regulations. Specifically, CARECEN recommended that the Attorney General make group findings of extreme hardship for nationals of El Salvador and of Guatemala to satisfy that element of the reliefs of suspension of deportation and special rule cancellation of removal. CARECEN agreed with the portions of the proposed regulations which would provide for individual adjudications on the other elements of those reliefs, including the absence of disqualifying criminal convictions, seven years continuous physical presence, and good moral character as well as on the factors for the exercise of discretion.

Nonetheless, even if the Department of Justice were to agree fully with the comments of CARECEN and the similar comments of many other community-based agencies serving nationals of El Salvador and of Guatemala, the statutory provisions of NACARA itself would prevent parity of treatment among Nicaraguans and Cubans, on the one hand, and Salvadorans and Guatemalans on the other.

The statutory eligibility date for Nicaraguans and Cubans under NACARA section 202 is December 1, 1995, while the eligibility dates under section 203 for Salvadorans and Guatemalans are October 1, 1990 for ABC class members and April 1, 1990 for other asylum applicants. Nicaraguans and Cubans need not show extreme hardship in order to qualify under section 202, while Salvadorans and Guatemalans do

need to show extreme hardship to qualify under section 203, in addition to each of the other elements of suspension of deportation or of cancellation of removal as described above.

Much of the factual evidence summarized below pertaining to nationals of El Salvador and of Guatemala was submitted previously to the Department of Justice as part of the Central American Resource Center's comments on the extreme hardship issue under the proposed regulations under section 203 of NACARA. Nonetheless, this evidence is also directly relevant to the need for legislative relief proposed in H.R. 36, because of the inherent discrepancies as described above in NACARA's treatment of Central Americans of different nationalities, discrepancies which cannot be fully ameliorated by NACARA implementing regulations, even if the comments of many nonprofit agencies on the extreme hardship issue were to be incorporated completely into the final regulations by the Department of Justice.

Nationals of Honduras were not covered at all in the 1997 NACARA legislation. Honduras did not itself experience a civil war, though it had been heavily affected by the civil wars in neighboring Nicaragua and El Salvador. But Honduras was the most severely damaged country by the rains and flooding from Hurricane Mitch in October and November of 1998, which was the worst natural disaster to strike Central America this century. Nationals of Honduras in the United States have no present statutory protection, even though their situation is now similar to that of nationals of Nicaragua, El Salvador and Guatemala in the United States.

Although many Hondurans in the United States currently have Temporary Protected Status until July 5, 2000, as described above, currently no provision exists by which any Hondurans may adjust this temporary protected status to permanent residence, even if they may have been present in the United States for several years or longer.

B. Haitian Refugee Immigration Fairness Act of 1998

In October of 1998 legislation providing benefits to certain Haitians was passed as part of the Omnibus Appropriations Act of 1999. The legislation was entitled the Haitian Refugee Immigration Fairness Act

of 1998 (HRIFA).⁶ This act provides for adjustment of status to permanent residence of nationals of Haiti who were present in the United States on December 31, 1995, and who either (A) filed for asylum before December 31, 1995, or (B) were paroled into the United States prior to December 31, 1995, after having been identified as having a credible fear of persecution, or were paroled for emergent reasons or reasons deemed strictly in the public interest. The act also protects as principals children of Haitian nationality who were present in the United States on December 31, 1995 and who were at the time and have remained since then without parents in the United States, or who were orphaned or abandoned by their parents. All adult principals and children principals must have been continuously present in the United States since December 31, 1995, with absences since then of no more than 180 days in the aggregate.⁷

HRIFA also protects as derivative beneficiaries spouses, children, and unmarried sons and daughters who are themselves nationals of Haiti, who are present in the United States and who have the required relationship with a principal who is protected under HRIFA. Unmarried sons and daughters in addition must have been continuously present in the United States since December 31, 1995, with absences since then of no more than 180 days in the aggregate.⁸

[V. through VIII. omitted from abridged memorandum. See page 7 for table of contents of full memorandum.]

⁶ Haitian Refugee Immigration Fairness Act of 1998 (HRIFA), Title IX (sic) of the Department of Transportation and Related Agencies Appropriations Act, 1999, Public Law: 105-277 (October 21, 1998) (Omnibus Appropriations Act).

⁷*Ibid.*, section 902(b).

⁸*Ibid.* section 902(d).

IX. United States interests

The United States has strong interests in the political stability of El Salvador, Guatemala, Honduras and Haiti because of the proximity of those countries to the United States, the substantial investments by the United States government in the form of foreign aid to those countries, and the strong economic and diplomatic ties between each country and the United States.

With regard to Salvadorans and Guatemalans, the Central American Resource Center has compiled information from a variety of sources as evidence of the United States interests in remedial legislation for those nationality groups. This information is presented above as well as in the appendix to this memorandum.

With regard to the United States economic interests in El Salvador, imports by El Salvador from the United States totaled \$2 billion during 1997, according to Salvadoran government figures, and \$1.8 billion during that year according to U.S. Department of State figures.⁹ Imports by Guatemala from the United States totaled \$1.4 billion during the first nine months of 1998, according to Guatemalan government sources, a figure would project to a total of more than \$1.8 billion for all of 1998.¹⁰ According to the U.S. Department of State, Guatemala's imports from the United States were estimated at \$1.5 billion in 1997.¹¹

⁹Central Reserve Bank of El Salvador, Annual Economic Indicators. <http://www.bcr.gob.sv>. U.S. Department of State Country Reports on Economic Policy and Trade Practices. http://www.state.gov/www/issues/economic/trade_reports/97_toc.html.

¹⁰National Bank of Guatemala, Economic Statistics, Imports by Country of Origin, <http://www.banguat.gob.gt>; InterAmerican Development Bank, Basic Socio-Economic Data for 16 March 1998, http://database.iadb.org/int/_brpt/english/gtmbtr.htm. See also: <http://www.iadb.org/int/sta/English/bprpt/english/gtmbtrpt.htm>.

¹¹Department of State's 1997 Country Reports, submitted to the U.S. Congress in January, 1998, available on line at http://www.state.gov/www/issues/economic/trade_reports/97_toc.html.

The Central American Resource Center's client base consists mainly of nationals of El Salvador and of Guatemalan. Therefore, with regard to Hondurans and Haitians, this memorandum has relied mainly on official U.S. government reports which are quoted above as evidence of the United States interests in remedial legislation for those nationality groups.

With regard to nationals of Honduras, the United States interests center on trade relationships as well as on the continuing need of Honduras for foreign assistance from the United States for reconstruction after the damage from flooding caused by Hurricane Mitch. Hondurans in the United States are certain to continue to provide economic support to Honduras in the form of family remittances as long as they are allowed to remain legally present in the United States, with work authorizations. Allowing these Hondurans to adjust their status to permanent residence will help them to obtain stable permanent employment in the United States, which will allow them to increase their family remittances sent back to Honduras.

With regard to nationals of Haiti, the United States still maintains a significant military presence in Haiti, and has committed its international prestige to the success of political reforms in Haiti. Any return to Haiti of Haitians in the United States who are not protected by current legislation would tend to further destabilize economic and political conditions in Haiti, which would damage the efforts of the United States to improve conditions in that country.

Aside from foreign policy considerations affecting El Salvador, Guatemala, Honduras and Haiti, other U.S. national interests concern domestic immigration adjudicatory processes. The United States has a strong interest in the efficient operation of the Immigration and Naturalization Service and of the Executive Office of Immigration Review. Both of these agencies are heavily affected by asylum applications from Salvadorans and Guatemalans, including applications by members of the ABC class, a program which is described above in sections V.A and VI.A of this memorandum. [omitted from abridged memorandum]

The asylum reform regulations which went into effect January 4, 1995 reduced greatly the number of monthly new applications for political asylum of non-ABC class members. Since those regulations took effect, the number of new non-ABC cases have not exceeded the scheduling capacity of the regional

Memorandum in support of H.R. 36 by CARECEN, Washington, D.C.

asylum offices, and some offices have also made significant progress in scheduling and deciding cases which had been waiting for interviews, known as the "backlog."

Nonetheless, due to the large number of asylum petitions received by the asylum office in previous years and due to the priorities established within the asylum office for the evaluation of asylum petitions, very few asylum petitions submitted by ABC class members have been decided. Only about 1500 ABC asylum petitions were decided during the brief period of ABC asylum interviews which occurred in 1997. Nearly all of the ABC asylum petitions still remain in the backlog.

The final regulations implementing section 203 of NACARA have not yet been published as of the date of this memorandum. If those regulations require individual adjudications of the extreme hardship issue for NACARA applications, most members of the ABC class will have to wait for from five to ten years for the adjudication of their political asylum applications and their NACARA suspension of deportation or special rule cancellation of removal applications, given the approximately 290,000 persons eligible for NACARA section 203, the limited number of asylum officers who will be available to adjudicate NACARA applications (perhaps 100 to 150 asylum officers) and the fact that each asylum officer is likely to be able to adjudicate only one or two cases per day.

Even if the final regulations under NACARA section 203 allow for group findings of extreme hardship or for a presumption of extreme hardship for Salvadorans and Guatemalans, the adjudication of relief under section 203 of NACARA would remain much more complex and time consuming than the adjudication of relief under section 202 of NACARA, which is the provision that applies to Nicaraguans and to Cubans. Even with such findings or with such a presumption, INS asylum officers could still be occupied for several years in adjudicating section 203 applications from Salvadorans and Guatemalans.

No financial cost to the United States government would arise from remedial legislation in favor of Salvadorans, Guatemalans, Hondurans and Haitians, and remedial legislation would actually help to reduce the cost to the INS of administrative adjudications, since the present requirements of NACARA section 203 for Salvadorans and Guatemalans are much more

complex than the requirements of NACARA section 202, which is now available only to nationals of Nicaragua and of Cuba.

Moreover, many of the potential beneficiaries of H.R. 36 would continue to work legally in the United States paying taxes to the federal, state and local governments, without seeking to receive public benefits. At the same time, these persons also send substantial remittances to their home countries, which reduces the amount of U.S. foreign aid needed by the countries of El Salvador, Guatemala Honduras and Haiti.

Remedial legislation as proposed by H.R. 36 for nationals of El Salvador, Guatemala, Honduras and Haiti would therefore be in the interests of the United States government.

X. Conclusion

For the foregoing reasons, Congress and the administration should support remedial legislation as proposed in H.R. 36, which would afford to nationals of El Salvador, Guatemala, Honduras and Haiti the protections of NACARA section 202 which are now available only to nationals of Nicaragua and of Cuba, and which would also provide equal treatment to all derivative family members of principal applicants, without restrictions as to the nationality of the derivative family members, provided that each derivative family member establishes the requisite family relationship with a principal applicant who is a national of one of the named countries.

Respectfully submitted,

19 Mar 99
Date

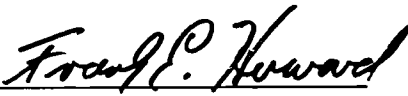

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Central American Resource Center
(CARECEN)
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Table of Contents of full memorandum

(Full memorandum available from CARECEN, 1459 Columbia Rd. N.W., Wash. D.C. 20009
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United States Senate

WASHINGTON, DC 20510

[discussing
proposed
regulations
under
NACARA § 203]

February 23, 1999

The Honorable Janet Reno
Attorney General
United States Department of Justice
10th & Constitution, N.W.
Washington, D.C. 20530

Dear Attorney General Reno:

We write to bring to your attention our concerns regarding the proposed rule published in the Federal Register on November 24, 1998, implementing Section 203 of the Nicaraguan Adjustment and Central American Relief Act (NACARA). A copy of the comments submitted by a bipartisan group of Senators to the Immigration and Naturalization Service are enclosed for your review.

Our particular concerns involve the issue of a group specific determination of "extreme hardship" for *American Baptist Churches, et al. v. Thornburgh* (ABC) class members who will comprise the vast majority of applicants for relief under Section 203 of NACARA. As NACARA's principal supporters in the Senate, we envisioned that a group-specific determination of extreme hardship would be permissible in adjudicating these cases. The ground work for implementing this requirement was set forth in the Explanatory Memorandum introduced in the Congressional Record which describes NACARA's purposes. Cognizant of the hardships ABC class members had already endured in fleeing their homelands, and the protracted delays and legal uncertainty they experienced in pursuing legal status in the United States, that memorandum directed the Department of Justice and the Immigration and Naturalization Service "to adjudicate applications for relief under this Act expeditiously and humanely." In our view, this intent can best be implemented by adopting a group-specific determination of extreme hardship for these Salvadorans and Guatemalans.

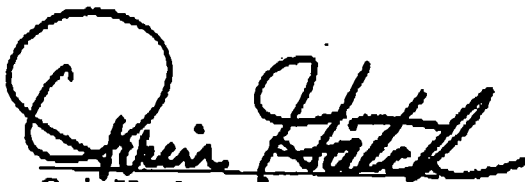
Similarly, the experiences shared by this group as a class support a determination of extreme hardship. Chief among these factors are the current political and economic conditions in El Salvador and Guatemala. Even before Hurricane Mitch, these countries were considered among the poorest in the Western Hemisphere. When Hurricane Mitch struck the region in November 1998, the little progress these countries had made in rebuilding their economies, infrastructures and communities after the end of the civil wars was substantially reversed.

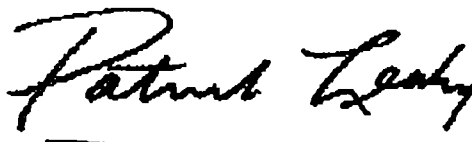
In our view, such a determination would also foster administrative efficiency and be fundamentally fair. Already-taxed adjudicators will be relieved of the substantial burden of reviewing and assessing each individual hardship claim, thereby reducing the processing time for

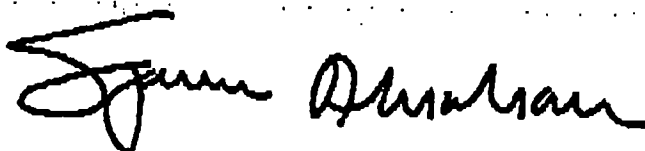
each application and the aggregate amount of time needed to implement this program. Applicants, the majority of who will not be able to secure legal representation, would also benefit from a group-specific extreme hardship determination that would take less time to prepare than would an application requiring an individualized extreme hardship determination.

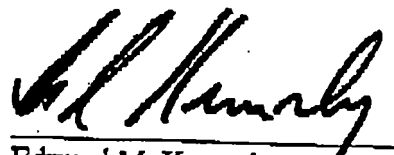
We hope that the INS will reconsider its proposed rule and adopt the recommendations we have made which are necessary to implement congressional intent to fairly and quickly adjudicate these cases.

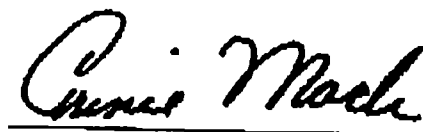
Sincerely,


Orrin Hatch


Patrick Leahy


Spencer Abraham


Edward M. Kennedy


Connie Mack


Bob Graham


Richard Durbin

Nicaraguan Adjustment and Central American Relief Act (NACARA)

Background

NACARA directed the Attorney General to legalize Nicaraguans and Cubans provided they meet certain criteria. However, Salvadorans and Guatemalans were provided only the right to apply for hardship relief from deportation or removal proceedings if they can demonstrate that they will experience “extreme hardship” if they are deported.

The INS is expected to issue final regulations as early as next month that seeks to address this inequity. The final regulation is expected to decide whether the INS will presume “extreme hardship” when Salvadorans or Guatemalans apply for hardship relief from deportation or removal proceedings. A presumption of “extreme hardship” will help make it easier for Salvadorans and Guatemalans to remain in the country.

During the President’s recent trip to Central America, the President committed to address the inequities created under NACARA either administratively or legislatively. Representative Gutierrez is sponsoring legislation to address this inequity. At this time, the Administration does not have formal position on this legislation.

Suggested Talking Points

- The Administration is trying to work within the context of current law to apply NACARA fairly to all immigrants covered under NACARA.
- We have asked the Attorney General to do all that she can, consistent with the law, to address the disparities left by NACARA.
- As you know, the Attorney General is currently considering comments on proposed regulations relating to NACARA. Many of those comments include a recommendation that the Attorney General adopt a presumption of “extreme hardship” in favor of Salvadorans and Guatemalans.
- While the Attorney General has not yet made a final decision, we expect that they will issue a regulation soon. If the regulation does not fully address the disparities left by NACARA, we will push for legislation.

DRAFT

NACARA Talking Points (for El Salvador and Guatemala)

- I agree with you that NACARA is unfair in treating Salvadorans and Guatemalans less favorably than Nicaraguans.
- I have asked the Attorney General to do all that she can, consistent with the law, to address the disparities left by NACARA.
- As you know, the Attorney General is currently considering comments on proposed regulations relating to NACARA. Many of those comments include a recommendation that the Attorney General adopt a presumption of "extreme hardship" in favor of Salvadorans and Guatemalans who are NACARA-eligible.
- We are hopeful that we will be able to adopt regulations that go a long way toward addressing the disparities left by NACARA. If that is not possible, we will push for legislation to achieve the same result.

Immigration Fax

March 24, 1999

Immigration News and Analysis by the National Immigration Forum

Contact: Angela Kelley, (202) 544-0004, ext. 19

This Fax Contains 2 Pages

Fairness for Central American Refugees Correcting Misconceptions

Attached is a letter to the editor of the *Washington Times* by Cesar Orantes, a leader in the Guatemalan community here in the U.S. The letter was written to correct some mischaracterizations made by Rep. Lamar Smith (R-TX), who wrote previously to the *Washington Times* about the Nicaraguan Adjustment and Central American Relief Act and the war refugees who would benefit from it.

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PAGE A18 / WEDNESDAY, MARCH 24, 1999

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Guatemalan and Salvadoran refugees are being singled out

As a Republican and a leader in the Guatemalan-American community in the United States, I was deeply offended by the March 15 letter from Rep. Lamar Smith, "Close the back door on immigration."

First, he unfairly attacks fellow Republicans such as Rep. Lincoln Diaz-Balart and Sens. Spencer Abraham and Connie Mack. Why? Because, unlike Mr. Smith, who has a distaste for immigrants and refugees, they are pressuring a reluctant Clinton administration to do what a 1997 law they sponsored was intended to do: enable a discrete group of Guatemalan and Salvadoran war refugees who have lived

legally in the United States for many years to become permanent residents.

Second, he smears the reputation of every one of the affected Guatemalans and Salvadorans by suggesting that during the brutal wars that erupted in the region, they supported left-wing insurgencies in their countries. The fact is that many Guatemalans and Salvadorans now in the United States fled to avoid forced recruitment and repression at the hands of guerrilla forces.

President Clinton should help Central America recover from the devastation caused by Hurricane Mitch by allowing established Cen-

tral American immigrants in the United States to live here with stability so that they can continue to send money home to help their families rebuild the region. Meanwhile, Mr. Smith should start listening to his fellow Republicans and the editors of The Washington Times, who are pressing the president to do so, and should stop driving Hispanic and other immigrants into the hands of the Democrats.

CESAR A. ORANTES

*President
National Congress of Guatemalan Organizations in the United States
Mount Vernon*

Pessimistic Salvadorans Prepare to Vote

Beset by Crime and Poverty, Some Say They Will Sit Out Presidential Election

By SERGE F. KOVALESKI
Washington Post Foreign Service

QUEZALTEPEQUE, El Salvador, March 6

It is perhaps the most violent town in one of the most violent countries in the world, a place overrun by gang warfare and rife with chilling testimonials and voices of despair.

"Sometimes we have to throw ourselves on the ground when they start throwing grenades and shooting at each other," Milagro Morales, 55, a vegetable vendor at Quezaltepeque's outdoor market, said as a shopper piped up with the news that "A guy was killed today in broad daylight right over there. He took a bullet or two in the head."

Nearby, vendor Flora Enriquez, 38, recalled how, several months ago, "I saw one guy slash off another guy's hand with a machete. When the fighting starts we usually run like hell, but I gave the boy a towel to put on his stump. He was screaming in agony." Dora Mejia, 59, who recently witnessed a murder, lamented, "When you leave home in the morning, you do not know if you will come back alive. Someone has to take a heavy hand to violence, but I do not see anyone with any real solutions for anything."

While the level of violence is not as high throughout El Salvador as in this town near the capital, San Salvador, runaway crime, poverty and other social problems continue to plague this small Central American country as voters prepare to go to the polls Sunday to elect a new president. Many Salvadorans say they feel increasingly disillusioned with their political leaders and pessimistic about prospects for meaningful change.

Seven years after a U.N.-brokered peace agreement ended a 12-year civil war, many Salvadorans say their expectations for a better life have not been met and, in some cases, they are worse off than before the conflict, which claimed an estimated 70,000 lives. The two main candidates have been criticized for proposing few concrete measures to deal with the country's chronic woes.

See EL SALVADOR, A27, Col. 1

0 50
MILES



BY JOHN ANDERSON—THE WASHINGTON POST

El Salvador at a Glance

COUNTRY AND POPULATION: El Salvador, the smallest of the Central American countries, has the highest population density in the Americas and one of the lowest per-capita incomes. The estimated population in 1997 was 5.66 million. It is heavily dependent on agriculture, with coffee as the major cash crop.

HISTORY: A 12-year civil war, which took more than 70,000 and devastated the country, ended in a peace accord in 1992. Poverty, crime and other social problems are endemic, some aggravated by the economic impact of the demobilization of soldiers and guerrillas under the terms of the peace treaty. Armando Calderon Sol of the Nationalist Republican Alliance (ARENA) won the first postwar presidential election in 1994.

TODAY'S ELECTION: The leading candidates are Francisco Flores, 39, of ARENA, a former speaker of the Legislative Assembly who stepped aside two years ago to campaign full time. ARENA has pledged to boost the economy, shore up shaky political institutions and deal with crime. Facundo Guardado, 44, a former guerrilla commander during the civil war, leads the Farabundo Marti National Liberation Front (FMLN), the guerrilla group that transformed itself into a political party after the war and toned down its more strident rhetoric. The FMLN makes some of the same promises as ARENA, and Guardado says his party's role is to "develop, modernize capitalism." Polls show ARENA with a substantial lead. A simple majority is required to avoid a second-round vote on April 18. ARENA currently has 29 seats in the assembly, while the FMLN holds 27.

Sources: Political Handbook of the World 1998 and news services.



Presidential candidate Francisco Flores, right, speaks to reporters with his running mate Carlos Quintanilla.

BY LUIS ROMERO—ASSOCIATED PRESS

THE WASHINGTON POST

Salvadorans Prepare To Vote for President

EL SALVADOR, From A21

Experts have estimated that 18 to 21 people die each day of violence stemming from a complex mix of factors, ranging from the large number of weapons still circulating from the war to deportations of Salvadoran criminals from the United States. Furthermore, a third of the country's population of 6 million lacks adequate housing and 60 percent of Salvadorans lack access to health services; more than 30 percent lack safe drinking water.

Despite unhappiness with the status quo, opinion polls show that a former speaker of the Legislative Assembly, Francisco Flores, 39, of the right-wing Nationalist Republican Alliance (ARENA), holds a large lead. ARENA has controlled the presidency for the last decade.

Flores's main opponent is Facundo Guardado, 44, a former guerrilla commander and candidate of the left-wing Farabundo Marti National Liberation Front (FMLN). There are five other candidates in Sunday's race. If no one receives a simple majority, a runoff between the top two finishers will be held April 18.

In the middle of last year, opinion polls indicated that the FMLN was neck and neck with ARENA, the party associated with El Salvador's economic elites that was linked to death squads during the war. It appeared that the former guerrillas were continuing to build on the broad support they had built in 1997 when their party won 27 seats in the

Legislative Assembly—just one less than ARENA—as well as capturing city halls in several major cities, including San Salvador. At the same time, President Armando Calderon Fournier's popularity was plummeting due to economic problems, worsening crime and allegations of corruption.

But the process of nominating a presidential candidate revealed a deep divide between those in the FMLN who were determined to maintain its leftist ideological heritage and those who thought it best to appeal to a wider base. Guardado was named the party's candidate, but not before it went through an extraordinarily rancorous and divisive battle that adversely affected its popularity.

The FMLN damaged themselves with their inability to manage their internal conflicts and contradictions," said Geoff Thale, of the Washington Office on Latin America, an educational and human rights group.

Furthermore, the leftist party is viewed as somewhat soft on crime during a period when El Salvador is believed to have the highest murder rate in Latin America. It was not until late in the campaign that the FMLN started calling for tough anti-crime measures.

Disillusionment with the FMLN has prompted some of its followers to defect to ARENA and smaller parties, while others say they will abstain from voting. One recent survey forecast that fewer than 50 percent of the 3.1 million registered



BY JANE FLORES—ASSOCIATED PRESS

Facundo Guardado of the FMLN addresses supporters at a rally.

voters would turn out to vote, raising concerns about of El Salvador's young democracy.

But David Escobar Galindo, a leading intellectual, said that abstentions in this case should not be viewed as apathy or an indicator that the country's democracy is faltering.

"It is a positive sign in that people are saying, 'Nobody has convinced me about government proposals or programs,'" he said. "It is a kind of complaint... Sometimes silence is more eloquent than words... Democracy in El Salvador is working in its basic learning period."

In what has been a low-key campaign largely devoid of personal and ideological attacks, the two major parties have strikingly similar platforms, both pledging to fight crime and poverty and shore up weak political institutions. They have also vowed to spur the economy, which is largely fueled by remittances sent here by Salvadorans who live in the United States—\$1.2 billion in 1998.

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Score: 64

Published Thursday, March 11, 1999, in the [The Miami Herald](#)

Diaz-Balart: Let 240,000 Guatemalans, Salvadorans stay

By **FRANK DAVIES**

Herald Staff Writer

WASHINGTON -- One of the best ways that U.S. officials can help rebuild Central America after the devastation of Hurricane Mitch is to allow about 240,000 Guatemalans and Salvadorans in legal limbo to stay in the United States and send money back home, immigration advocates argued Wednesday.

Rep. Lincoln Diaz-Balart, a Miami Republican and architect of a 1997 law to protect Central Americans' status, and the **National Immigration Forum** used the end of President Clinton's trip to the region to urge the administration to grant relief to people from those two countries.

"These are not illegal aliens, and they have every right to apply for permanent residence," Diaz-Balart said. "That was clearly the intent of the law."

That law provided blanket amnesty to some Cubans and Nicaraguans, but was less explicit about others, such as 190,000 Salvadorans and 50,000 Guatemalans who fled their countries during the civil wars of the 1980s.

Diaz-Balart and senators who worked on the legislation, including Republican Connie Mack and Democrat Bob Graham of Florida, said it was supposed to offer people from those nations "a fair and equitable opportunity" to demonstrate that they can stay in the United States.

But regulations approved by the Immigration and Naturalization Service last fall are restrictive, requiring proof on a case-by-case basis that deportation would cause "extreme hardship" to an individual -- a process that can be costly and time-consuming.

Rep. Lamar Smith, D-Texas, who chairs the House immigration subcommittee, has argued that Guatemalans and Salvadorans do not have "a presumption of extreme hardship" in the 1997 law and that its backers are trying to rewrite legislative history.

"That's Rep. Smith's interpretation, and I respectfully disagree with it," Diaz-Balart said.

Immigration advocates say the administration should "generously interpret" the law, and cite the damage wrought by Mitch as a good reason for allowing Central Americans to stay and send money to their relatives.

"It's not too late for the administration to do the right thing," said **Frank Sharry**, executive director of the Forum. He cited studies showing that Salvadorans sent home \$1.2 billion in 1997 -- a sum greater than all the U.S. aid to the entire region after the hurricane.

A Salvadoran who fled her country with her family nine years ago attended a Capitol Hill press conference to plead for permanent residence.

"I love living in America and the opportunities for my two children are here," said a tearful Delores Ventura, 23, who lives in Maryland.

Graham, who accompanied Clinton on part of his trip, lobbied the President to provide relief for the Guatemalans and Salvadorans, a member of the senator's staff said Wednesday.

Immigration Fax

March 16, 1999

Immigration News and Analysis by the National Immigration Forum

Contact: Angela Kelley, (202) 544-0004, ext. 19

This Fax Contains 4 Pages

Growing Demand in Congress to Treat Long-Resident Central American Refugees Fairly

The Clinton Administration is considering public comments to proposed regulations to implement the Nicaraguan Adjustment and Central American Relief Act (NACARA). The Act gives refugees from Central America, who have lived here legally in various temporary statuses for many years, an opportunity to become permanent U.S. residents. Regulations proposed in November of last year would require refugees from El Salvador and Guatemala to go through a bureaucratic and expensive process to prove they meet requirements to stay in the U.S. The most burdensome element of the proposed process is the need to individually prove something that all of these refugees have in common—that they will suffer extreme hardship if they are deported after so many years living in the U.S.

Hundreds of comments were received by the INS regarding the proposed regulation, most urging a process that would reduce the bureaucracy and expense by adopting a blanket presumption of hardship for these individuals. In addition to the public comments, there is a growing demand in Congress for the Administration to ease the procedural burden so that the legislation may live up to its promise.

Following are two recent news stories mentioning the building congressional sentiment for the law to be implemented fairly.

National Immigration Forum
220 I Street, NE, Suite 220 ♦ Washington, DC 20002-4362
Phone: (202) 544-0004 ♦ Fax: (202) 544-1905

Article 2

Florida Headlines

Lawmakers want rules eased for Salvadorans, Guatemalans

JIM SPECHT

03/12/99

Gannett News Service

FINAL

(Copyright 1999)

WASHINGTON - Two House Republicans Wednesday joined the growing demand in Congress that 240,000 people facing deportation to El Salvador and Guatemala be allowed to stay, saying the immigrants send their families as much as \$3 billion a year that can help restore the devastation caused by Hurricane Mitch.

Florida Republicans Lincoln Diaz-Balart and Ileana Ros-Lehtinen urged the Clinton administration to ease proposed rules that would require each of the Salvadorans and Guatemalans to prove individual hardship or be sent home by the Immigration and Naturalization Service.

The immigrants arrived in the United States illegally as long as 10 years ago, but were granted temporary legal status because of the deadly civil wars in their countries. That provision was ended by the sweeping immigration reform act passed two years ago, and the INS has announced it will begin hearings soon to determine who is to be returned to their countries.

Diaz-Balart and Ros-Lehtinen helped pass legislation in 1997 making it easier for those Salvadorans and Guatemalans to prove hardship. And now that Hurricane Mitch has left their homelands in a shambles, the lawmakers called on the INS to grant virtually blanket approval to allow the immigrants to stay in the United States.

"There is no better way to show solidarity and support for aiding the devastated countries of Central America than to allow their relatives to stay and send their vital economic support to their families," Diaz-Balart said. "They should not be made to spend significant amounts of money on a legal defense of why they might suffer hardship, when that money could be sent home."

Salvadorans and Guatemalans send back an estimated \$3 billion in monetary aid annually to their families - which is significantly more than the \$1.3 billion the Clinton administration has proposed in hurricane relief to the countries, said Demetrious Papademetriou of the Carnegie Endowment for Peace, who has studied how much money is sent home by immigrants. It would be economically foolish for the United States to cut off this vital supply of aid to those countries, which doesn't cost the taxpayer a cent, he said.

The call for consideration of granting blanket hardship status to the Salvadoran and Guatemalan immigrants is being seriously considered by the INS as it formulates its final rules for how to treat the potential deportation of those immigrants, said INS spokesman Russ Bergeron. The agency received more than 300 comments on its proposed rule - most supporting a humanitarian approach, he said.

In San Salvador Wednesday, President Clinton promised leaders of El Salvador that he will "do everything I possibly can" to ensure that immigrants from that country and Guatemala are treated more equitably along with those from Nicaragua and Cuba in U.S. immigration policy.

Those groups were granted immediate permanent immigrant status under the legislation passed last year. Republican lawmakers said the Nicaraguans and Cubans were U.S. allies against communist regimes, while the other groups were simply fleeing civil wars that have been settled for years.

The Reagan administration tried to immediately deport many of the Salvadoran and Guatemalan illegal immigrants when they arrived in the 1980s, but was blocked by federal court decisions declaring they had not been given adequate opportunities to defend their request for asylum.

Given work authorizations under temporary legal status, many of the 240,000 people affected by those court decisions now have children who are U.S. citizens, have bought houses and worked in jobs for years. They argue that to return them to their homelands, where jobs are scarce, would be a terrible hardship.

The legislation passed last year, the Nicaraguan Adjustment and Central American Relief Act, allows the INS to approve permanent immigrant status to anyone in the group who has been here at least seven years and can show significant hardship to themselves or their families if they are deported.

Republicans who support immigration reform are urging the administration to not change the rules. To do so would be to give blanket amnesty to 240,000 people who came to this country illegally, without even making them prove they might suffer hardship if they are returned home, said Rep. Lamar Smith, R-Texas, chairman of the House immigration subcommittee.

No deportation orders will be sent out until the rule for implementation is finalized, Bergeron said. Because of the extremely large number of comments made, and the complicated legal matter involved, there is no way to tell when the rule will be made final, he said.

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Irene Bueno
02/24/99 07:18:22 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Laura Emmett/WHO/EOP
Subject: NACARA

This is an update on a NACARA meeting I attended today chaired by Janet Murgia and attended by NSC, Justice and State staff. (Sorry I missed the police brutality meeting but it conflicted with this meeting but I got a report of the meeting).

We discussed the options presented by Scott Busby. The options were developed assuming that the DOJ regulations would provide the presumption of "extreme hardship" for NACARA groups (ie Salvadoran and Guatamalans). DOJ (James Costello) informed us that the regulations are not yet completed but he expects they will be soon.

The option that had consensus at least for the President's upcoming visit to Central America is for the President to announce the regulation. If the regulation is not ready, we will need to draft some language that communicates in the strongest terms possible that we are headed in the direction of providing presumption of extreme hardship. With regard to legislation to help other Central Americans, the President would indicate that the Administration will work with Congress to address this issue. I will bring you a copy of the list of options that Scott drafted. The consensus option is a modified option 1.

While there are some downsides with this approach (doesn't resolve the parity issue, other Central Americans and Eastern Europeans are not left out), I think that this option provides the right balance - targets and helps the Salvadorans and Guatamalans while at the same time not undermining our enforcement message by creating a magnet - if immigrants come here as undocumented immigrants that they will eventually be allowed to legalize.

The immediate next steps are for Scott to draft talking points that will be circulated for clearance and James will continue to press on the regulations. After the Central America trip, Janet, I and others will meet with groups and folks on the Hill to discuss next steps on legislation.

Based on discussions with the Hill, immigrant groups and others, this option would be okay for now but the announcement of the regulations is key. The Hill and some groups have another issue that may want to throw into the legislative mix dealing with Section 377 that requires a legislative fix (changing the registry date) and it is unclear if they will tie this fix to the NACARA legislation.

Please let me know if you have any questions.

Thanks.

Immigration Fax

March 19, 1999

Immigration News and Analysis by the National Immigration Forum

Contact: Angela Kelley, (202) 544-0004, ext. 19

This Fax Contains 2 Pages

Washington Times Calls on Administration to Help Central America by Helping Central American Immigrants in the U.S.

Congress and the Administration are still considering an aid package for Central America, to help the region recover from Hurricane Mitch.

In the meantime, the Administration could provide relief for the region by fairly implementing a law that Congress has already passed. The Nicaraguan Adjustment and Central American Relief Act (NACARA) provides an opportunity for certain Central Americans who have lived legally in the U.S. for many years to become permanent residents here. These individuals send hundreds of millions of dollars back to their countries, a sort of private relief effort for which U.S. taxpayers pay nothing.

The attached editorial from the Washington Times discusses this issue in more detail.

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PAGE A20 / THURSDAY, MARCH 18, 1999 *

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Real help for Central America

The White House is in need of a few good foreign policy experts. Then again, anyone with a little common sense will do. This sensible White House employee would have told President Bill Clinton not to time his visit to storm-torn Central America with the imminent deportation of thousands of immigrants from Guatemala and El Salvador who came to the United States fleeing the aftermath of Hurricane Mitch.

The immigrants were given a stay of deportation, which allowed them three months to live and work in the United States, because of the damaged condition of their storm-struck native lands. Coincidentally, that stay expired on March 8, the very day Mr. Clinton began his tour of Nicaragua, Honduras, El Salvador and Guatemala. Unsurprisingly, the deportation of the Guatemalans and Salvadorans became a dominant theme of the president's trip, when other more conciliatory issues, such as trade, should have come to the fore.

But even in this area, Mr. Clinton had nothing material to offer. Mr. Clinton intends to give Central American countries expanded trade privileges in wake of Mitch, but hasn't yet hammered out a deal with Congress. Mr. Clinton should have been working overtime to get those countries tariff reductions. Since he didn't, he could talk about trade, as he often does, but couldn't offer anything up.

The trip was a positive step in and of itself, but it was a missed opportunity. The president need not offer billions of dollars in aid to significantly help the struggling region but should certainly have

offered freer trade with the United States.

Mr. Clinton could have also made a simple, but key, change in U.S. immigration policy before his trip which would have heartened many Central Americans. Under a 1997 law, Salvadorans and Guatemalans applying for residency have to prove that their deportation to their native countries would cause them or their family members in the United States extreme hardship while Nicaraguans and Cubans don't have to go through this bureaucratic step. It is an expensive, lengthy and daunting task that invariably requires the help of an attorney. Mr. Clinton could grant Salvadorans and Guatemalans a blanket presumption of hardship, which would facilitate the process and create a more even playing field.

During his tour, Mr. Clinton said he would "do everything I possibly can" to put Salvadorans and Guatemalans on more equal footing with Nicaraguans and Cubans.

"It's peculiar to us why the administration doesn't just go ahead," said Angela Kelley, deputy director of the National Immigration Forum, an advocacy group for immigrants and refugees. Peculiar indeed. The president should have made the change before touring Central America.

The immigrants from Mitch-ravaged countries who live and work in the United States serve a valuable function. Salvadorans living in the United States send home a whopping \$1.2 billion a year. This is aid which U.S. taxpayers don't have to foot and is badly needed in the beleaguered region.

Immigration Fax

March 12, 1999

Immigration News and Analysis by the National Immigration Forum

Contact: Angela Kelley, (202) 544-0004, ext. 19

This Fax Contains 2 Pages

"The Administration Should Implement NACARA in the Spirit It Was Enacted"

Legislation's Co-sponsor Writes to Clarify Misconceptions about Central American Relief Bill

When Rep. Lamar Smith (R-TX) recently denounced the Administration for considering an "amnesty" for "illegal aliens," drafters of the legislation to which he was referring—the Nicaraguan Adjustment and Central American Relief Act (NACARA) were surprised by Rep. Smith's mischaracterization of the legislation and the individuals to whom it would apply.

As Chair of the Immigration Subcommittee in the House, Rep. Smith should know that what the Administration is considering is not an "amnesty." In reality, the Administration is considering only what the members of Congress who drafted the legislation and worked hardest for its passage expected—a procedure that would not be excessively bureaucratic, under which qualified individuals could apply to resolve their status in the U.S.

Furthermore, Rep. Smith should know that the individuals who would qualify under the legislation are not "illegal aliens." They have been living here legally in various temporary statuses for many years, and they were eligible to apply to resolve their status under a provision of law that was changed in 1996.

A clear statement on the legislation, the individuals who would benefit from it, and what is expected of the Administration in implementing the legislation can be found in the attached letter from Rep. Lincoln Diaz-Balart (R-FL). Rep. Diaz-Balart, as a drafter of the legislation and key to its passage, is now seeking to ensure that Congress' intent is not defeated by an implementation process that will be excessively burdensome for potential applicants.

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The Washington Times

w.washtimes.com

WASHINGTON, D.C., FRIDAY, MARCH 12, 1999

Printed by
PUBLICATION

Make room for refugees

By Lincoln Diaz-Balart

In 1997, when my respected colleague Rep. Lamar Smith, Republican of Texas, and I came together to work out the details of legislation to help Central American war refugees achieve permanent residence in the United States, we agreed on a generous bill. Hence my surprise when Mr. Smith recently complained that the administration, in implementing Section 203 of the Nicaraguan Adjustment and Central American Relief Act (NACARA), is on the verge of granting a 'de facto' amnesty to ... illegal aliens from Central America.

It is important to understand that

In the wake of Hurricane Mitch, it is absurd to put applicants through a cumbersome process.

NACARA was created to bring closure to backlogged asylum and suspension of deportation cases brought by Central Americans and Eastern Europeans. These refugees had acquired the right to an immigration hearing prior to the Immigration Act of 1996. The 1996 act retroactively changed the rules and the refugees' rights before they could reach their day in court.

As the Senate noted on Nov. 9, 1997, in the Congressional Record in passing the act, the purpose of the Nicaraguan Adjustment and Central American Relief Act was to ensure that certain refugees be provided with a fair and equitable opportunity to demonstrate that they should be permitted to remain and pursue permanent residence in

the United States. Thus, NACARA was created to give such refugees a humane and expeditious hearing.

Secondly, unlike Nicaraguans and Cubans under NACARA, Salvadorans, Guatemalans, and Eastern Europeans are not eligible for automatic permanent residence. Section 202 of the law accorded Nicaraguan and Cuban refugees from Western Hemisphere communism an instant process with which to apply for a green card. Section 203 provided Salvadorans, Guatemalans, and refugees from the former Soviet Republics an opportunity to apply for relief under procedures in place before the 1996 Act took effect. Under Section 203, an individual applicant would still have to show that he or she is a law-abiding member of the circumscribed class, and would suffer extreme hardship if deported to his or her country of origin.

Thirdly, the Guatemalans and Salvadorans eligible for relief are not illegal aliens. By definition, all of the Central Americans covered in the bill have followed the law and waited for a hearing under rules in effect when they applied. They have lived in the United States with temporary legal status for at least eight years, worked hard, paid taxes, built strong families, bought homes, and opened businesses. If not for mistakes made by the federal government, they would have been granted permanent status or citizenship in the United States years ago.

Finally, I am not alone in my interpretation of NACARA. Republican Sen. Orrin Hatch, Sen. Connie Mack, and Sen. Spencer Abraham have joined with me in calling on the attorney general to implement our legislation more generously, not less so. In proposed regulations, the Clinton administration seemed intent on forcing eligible applicants to jump through unnecessary bureaucratic hoops in order to prove they would suffer hardship if deported. In the wake of the devastation visited upon Central America by Hurricane Mitch, it is absurd to put applicants through a cumbersome and expensive process to prove what is obvious to all.

And in light of the billions of dollars in remittances sent to the region by Central American immigrants in the United States, it is contrary to our national interest to make Central Americans here expend vast sums on legal fees in the United States rather than on loved ones in Central America who are helping to rebuild their homes and the region. The adminis-

Rep. Lincoln Diaz-Balart repre-

NEW YORK TIMES
MARCH 11, 1999

Peace and Poverty in Central America

The last time an American President went to Central America was 1982, when Ronald Reagan visited Honduras and Costa Rica.

That year was one of the bloodiest for El Salvador and for Guatemala, where a truth commission recently labeled 1982 as a peak period for what it termed the military's "genocide" of Mayan Indians in the civil war. But Mr. Reagan praised the military leaders of both nations and spent billions in lethal aid to their Governments and the Nicaraguan contras.

This week President Clinton is visiting a very different Central America and carries a very different message.

His trip is a belated recognition of the region's progress and importance to the United States. But Washington's support for wars in Central America 15 years ago is not being matched by its support for peace today.

In El Salvador and Guatemala, United Nations-sponsored peace agreements have brought former guerrillas into politics and committed the Governments to social reforms.

Mayan Indians, the marginalized majority in Guatemala, now serve in Parliament and as local mayors.

In El Salvador the party of the former guerrillas lost this week's presidential elections but was able to campaign freely.

The Sandinistas in Nicaragua won the war but lost at the ballot box, and stepped down in 1990.

The conflicts are over, but Central America's warring nations have essentially returned to the conditions of misery and inequality that caused the wars to begin with.

While El Salvador has experienced steady economic growth, poverty in rural areas remains unchanged. In Nicaragua, the poor are worse off than at its war's end. Huge debts have kept the region from spending money to fight poverty. Nicaragua, for example, pays 11 times more in debt service than it spends on health care each year.

Many of the postwar governments' reforms -- new police or judicial systems -- have not solved the underlying problems that made these bodies responsive mainly to the rich and powerful. Even the local governments admit that free-market changes have so far mainly served the urban wealthy and middle class.

Last year the region suffered its worst natural disaster of the century in Hurricane Mitch, which will set back development in Honduras and Nicaragua for decades.

That is why President Clinton's visit, important as it is, is a missed opportunity. Mr. Clinton is doling out his celebrated compassion, but little in the way of money.

A billion dollars in post-hurricane aid is being held up in Congress.

The Administration should allow the quarter-million immigrants who fled the wars in Salvador and Guatemala to stay in the United States.

It must also forgive the debt burdens that were already crippling the countries most devastated by the hurricane, and try to persuade international lending institutions to do the same.

Washington spent billions of dollars in the 1980's on wars in Central America.

It should now increase its commitment to supporting peace and prosperity.
END

**HERALDLINK FULL STORY***Posted at 8:33 p.m. EST Wednesday, March 10, 1999*

Diaz-Balart: Let 240,000 Guatemalans, Salvadorans stay

By FRANK DAVIES

Herald Staff Writer

WASHINGTON -- One of the best ways that U.S. officials can help rebuild Central America after the devastation of Hurricane Mitch is to allow about 240,000 Guatemalans and Salvadorans in legal limbo to stay in the United States and send money back home, immigration advocates argued Wednesday.

Rep. Lincoln Diaz-Balart, a Miami Republican and architect of a 1997 law to protect Central Americans' status, and the National Immigration Forum used the end of President Clinton's trip to the region to urge the administration to grant relief to people from those two countries.

"These are not illegal aliens, and they have every right to apply for permanent residence," Diaz-Balart said. "That was clearly the intent of the law."

That law provided blanket amnesty to some Cubans and Nicaraguans, but was less explicit about others, such as 190,000 Salvadorans and 50,000 Guatemalans who fled their countries during the civil wars of the 1980s.

Diaz-Balart and senators who worked on the legislation, including Republican Connie Mack and Democrat Bob Graham of Florida, said it was supposed to offer people from those nations "a fair and equitable opportunity" to demonstrate that they can stay in the United States.

But regulations approved by the Immigration and Naturalization Service last fall are restrictive, requiring proof on a case-by-case basis that deportation would cause "extreme hardship" to an individual -- a process that can be costly and time-consuming.

Rep. Lamar Smith, D-Texas, who chairs the House immigration subcommittee, has argued that Guatemalans and Salvadorans do not have "a presumption of extreme hardship" in the 1997 law and that its backers are trying to rewrite legislative history.

"That's Rep. Smith's interpretation, and I respectfully disagree with it," Diaz-Balart said.

Immigration advocates say the administration should "generously interpret" the law, and cite the damage wrought by Mitch as a good reason for allowing Central Americans to stay and send money to their relatives.

"It's not too late for the administration to do the right thing," said Frank Sharry, executive director of the Forum. He cited studies showing that Salvadorans sent home \$1.2 billion in 1997 -- a sum greater than all the U.S.

aid to the entire region after the hurricane.

A Salvadoran who fled her country with her family nine years ago attended a Capitol Hill press conference to plead for permanent residence.

"I love living in America and the opportunities for my two children are here," said a tearful Delores Ventura, 23, who lives in Maryland.

Graham, who accompanied Clinton on part of his trip, lobbied the President to provide relief for the Guatemalans and Salvadorans, a member of the senator's staff said Wednesday.

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Getting in touch with HERALDlink



HERALDLINK FULL STORY

Posted at 8:34 p.m. EST Wednesday, March 10, 1999

Guatemalan protesters jeer Clinton over U.S. repatriation policy

By **GLENN GARVIN**
Herald Staff Writer

GUATEMALA CITY -- President Clinton's tour of Central America struck its first audible sour note Wednesday when he had to wait 20 minutes inside Air Force One on a runway here while police cleared a large crowd of noisy demonstrators away from the entrance to the presidential palace.

Even after police moved the crowd far enough from the palace to permit Clinton's motorcade to enter, jeering hecklers outside could be heard throughout the official ceremonies welcoming him to Guatemala.



Clinton addresses El Salvador's legislative assembly in San Salvador Wednesday.

◆ Diaz-Balart: Let 240,000 Guatemalans, Salvadorans stay

The demonstrators were protesting Clinton's insistence that the United States will continue deporting illegal Guatemalan immigrants to their homeland. A 60-day moratorium on the deportations in the wake of Hurricane Mitch ended this week.

It was a marked contrast to Clinton's warm greetings in Nicaragua, Honduras and El Salvador during the first two days of his trip. For the most part, the President was honored there for the hundreds of millions of dollars the United States contributed to hurricane relief efforts.

But in Guatemala, the repatriation policy -- which could potentially lead to the expulsion of 165,000 Guatemalans -- is universally unpopular. Many families survive on money sent home from relatives working in the United States.

And many citizens have been feeling edgy toward Washington since a Guatemalan government truth commission reported two weeks ago that the United States must share some of the blame for "genocidal" policies toward Guatemala's Indians during the country's long civil war.

The combination has made Clinton's visit the target of bitter public jibes for several weeks. The weapon of choice has been Monica Lewinsky jokes.

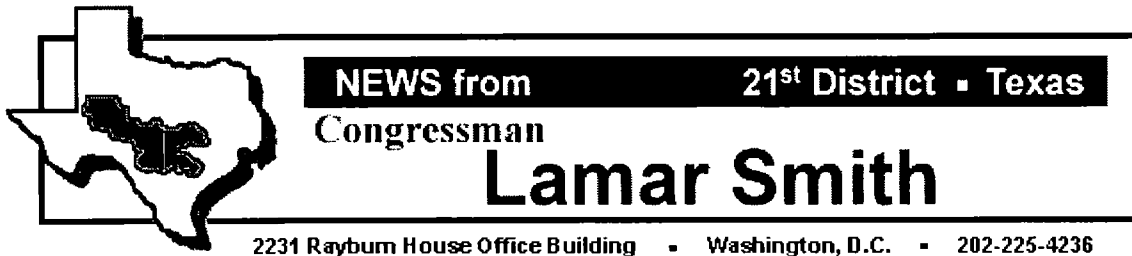
A cartoon in the daily newspaper Prensa Libre this week showed two men chatting about the President's arrival. Told that Clinton was not going to offer Guatemala help on either free trade or immigration, one of the men asks: "Well, then what's he going to do here?" The last panel of the cartoon shows Clinton sitting back in an easy chair, reading Monica Lewinsky's new tell-all book.

On Tuesday, the labor union that organized the protest outside the presidential palace showed reporters a Monica Lewinsky piñata, complete with trademark black beret, it planned to take to the demonstration.



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Getting in touch with HERALDlink



**ADMINISTRATION, SENATOR = S POSITIONS AT TIME OF
PASSAGE OF NACARA CONTRADICT EFFORTS NOW TO GRANT
AMNESTY TO CENTRAL AMERICANS**

FOR IMMEDIATE RELEASE

March 9, 1999

Seven Senators (Hatch, Leahy, Abraham, Kennedy, Graham, Mack and Durbin) now claim it was the intent of Congress that the INS implement Section 203 in a manner that contains a Apresumption of extreme hardship@ for all Guatemalans and Salvadorans covered under NACARA. Such a presumption is inconsistent with the negotiated agreement, is contrary to the plain language of the statute, and violates decades of case law on suspension of deportation.

Statements made by several of these Senators at the time the House and the Senate were considering NACARA contradict their current position:

Senator Mack: AThis is a narrowly targeted amendment which merely ensures that Central Americans receive the due process which they were originally promised. It is focused on an identifiable group of people and ensures their opportunity to apply for suspension of deportation. It is not a grant of immunity.@ (143 Cong. Rec. S10257-01-S10258 (October 1, 1997)).

Senator Graham: Al underscore what Senator Mack and I have said throughout this debate. This is not an amnesty provision. By the passage of this legislation, no one automatically has their status in the United States altered.@ (143 Cong. Rec. at S10258 (October 1, 1997)).

Senator Kennedy: ANot all these families will qualify. . . .They still must meet certain standards that existed in the law before the law was changed and applied retroactively. The Immigration and Naturalization Service estimates that less than half of those who qualify to apply to remain in this country will be approved. . . .@ (143 Cong. Rec. S10272-01, S10273 (October 1, 1997)).

AThe Republican bill provides for case-by-case consideration of the applications of refugees from El Salvador or Guatemala. Under current INS practices, less than half of those eligible to apply are expected to get their green cards. But refugees from Nicaragua and Cuba get a blanket amnesty. . . . A (emphasis added) (143 Cong. Rec. S10258-01, S12264 (October 1, 1997)).

Senator Abraham: ATitle II incorporates an agreement reached recently between House and Senate negotiators to correct provisions in last year = s immigration law In one form or another, this relief (suspension of deportation) has been in existence for 40 years. In recent times, and until April 1 of this year, it was available to anybody who had been here for 7 years, was of good moral character, and

whose deportation would cause extreme hardship to the person or his or her citizen or permanent resident immediate family members . . . @ (emphasis added)(143 Cong. Rec. S12258-01, S12261-S12263 (October 1, 1997)).

AThe legislative process of necessity involves compromise. The version of this legislation before us today contains some provisions that were not in Senator Mack = s original proposal. I am quick to say I preferred the original . . . A (143 Cong. Rec. S12258-01, S12261-S12263 (October 1, 1997)).

ADespite these reservations, I support this agreement. On the whole it will advance the cause of fairness and promise that America will make good on its commitments better than if we were to do nothing. It will free a large number of people from the threat of deportation. It will allow some of them to adjust to legal status and assure others of a fair hearing on their effort to do so. @ (emphasis added) (143 Cong. Rec. S12258-01, S12261-S12263 (October 1, 1997)).

The Administration: AThis legislative proposal would delay the effect of IIRIRA = s new provisions so that immigration cases pending before April 1, 1997, will continue to be considered and decided under the old suspension of deportation rules as they existed prior to that date This proposal dictates no particular outcome of any case. Every application for suspension of deportation or cancellation of removal must still be considered on a case-by-case basis. @ (143 Cong. Rec. at S10258 (October 1, 1997).

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