# U.S. Country Commercial Guides

## Guatemala 2019

U.S. Department of Commerce | International Trade Administration

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Legal Disclaimer:

# Doing Business in Guatemala

## Market Overview

Guatemala is the northernmost country in Central America with Mexico to the north and west, Belize and the Atlantic Ocean to the east, Honduras and El Salvador to the southeast and the Pacific Ocean to the south. Famed for its volcanoes, lakes, textiles, Mayan ruins, and temperate climate in the highlands, Guatemala is the gateway to a large regional market for U.S. goods and services.

The United States and Guatemala have long enjoyed a largely positive working relationship, both politically and economically. Despite this relationship, the country has often been beset with problems. A combination of economic stagnation, weak governance, and insecurity continues to be a major challenge. The recent surge in migration to the United States and Mexico from Honduras, El Salvador, and Guatemala is just one product of Central America's inability to find solutions to the challenges the region faces. Current efforts by Central American governments, United States, and other regional governments have proven insufficient to achieve meaningful progress in addressing these challenges. Absent significant progress, security may deteriorate, institutions will not be able to provide services to their citizens, millions will remain in poverty, and political instability may grow.

The cornerstone of the U.S. commercial policy for the region is the United States – Central America – Dominican Republic Free Trade Agreement (CAFTA-DR).

In general, the Agreement has been very successful for all parties. Intra-regional trade among Central American countries and the Dominican Republic increased from US$6.3 billion in 2010 to more than US$10 billion by 2018. U.S goods exports to Central America and the Dominican Republic have more than doubled since 2004 (prior to the Agreement taking affect for the first signatories). Nevertheless, the Agreement has been unable to solve some of the regions most serious problems – including physical insecurity and corruption.

Guatemalan GDP reached an estimated USD 78.45 billion in 2018, with an estimated 3.0 percent growth rate in 2018. The United States and Guatemala enjoy a growing trade relationship, which became even stronger after the entering into force of the U.S.-Central America-Dominican Republic Free Trade Agreement (CAFTA-DR). As of January 1, 2015, 100 percent of U.S. consumer and industrial goods enter CAFTA-DR countries duty free (for goods that meet the country of origin requirements). The United States is Guatemala's largest trading partner accounting for nearly 40 percent of Guatemala's trade.

U.S. merchandise exports to Guatemala were USD 6.6 billion in 2018. Leading U.S. exports to Guatemala include mineral fuel, oil, nuclear reactors and machinery, electric machinery and cereals (corn, wheat and rice). U.S. imports from Guatemala were USD 4.2 billion in 2018, a slight increase from 2017. U.S. imports include edible fruits and nuts; knit aparel; coffee, tea and spices; woven apparel; edible vegetables, roots and tubers.

The preliminary data from the Bank of Guatemala (BANGUAT) show that the flow of FDI totaled USD 1.03 billion in 2018 (1.31 percent of GDP), an 11.8 percent decline compared to USD 1.17 billion (1.55 percent of GDP) received in 2017. Activities that attracted most of the FDI flows over the last three years were commerce, manufacturing, electricity, banking and insurance, and telecommunications.

U.S. products and services enjoy strong brand recognition in Guatemala, and U.S. firms have a good reputation in the Guatemalan marketplace. It is estimated that approximately 200 U.S. firms have a presence in the market.

With a population of around 16 million, it is the most populous country in Central America and accounts for more than one-third of the region's GDP. The capital, Guatemala City, has a population of approximately 4 million and features first-class hotels and restaurants.

A key component to Guatemala's economy is remittances from migrants, most of whom have settled in the United States. In 2018 remittances increased by 13.4 percent and were equivalent to 11.8 percent of the GDP.

The economy is largely informal, with estimates upwards of 70 percent of employment, which is one of the reasons that tax revenue is the lowest in the region at 10 percent of gross domestic product and ranks 209th out of 220 countries in terms of revenues. A low tax base, combined with a reluctance to take on sovereign debt and new procurement laws to combat corruption, have resulted in government expenditures also being low. Guatemala's governmental expenditures are equivalent to only 12 percent of gross domestic product compared to a regional average of 18 percent.

The U.S. Strategy for Central America complements Guatemala's counterpart initiative, Alliance for Prosperity (A4P). The A4P, launched in 2014 coordinated with other Northern Triangle governments, is a $1.3 billion national development plan for Guatemalans to improve type, quantity, and quality of public services and works projects in 54 targeted municipalities, primarily in areas where most migration originates. The A4P continues to serve as Guatemala's primary national development policy for the country and while the government's leadership and the public's understanding of the A4P have improved, still significant stides need to be taken to improve economic opportunites for Guatemalans.

The Embassy has bolstered Guatemala's A4P by politically and financially backing a government-led dialogue with over 80 indigenous leaders in Guatemalan departments with the highest numbers of outward migration. The aim of the dialogue is to improve the quality and coverage of public services and projects in targeted indigenous communities to reduce illegal migration. This is a key focus as compared to 2018.

Increasing numbers of Guatemalans have abandoned the country to migrate illegally to the United States in 2019, returning to levels not seen since 2015. DHS apprehended more than 115,000 Guatemalans at the southwest border in FY 2018, and as of May 12, DHS apprehended just under 185,000 Guatemalans in FY 2019.

## Market Challenges

The political situation in Guatemala is marked by continuing corruption scandals and widespread calls for reform. On June 16, Guatemala held general elections for president, congress, and all 340 mayors. President Jimmy Morales was constitutionally barred from seeking re-election.

The Morales administration officially transitions authority to the next administration on January 14, 2020, and mayors officially transition authority on January 15, 2020. The initial results of the first round revealed that the candidate Sandra Torres and Alejandro Giammatei will compete in a second round on August A second round of presidential elections on August 11 to determine the new president.

On the commercial side, there have also been a growing number of complaints from U.S. stakeholders and companies regarding corruption and transparency issues within the country. In 2018, companies brought cases alleging corruption with Guatemalan procurement and court proceedings. These cases of unfair treatment against U.S. companies continue to reflect significant negative impact on Guatemala's investment climate. The U.S. government advocates for U.S. companies on the whole and for the use of open, fair, and transparent tenders in government procurement and in accordance with CAFTA-DR obligations allowing open participation by U.S. companies.

Other concerns such as violent crime and weak judicial institutions remain serious challenges. Issues related to the Certificate of Origin continuously represent an obstacle to access preferential tariffs by Guatemalan importers. Additionally, widespread corruption, impunity, labor rights abuses, protection of intellectual property, food insecurity, poor education, and deep socio-economic divisions continue to be key challenges for the government.

A significant reform to the Guatemalan Government Procurement Law was approved in 2015 by Congress. The bill should improve procurement transparency and efficiency by barring government contracts for financers of political campaigns/parties, congressmen, other elected officials, government workers, and their family members. It also will expand the scope of procurement oversight to include public trust funds and all institutions (including NGOs) executing public funds. To improve transparency, the bill will make the governments' electronic procurement system, Guatecompras, the only method of bidding on government projects. The law will also tighten bidding requirements to promote increased competition, and create an electronic auction modality that requires awarding the lowest bidder for certain contracts.

The U.S. commercial relationship with the region has additional challenges, and one of the newer more significant involves China's growing presence in the region. Mainland China has begun to make significant inroads in Central America with respect to investment – and consequently influence. Chinese trade with Central America has increased by 70 percent in the past five years. It has recently emerged as the second largest trading partner for much of Central America. China is now moving past exports of simple household electronics and motorbikes and is now engaging in major infrastructure projects in the region such as energy plants, seaports, and telecommunications. This often aggressive and anti-competitive investment is placing some U.S. investors at a significant disadvantage. In addition to harming U.S. investors, growing Chinese investment in regional infrastructure could potentially have significant negative repercussions for U.S. national security.

To counter growing Chinese competition in infrastructure projects in Central America, Commerce initiated a program to help spur investment into key regional projects and ensure fair competition and access. The program, the U.S. – Central America Deal Team, aims to capitalize on increased collaboration between U.S. agencies to respond more rapidly to new investment opportunities, provide better access to and knowledge of financing options, and more effective advocacy for U.S. firms.

## Market Opportunities

Guatemalan businesspeople are accustomed to doing business with the United States, and key contacts in the large corporations are fluent in English. They also travel regularly to the United States to conduct business and attend trade shows and conferences related to their field.

The Guatemalan market is competitive and price-sensitive. Businesspeople expect good after-sales service and support. U.S. brands enjoy a good and long-standing reputation in the market for superior quality, and for offering the after-sales support that competitors may not supply.

Despite a growing Asian presence in certain markets, the Guatemalans value conducting business with a neighbor partner who stands behind the "Made in the U.S.A" label. As a signatory member of CAFTA-DR, Guatemalan importers and business representatives of U.S. products obtain CAFTA-DR benefits for their products when conducting business with the United States. As of January 1, 2015, 100 percent of U.S. consumer and industrial goods enter the CAFTA-DR countries duty free (for goods that meet the country of origin requirements).

Under CAFTA-DR, more than half of U.S. agricultural exports now enter Central America and the Dominican Republic duty free. The remaining tariffs on virtually all U.S. agricultural products will be eliminated by 2020.

CAFTA-DR is the third largest Latin American market for U.S. goods, surpassed only by Mexico and Brazil. Along with reduced trade barriers, CAFTA-DR loosened restrictions that have historically locked U.S. firms into exclusive, often inefficient, distribution arrangements. CAFTA-DR member countries have further promised increased transparency in customs dealings, anti-corruption measures in government contracting and procurement, and strong legal protections for U.S. investors.

Regionalization has quickly become a fact of life for doing business in Central America. Factories and distribution facilities have been and continue to be designed to serve a regional market. Furthermore, rarely does a U.S. businessperson visit just one Central American country. New investors weigh the advantages that each country offers as they look to decide where to establish new plants. Regional managers are becoming the norm, with responsibilities for multiple countries within the Central American marketplace. Trade between the countries of Central America has also increased dramatically over recent years, a trend that was accelerated with CAFTA-DR implementation.

In March 2017, Guatemala began the implementation of the Trade Facilitation Agreement, under the WTO. Guatemala's participation in this initiative will benefit commerce through harmonization and automated systems in Customs, less discretional rulings, increased public-private sector dialogue, certainty and transparency on doing business internationally.

Central America Customs integration continued to play a key role in 2018, by incorporating El Salvador to the borders' opening within the Northern Triangle countries. The customs union within Guatemala, Honduras and El Savador facilitates to transport merchandise and people through its main border points under a smooth and practical system.

The government of Guatemala welcomes foreign investment and generally accords foreign investors national treatment. There are few legal or regulatory restrictions placed on foreign investors. However, the country needs to overcome several of the challenges aforementioned in order to make Guatemala a truly business and investment friendly market.

## Market Entry Strategy

Companies should consider their own resources, previous export or business experience abroad, and long-term business strategy before entering the Guatemalan market. Nevertheless, U.S. products and services enjoy an excellent reputation, and Guatemala is an attractive market for U.S. companies. One of the most common market entry options is finding a local agent or distributor. Other approaches include licensing, franchising, and identifying local partners for market knowledge and contacts.

The U.S. Department of Commerce, United States Foreign Commercial Service (USFCS) offers customized solutions to help U.S. companies, including small- and medium-sized enterprises, succeed in Guatemala. Given the regional nature of this market, this will often include consideration of market opportunities in other Central America countries as well. USFCS stands ready to help U.S. companies develop comprehensive market entry or expansion plans, learn about export- and customs-related requirements, obtain export financing, and identify potential partners, agents, and distributors through business matchmaking programs, trade shows, and trade missions led by senior U.S. Government officials. For U.S. companies that purchase our Gold Key Service, USFCS can facilitate one-on-one meetings with: pre-screened buyers; potential customers or end-users; experienced professional services providers; and key government officials. Furthermore, by engaging USFCS, U.S. companies can learn how to leverage high-level bilateral policy discussions. With these tools, explained in greater detail in this Country Commercial Guide, U.S. companies will be better positioned to take advantage of opportunities in Guatemala and throughout Central America.

In addition, the U.S. Department of Agriculture's Foreign Agricultural Service (FAS) provides equivalent-level trade services at no cost for U.S. companies interested in exporting agricultural, fishery, and forestry products through their Agricultural Trade Offices. FAS works with USDA agencies and other U.S. food safety-related agencies (, the United States Food and Drug Administration) to coordinate the U.S. response to newly arising sanitary, phytosanitary, and technical barriers to trade, such as identifying and resolving challenges posed by new procedures introduced at port or acquiring, translating, and coordinating the U.S. response to draft regulations that could affect U.S. exports.

## Political Environment

For additional background information on the political and economic environment of Guatemala, please click on the following link: https://www.state.gov/countries-areas/guatemala/.

## Selling US Products & Services

### Using an Agent to Sell US Products and Services

One of the most important decisions a U.S. company will make in Guatemala will be the selection of a qualified and competent sales representative and/or distributor. A distributor with well-positioned sales outlets in important commercial locations will greatly enhance chances of capturing a major share of the end-user market.

Firms with valuable intellectual property should take the legal steps necessary to ensure that it is protected. Firms should never delegate the job of registering intellectual property, such as trademarks and trade names, to a local agent, distributor or business partner. This should be done directly by the U.S. firm, with the assistance of a Guatemalan attorney. Careful attention to Intellectual Property Rights (IPR) issues initially will prevent problems later.

Selection of the appropriate agent or distributor requires time and effort. The same high standards used when selecting a representative in the United States should, to the greatest extent possible, be used in Guatemala. English language capability, while important, should not be over-emphasized as a decision factor when selecting an agent or distributor. Reputation, product and industry knowledge, track record, and commitment should be weighed heavily.

Exclusivity will be requested by most potential agents and distributors, not only for Guatemala, but also in some cases, for part or all Central America. U.S. exporters should scrutinize the request closely. The trend among U.S. and other foreign firms seeking representation in Guatemala is toward non-exclusivity and well-defined, renewable periods for representation. Guatemala can be a great place from which to enter the larger Central American market, but not all potential agents and distributors will be able to do this appropriately.

When deciding with whom to work, U.S. firms should take the time to get to know the people they are considering, both in business and social settings.

While finalizing an agency or distribution arrangement, U.S. exporters should make sure the agent or distributor understands clearly the terms of the relationship. The written agreement is important, however, both parties must understand the terms completely to avoid future problems. Exclusivity is understood unless the agreement specifically states otherwise.

Formal agency or distribution agreements should be reviewed by a Guatemalan attorney hired by the U.S. exporter. The attorney should be independent of the Guatemalan party with which the agreement is being established. The Guatemalan legal system can be slow and the law, under certain conditions, offers local agents and distributors a great deal of protection.

### Establishing an Office

A foreign entity, legally registered in its country of origin, and intending to do business in Guatemala must:

Register with the Mercantile Registry (Registro Mercantil) Registro Mercantil de Guatemala-

| | |
|---|---|
| Address: | 7a. Avenida 7-51, Zona 4 |
| | 01004 Guatemala |
| Ph.: | [502] 2317-3434 |
| Fax: | [502] 2334-1754 |
| Contact: | Silvia Ruiz, Registradora |

E-mail: info@registromercantil.gob.gt

Website: www.registromercantil.gob.gt

Documents for submission to the Mercantile Registry with Request for Registration:

- Proof that the entity is legally constituted in accordance with the laws of the country (state) in which it is organized or registered. Certified copy of the deed of incorporation (charter), the by-laws, and modifications thereto.
- Proof that the Board of Directors has duly resolved to operate in Guatemala and has authorized the legal procedure to obtain permission to do so.
- A power of attorney in which the person named is given ample powers to act and to represent the entity in all legal matters.
- A document in which an amount is assigned as capital, with reference to the entity's operations in Guatemala, and in which it is expressly stated that the entity will be responsible for its obligations in Guatemala with all its assets, both in Guatemala and abroad.
- A declaration that the entity recognizes the jurisdiction of the courts and laws of Guatemala, with respect to its activities and operations in the country, and that neither the entity nor its representatives and employees will seek special rights as foreigners.
- A declaration that the entity, prior to concluding operations in Guatemala, will fulfill all legal requirements in connection therewith.
- Certified copies of its latest financial statements (balance sheet and income account).

The documents must be certified by an authorized official in the country (state) of origin and must be authenticated by an appropriate Guatemalan Consular Official. For specific documentation on how to register foreign companies in Guatemala, please refer to the Mercantile Registry's website: http://www.registromercantil.gob.gt

Registration with the Guatemalan Internal Revenue Service – SAT-

Register with the Guatemalan Superintendence of Tax Administration (Superintendencia de Administración Tributaria – SAT) at:

Superintendencia de Administración Tributaria – SAT

Superintendent: Abel Cruz

Website: www.sat.gob.gt

Telephone: [502] 2329-7070

The documentation for registration with the SAT, as required by the Income Tax Law, is identical to that required for registration with the Mercantile Registry. It is advisable to have the documents prepared in duplicate and to submit one set to the SAT, together with a copy of the authorization to operate in Guatemala issued by the Mercantile Registry. Registration under the Value Added Tax (Decree 27-92) is also necessary. This registration can also be made at the SAT.

## Franchising

Recent history has shown that franchises are one of the most successful systems of expansion in the world. In Guatemala, the first U.S. franchise that opened was Pizza Hut in 1969, and since then, franchises have been thriving. In some cases, such as McDonald's, they have exceeded the expectations of the franchisor, and are used as great success stories in this region by the parent company.

McDonald's Guatemala has been so successful that they have been credited with creating the concept of the "Happy Meal", the famous Latin American "Derretido" (Grilled Cheese) and being selected as one of the worldwide test sites for the McCafe's.

The real boom in the franchising sector in Guatemala occurred within the last 10 years. The country has experienced the introduction of many world known franchises and has begun creating and developing local capital franchises that now have presence in the U.S., Europe, South America, and Asia. This trend has enhanced the confidence of potential investors or franchisees interested in Guatemala. According to the Guatemalan Franchise Association (AGF), fast food is the most popular subsector with 43 percent market share; followed by services with 33 percent, retail 11 percent, clothing 6 percent, and other 7 percent.

According to "Federación Iberoamericana de Franquicias" (FIAF), Guatemala is the largest franchise market in Central America, with over 300 franchise chains and 3,500 sales locations, which provide more than 25,000 direct jobs. Guatemala is also the fifth largest Latin American market for franchises; 80 percent of the franchises operated in Guatemala are of foreign origin, and 20 percent of local origin. FIAF estimates that 45 percent of the foreign franchises are from the United States, and the rest from Mexico, Spain, Brazil, Colombia, and others.

Local franchise companies operate mainly in the fields of fast food restaurants, bakeries, ice cream shops, automobile services and supplies, gas stations, advertising signs, hotels, beauty clinics, gifts, and toy shops.

There is a high concentration of franchise retailers in Guatemala City as it is the most populated city in the country with approximately 4 million people. Other cities like Quetzaltenango, Antigua, Huehuetenango, Cobán, and Escuintla have also shown growth in franchising.

Opportunities for U.S. franchises in this market are promising as Guatemalans welcome new ideas and are open to new franchising possibilities, specifically for recognized brands. Because of the proximity with the United States, many Guatemalans have experienced different U.S. concepts and want to bring them to Guatemala. It is highly suggested that franchises examine the market and determine if the franchise needs any adaptation to the local culture and customs. Additionally, they need to determine if raw materials can be found in-country or need to be imported, bearing in mind certain regulations for imported food products.

According to AGF (Guatemalan Association of Franchises), the franchise market in Guatemala grows at a 15 percent rate per year, very similar to the growth rate for the rest of the Central American countries. Guatemala City is recognized as the largest and most dynamic city in the region, having the largest economy with nearly 30 percent of the Region's GDP. In the past twelve years, the country has seen an increase of 11 percent of direct investment with a controlled inflation rate of 5.7 percent, and a historically stable exchange rate.

The CAFTA-DR Free Trade Agreement provides full market access to franchising. Trademark provisions protect the franchisor's name, and tariff liberalization allows lower-cost exports of key equipment required to supply the franchisee.

Regarding the legal framework, in Guatemala there is no specific legislation for the franchise industry; however, franchises are subject to regular commercial laws. Contracts must be reviewed by local lawyers to make sure there are no infringements of Guatemalan laws. In terms of intellectual property, Guatemala has adequate institutions in place, to guarantee the rights of companies that have been diligent in the registry of their brands and other intellectual property.

A current trend not only in Guatemala, but in the region, is that a group or local company owns one or more franchises and continues to include others as they succeed. This is looked highly upon by potential US franchises as the investors are then very experienced and keen when dealing with new projects. This is the case with many U.S. franchises in Guatemala, who are owned by one Guatemalan group or even more frequently, owned by Salvadorian or Honduran groups based in their respective countries.

Successful U.S. franchises operating in Guatemala:

McDonalds, Wendy's, Burger King, Subway, The Orange Theory, Applebee's, PF Chang's, Kentucky Fried Chicken, Chili's, Friday's, Sky Zone, Hooters, IHOP, Pizza Hut, Dominos, Taco Bell, Dairy Queen, Dunkin Donuts, The Vitamin Shoppe, Charley's Grilled Subs, Tony Roma's, Papa John's, Little Caesar's, Cinnabon, My Yogurt, Sbarro, China Wok, Panda Express, Little Cesar's, Which Wich, Carl's Junior, Curves, GNC, Tutor Doctor, Home Care Watch Givers, Sir Speedy, Krispy Kreme and Starbucks.

Latin American countries share much history and language backgrounds, yet there are remarkable differences in ethnic composition of their societies, cultural heritage and customs. Income of each market will vary significantly, same as the purchasing power of communities, and commercial relationship with the United States and other countries. Understanding these differences is vital to understanding the challenges and opportunities for U.S. franchises when interested in having a presence in the country.

Economists have divided Latin America in three groups. Guatemala falls in the middle group, which is marked by inequality and disparity, with 20 percent or less of the per capita income in the U.S.

Opportunities may be to target the well-off, well-educated elites, which are natural markets for goods and services from the U.S. These groups may also become business partners and valuable contacts within the country and Region.

A challenge may be that just a few segments of the population are potential customers for U.S. franchises, due to their low income.

For the above reasons, Guatemalan investors are very selective when showing interest in brands that are well-known and successful. The U.S. Commercial Service has found that there is little interest in developing unknown brands, or concepts, because they would have to struggle to compete and stay afloat with the existing strong brands.

Contact:

AGF – Asociación Guatemalteca de Franquicias

Contact: Oswaldo Mansilla, President

Email: infoguatefranquicias@guatefranquicias.org

Market Entry

The most effective way to enter the Guatemalan market is through one of the U.S. Department of Commerce's Gold Key Service. This is designed to provide U.S. companies with the advantage of local expertise and to schedule meetings with pre-screened business contacts.

## Direct Marketing

Approximately one half of all imports from the United States are the result of direct sales. Many of these result from Guatemalan business people contacting potential suppliers located in traditional U.S. supply centers, such as Miami, New Orleans, Los Angeles and Houston, among other cities, to satisfy a specific product or service need. Other sales result from marketing through the Internet, which is now very popular among medium and large businesses. Direct marketing is usually more effective in cases where the product is well-known or the group of local buyers is relatively small and easily identifiable, such as sugar mills. It is recommended that U.S. exporters maintain close sales contacts in Guatemala to call on existing and potential customers.

Internet penetration in Guatemala is 36 percent, which means that 7.3 million habitants have access to online retail. Guatemalans are now used to buying online not only in Guatemala, but more so from the U.S. which because of the proximity is relatively easy. Many orders are placed via the Internet and most of the merchandise ordered, except for heavy machinery, is processed via electronic orders. Guatemalan business people access websites and search for specialized merchandise.

Daily internet access in Guatemala has grown during the last decade. With the spread of cell phones, the internet has become a more important news outlet than radio and newspapers, particularly among younger citizens.

The most used sites in Guatemala are: Facebook, YouTube, Twitter, LinkedIn, Instagram, Amazon, and Google. Facebook ranges from 25 to 40 percent of overall internet usage. That figure is much higher among the Guatemalan youth, approximately 60 percent.

There are three companies in Guatemala that offer mobile phone service, and there are 20.4 million lines. This is an increase of 467,520 lines in 2018.

## Joint Ventures/Licensing

Commercial companies in Guatemala are governed by the Commerce Code (Congressional Decree No. 2-70) of January 28, 1970.

Article 10 of this Code is specific with respect to the type of corporative organization which is acknowledged under the category of "Commercial Company", therefore the only collectively considered Merchant as per the Guatemalan Law (Art. 3 of the Commerce Code):

Corporations (Sociedad Anónima) The most commonly used business vehicle in Guatemala:

- General Partnerships
- Limited Partnerships
- Limited Liability Companies
- Public Partnership Companies

Article 12 provides that banks, insurance companies, re-insurance companies, bonding companies, re-bonding companies, financial firms, general warehouses, stock markets, mutual societies, and other similar organizations will be controlled with respect to their form of corporate organization and operation by the provisions of the Commerce Code, specifically to the extent not governed by special Laws and Regulations.

The use of a trade name that includes first names and two-family names of the participating persons shall make those persons legally responsible, just as if they were members of a general partnership, assuming they consented to the use of their name.

## Participation Agreements

Participation Agreements ("Negocios en Participación") are regulated by Articles 861 to 865 of the Commerce Code as contracts, not as companies or collective entities.

In a participation agreement, the participants enter into a contract ("Contrato de Participación"), by which the person called the "active partner" obligates himself to share with one or more persons called the "participants", who contribute goods or services, the profits or losses resulting from one or several operations of their enterprise or of the complete turnover thereof.

The main element of a Participation Agreement is the Contribution of the Participants.

The active partner operates in his own name and assuming the risk of the joint operation. There is no legal relationship between third parties and the participants.

Participation Agreements are typical contractual forms according to Guatemalan Law and constitute a special case of Tax Payer, obliged to comply with all formal and material Tax Obligations as per Guatemalan Tax Legislation, holding the Active Partner responsible for Tax Liabilities of the Joint Operation.

## Joint Ventures

Joint Ventures (distinct from Participation Agreements) are not regulated by Guatemalan Law.

These are flexible contractual forms based expressly on Contracting Freedom Rights acknowledged by Guatemalan Law (Art. 681 of Commerce Code).

Joint Ventures are Associative Business models, which do not constitute a Partnership or a Participation Agreement or any other Merchants Collectively Organized, but are customized for the specific business collaboration tasks to be performed by the parties.

Joint Ventures are not deemed as special cases of Tax Payers, therefore each of the contractual parties is responsible for the compliance of its respective formal and material Tax Obligations.

## Foreign Companies

Any foreign company that is legally incorporated in its Country of Origin, can conduct business in the Republic of Guatemala. Foreign companies will still need to open a branch or an agency in the Republic of Guatemala, with the Authorization of the Commerce Register of Guatemala. Locally incorporated corporations can be wholly owned by U.S. individuals or entities. It is thus uncommon for foreign companies to register in Guatemala, instead they tend to establish themselves as wholly owned and managed local corporations.

To open such branch or agency the Company should have:

1. An Attorney-In-Fact who resides under permanent basis in Guatemala with sufficient faculties to represent the company along with judicial representation powers. If the Attorney-In-Fact does not have such faculties, by law it will be deemed as vested with the same.

2. Credit that it is dully incorporated in its Country of Origin

3. Certified Copy of its Articles of Incorporation

4. Insurance policy in favor of any third party for an amount equivalent to USD 50,000.00, which should be in force during all the time the branch or agency operates in Guatemala

5. Expressly waive to the jurisdiction of the Courts of its Country of Origin and to any right of Alien Status

6. Expressly commit to fulfill all legal requirements to withdraw from Guatemala

7. Certified copy of the last General Balance and Income Statement

8. Records of all business operations conducted in Guatemala, held according to Guatemalan Laws and Regulations

There is no need to request any authorization from the Government for a Foreign Company to:

1. Be represented in a Court of Law

2. Open Bank Accounts with Guatemalan Banks

3. Sell or purchase with authorized commerce agents in the Republic of Guatemala

4. Place Purchase Orders with authorized commerce agents in the Republic of Guatemala as long as the products' final destination is abroad

5. Grant loans or credits or to receive promissory notes or trade with such credit documents

6. Purchase any real property, unless such real property is an element of a commercial enterprise or if the foreign company regularly trades with real property

## Selling to the Government

Guatemala's Government Procurement Law requires most government purchases over Q 900,000 (about USD 116,916) to be submitted for public competitive bidding. Any government acquisition of goods, supplies or services that exceeds Q 90,000 (approximately USD 11,692) is subject to price quotation procedures, which also require public competition through Guatecompras. Since March 2004, government entities are required to use Guatecompras, an Internet-based electronic system to track GoG procurement processes. GoG entities must also comply with GoG procurement commitments under CAFTA-DR. Tender proceedings are public in the Republic of Guatemala. Any party or person can track the development of any tender process or tenders already awarded at www.guatecompras.gt.

It is advisable for any foreign company interested in engaging in a commercial relationship to be associated with a local market participant. Foreign companies can participate in government procurement modalities without a local business associate, but must show that the company has provisionally registered with the Mercantile Registry. If the foreign company is awarded a public contract, it must demonstrate that it is properly registered to operate in the country through an authorized branch. Although it is technically possible to provisionally register a company during the bidding process, in practice it is hard to complete the process before the deadline for submitting a bid.

Tender proceedings can only be excluded in expressly stipulated emergency cases in the Government Procurement Law.

Government procurements executed by one government administration are occasionally challenged, breached or unpaid by the subsequent administration. In some of these cases, the U.S. Embassy can assist and service U.S. firms by encouraging the government to respect the legally binding executed agreements.

Guatemala is not a signatory to the WTO Agreement on Government Procurement.

Many governments finance public works projects through borrowing from the Multilateral Development Banks. Please refer to “Project Financing” Section in “Trade and Project Financing” for more information.

## Distribution & Sales Channels

Guatemalan businesspeople are accustomed to doing business with the United States and key contacts in the large corporations are fluent in English. Most Guatemalan importers have traveled extensively to the United States and/or have done business with U.S. firms. Nevertheless, to maximize the probability of success in the Guatemalan market, U.S. exporters should be aware that when the time comes to formalize a business relationship, for example, through a contract or writing materials, it is most recommended that such formalities are conducted in Spanish.

Almost half of all firms selling into the Guatemalan market do so by means of a Guatemalan agent or distributor. The rest sell directly to Guatemalan buyers. In general, the more pre-sales marketing and after-sales support and service that a product requires, the more important it is to have a local agent and distributor.

Most business conducted in Guatemala is based on personal relationships. Guatemalan business executives and government officials place great importance on personal contacts with suppliers. U.S. suppliers should be prepared to travel to Guatemala often and have a local representative or distributor. U.S. businesspersons are often surprised by the accessibility of key decision makers and the openness and frankness of local buyers.

Sales to government agencies and corporations are best achieved through local agents, distributors and other types of representatives; in some cases, this is a requirement. It is not very practical to target government sales if a firm does not have contacts in Guatemala who are aware of opportunities and able to assist in obtaining the specifications and meeting deadlines for submission.

## Express Delivery

All major shipping companies (UPS, Fedex and DHL) as well as local companies offer express shipping between Guatemala and the U.S. with door to door service of 2-3 business days. The service is feasible for documents, samples or personal effects.

## Selling Factors & Techniques

Guatemalan purchasing decisions are primarily based on price, service, and quality.

Direct sales by U.S. exporters to end-users, importers, wholesalers, and retailers are usually most successful when the product is well-known within the market, or when a limited number of large buyers exist. Direct sales are often supported by local advertising, sales promotion campaigns, technical or illustrative brochures, visits by salespeople, and in some cases, samples.

Sales via local agents and distributors are usually the most effective means of penetrating the market. The U.S. exporter appoints a person or firm, which in turn, either promotes sales on a commission basis or purchases the merchandise and re-sells it. End-users and retailers generally do not have the time or experience to import directly, which involves handling customs clearance.

If a U.S. firm signs a representation contract, it is important to know that such will be subject to the Agency, Distribution and Representation Law, contained in Congressional Decree No. 8-98, of February 4, 1998.

According to this law, in Article 290, there are five instances by which a contract may be cancelled;

1. As a result of mutual consent

2. As per expiration date, if indicated in the contract

3. As per the local agent's decision, as long as it provides three-month notice. In such case, the agent is subject to responding to all pending settlements according to the contract

4. As per the principal's decision, in which case it will be responsible for all damages to the agent, as a result of the termination

5. As per fair cause, which includes all sorts of situations common to the termination of a commercial relationship

The law presents details on each situation. It is recommended that an attorney, other than the one representing the local firm, is consulted for the signing of these agreements.

eCommerce

E-commerce is growing rapidly in the Guatemalan market. Guatemala has begun to use e-commerce among its chambers and associations, large banks, supermarkets, and the Exporters Guild among others. Some Government agencies, for example SAT (equivalent to IRS), the Government procurement office, and the Trade Mark Registry have recently launched new web pages offering interactive services. Culturally, Guatemalans prefer face to face engagements, but new generations are embracing technology and moving away from traditional retail. Business people, associations, and the Government acknowledge that eCommerce is a very important electronic tool in doing business.

Examples of some e-commerce companies are:

www.amchamguate.com,

www.prensalibre.com

www.guatecompras.gt

www.bi.com.gt

www.industriaguate.com

www.cinepolis.com.gt

Facebook is the most used social media tool for promotion and sales. Large companies have become pioneers within the industry, and it will take some time for smaller firms to adapt. The total number of Facebook users for Guatemala is 6.9 million. 92 percent of these users are accessing the platform via a mobile device. Other popular social platforms used are: FB Messenger, whatsapp, YouTube, Instagram, Twitter, skype and LinkedIn.

A challenge for e-commerce has been the low connectivity infrastructure in Guatemala.

E-commerce in Guatemala has grown in spite of considerable challenges such as the large amount of unbanked citizens, relatively low percentage of credit card holders, and difficulties with both cross-border transactions and delivery of products.

Guatemala is currently in the early stages of e-commerce, and most purchases are conducted internationally. Many significant Guatemalan businesses have postal boxes in Miami. According to the Guatemalan Association of E-Commerce, in 2018 Guatemalan internet purchases reached $560 million from foriegn suppliers and $65 million locally. Arrangements for the shipping of merchandise to Guatemala are made by ordering companies, which lower transportation fees.

In September 2008, an e-commerce bill was approved by Congress. This bill is called "Law for the Recognition of Communications and Electronic Signatures", and provides a secure environment for the transmission of electronic messages, addresses the validity and efficiency of documents and electronic signatures, and contains other e-commerce specific matters.

Guatemala has a significant number of retailers with the ability to conduct e-commerce. Guatemala offers new payment methods that facilitate the development of e-commerce, not only in Guatemala but throughout the Central American Region. The most common forms of payment are personal debit and credit cards (VISA, MasterCard and American Express), PayPal Latin America, Apple Pay and wire transfers. E-commerce has allowed many Small-Medium entrepreneurs to trade their products locally, and internationally.

Guatemala has also begun participating in the "eTrade for All" initiative led by UNCTAD. UNCTAD focuses on the development of e-commerce in developing countries by:

1. Strengthening of the regulatory framework

2. Protecting the consumer

3. Protecting data

4. Strengthening capacities to innovate

For more information:

https://etradeforall.org/about/the-etrade-for-all-initiative/

Domestic e-commerce (B2C):

There is a trend of purchasing products from the United States, considering the ease of conducting business, and the well-established delivery companies found in Guatemala. Guatemalan consumers also buy from the European and Mexican eMarkets.

Some of the most popular products Guatemala purchase overseas are electronics, clothing, car spare parts, household items, gifts, decorations, books, online courses.

According to experts in e-commerce, the greatest challenges of buying from the U.S are:

- Some U.S. vendors only accept credit cards with a U.S. billing address
- Guatemalan Customs Authorities will open and verify all packages from the U.S. This practice is subject to the Customs agent's discretionary rulings, and therefore some products may end up paying more import duties than they should.

Despite the attractiveness and growth of e-commerce, Guatemalan consumers and small business, can be reluctant to purchase goods and services online due to lack of trust in the system.

Another factor that concerns Guatemalans is the lack of information and certainty of privacy protections, personal identification information, and insecurity of online transactions.

As a result, some courier and delivery companies offer to pay customer's purchases with their company's credit card for a small fee (1-3 percent of the total purchase).

Credit Card issuers now offer security solutions for e-commerce that help mitigate the risk of fraud and chargeback rates. The Guatemalan chamber of E-commerce said there must be a legislation that facilities e-payments and punishes fraudulent activities.

There is no Government support for opening Business to Business e-commerce yet, but local firms are encouraged to innovate in the e-commerce field.

Larger companies have IT offices within their organizations to manage commercial services on their webpages. Others subcontract from local firms that specialize in developing and managing e-commerce sites. These companies will provide software to the hiring firm such as site-building tools and templates, database features and methodologies for best practices, plus transaction software.

Product supply and procurement exchanges represent another aspect. These sites serve a range of industries and often focus on a niche market. A company purchasing agent can purchase supplies from vendors, request proposals and even make bids for purchases at specific prices. These B2B websites enable the exchange of product supplies and procurement.

Guatemala is a signee of the WTO agreement on Intellectual Property Rights (IPR), and is under Guatemalan legislation as a result of the ratification of the Marrakesh Agreement. However, Guatemala tends to ignore IPR when it comes to e-commerce.

Guatemala has recently taken legal and administrative steps to facilitate the protection of the rights of intellectual property, enacting new laws related to copyright and industrial property. The Guatemalan Minister of Economy is in talks with WTO to further adress these issues.

The business model most commonly used in Guatemala is B2C (Business to Consumer). B2C is used by local retailers, international retailers, banks, fast food franchises, pay per view, movie and TV show streaming subscription services, movie theaters, supermarkets, pharmacies, etc.

In Guatemala, the Business to Business model is used, but on a smaller scale.

The Guatemalan Government has developed a platform for businesses to bid on government opportunities at www.guatecompras.gt, the site is managed by the Ministry of Finance. All Government agencies are mandated to use this site for public procurement.

As mentioned before, banks and courier companies offer the service of secure payment for an additional fee.

According to a report by Deloitte; 93 percent of the mobile users in emerging markets, and 78 percent in developed markets, look at their phones at least once an hour. 47 percent of emerging markets consumers reported using their phones to make in-store payments, compared to 20 percent of consumers from developed markets.

In Guatemala many retail stores, fast food restaurants and movie theaters have developed their own apps, and offer many discounts when purchasing in app.

Emerging trends in Latin America show an exponential growth in the online audience. Mobile phones and tablets continue to account for the growth in online traffic. This shift in the digital media landscape has changed the way marketers are communicating. Digital marketing is now at the core of the marketing mix in Latin America where consumer insights and channel selection are essential to creating successful marketing strategies. There are local and international companies offering digital marketing campaigns tailored to different budgets and needs.

## Trade Promotion & Advertising

The Commercial Services office of the U.S. Embassy in Guatemala City can provide guidance and assistance to U.S. firms seeking to enter or expand their presence in the Guatemalan market. The following trade associations can also provide guidance, information and/or assistance to companies planning trade promotion events, which may include product demonstrations, seminars, conferences, etc.

American Chamber of Commerce of Guatemala (AMCHAM)

Contact: Juan Pablo Carrasco, President

E-mail: trade@amchamguate.com

Web page: www.amchamguate.com

Cámara de Comercio de Guatemala (Guatemalan Chamber of Commerce)

Contact: Jorge Briz Abularach, President

E-mail: info@cameradecomercio.org.gt

Web page: www.ccg.com.gt

Cámara de Industria de Guatemala (Chamber of Industry)

Contact: Juan Carlos Tefel, President

E-mail: info@industriaguate.com

Web page: www.industriaguate.com

Cámara Empresarial de Comercio y Servicios (Chamber of Commerce and Services)

Contact: Carlos Cuellar, President

E-mail: administracion@cecoms.org

Web page: www.cecoms.org

Advertising

Advertising in Guatemala is usually done through the local media, such as newspapers, magazines, radio and television. In recent years, the use of billboards displayed along highways has proliferated. In addition, web based advertising, such as Facebook, Instagram and Twitter, are becoming more popular every day.

Firms interested in advertising in Guatemala may wish to contact the following association for guidance and referrals to Guatemalan advertising firms:

Unión Guatemalteca de Agencias de Publicidad - UGAP (Guatemalan Association of Advertising Agencies)

Contact: Carol Ladd, Executive Director

E-mail: director@ugap.com , ugap@ugap.com

Web page: www.ugap.com

Major Newspapers

The leading newspapers in Guatemala include the following:

Prensa Libre

Contact: Luis Enrique Solórzano, General Manager

Miguel Angel Méndez, Editorial Director

E-mail: nacionales@prensalibre.com.gt

Web page: www.prensalibre.com

El Periódico

Contact: Rodolfo Móvil, Director

E-mail: rmovil@elperiodico.com.gt / opinion@elperiodico.com.gt

Web page: www.elperiodico.com.gt

Nuestro Diario

Contact: Jorge Springmuhl, General Manager

E-mail opinion@nuestrodiario.com.gt

Web page: www.nuestrodiario.com

La Hora

Contact: Oscar Clemente Marroquín, Director

E-mail lahora@lahora.com.gt

Web page: www.lahora.gt

Television Channels/Companies:

The following are the major television channels in Guatemala:

Canal 3 de Televisión (Channel 3)

Contact: Fernando Villanueva, President

E-mail: fernando@canal7.com.gt

Web page: N/A

Televisiete (Channel 7)

Contact: Fernando Villanueva, President

E-mail: laura.alvarez@canal11.tv

Web page: www.canal7.com.gt

TELE ONCE (Channel 11)

Contact: Juan Carlos Gonzáles President

E-mail: katlyn.ruiz@canal3.com.gt

Web page: N/A

TRECEVISION (Channel 13)

Contact: Alfredo Brito, Editorial Director

E-mail: Alfredo.brito@telecentro.com.gt

Web page: N/A

GuateVision (Channel 25)

Contact: Ing. Guillermo Bendfeldt

E-mail: gbendfeldt@prensalibre.com.gt

Web page: www.guatevision.com

Canal Antigua

Contact: Karla Ortiz de Archila, General Manager

E-mail: info@canalantigua.com

Web page: www.canalantigua.tv

Radio Stations:

To listen to Guatemalan radio on the Internet, visit www.surfmusic.de/country/guatemala.html

For a list and description of Guatemalan radio stations, visit:
radiotime.com/region/c_100350/Guatemala.aspx

The following is a list of some of the major radio stations in Guatemala City:

Emisoras Unidas

Contact: Jaime Torres, General Manager , Luis Felipe Valenzuela, Director

E-mail: apatrullaje@emisorasunidas.com

Web page: www.emisorasunidas.com

Note: Emisoras Unidas is the largest radio network throughout Guatemala.

Cadena Azul de Guatemala

Radio Mundial

Contact: Fredy Azurdia Marroquín, General Manager

E-mail: cadenaazul@hotmail.com

Web Page: www.radiomundial.com.gt

Radio Sonora

Contact: Arnulfo Agustín Guzman, Director

E-mail: maria.solarez@sonora.com.gt

Web page: www.sonora.com.gt

Magazines and Business Journals:

The following are some of the leading magazines for business in Guatemala:

Revista Gerencia

Asociación de Gerentes de Guatemala

Contact: Mario Eduardo López Salguero, General Manager

E-mail: agg@agg.com.gt

Web page: www.agg.org.gt

Revista Industria

Cámara de Industria de Guatemala

Contact: Félix Colindres, Editor General

E-mail: info@industriaguate.com

Web page: www.revistaindustria.com

Mundo Comercial

Cámara de Comercio de Guatemala

Contact: Jeannette Balcarcel

E-mail: jbalcarcel@ccg.gt;

Web page: www.ccg.gt

Doing Business in Guatemala

American Chamber of Commerce of Guatemala

Contact: Gabriela Flores, Publishing Department

E-mail: gflores@amchamguatemala.com

Web page: www.amchamguate.com

## Pricing

Price is a very important decision factor for Guatemalan businesspeople when selecting a supplier of imported goods and services. Many Guatemalan businesspeople are accustomed to purchasing directly from foreign exporters, especially when they feel that the prices of locally available imported products or services are too high. In order to calculate the cost of a product or shipment, companies add up the following expenses:

a) Product F.O.B. cost

b) Product freight and/or transportation cost

c) Product insurance cost

d) Import duties

e) Value added tax, 12 percent

## Sales Service/Customer Support

One of the most important purchasing decision factors for Guatemalan importers is after-sales service. U.S. firms, more than other foreign firms, generally have a reputation for providing good service and support. U.S. firms interested in penetrating the Guatemalan market should make a commitment to offer excellent service and support to their Guatemalan buyers, agents and distributors. This commitment to excellent service and support should also be made clear by the U.S. firm to its local agent or distributor. Poor or mediocre service often leads to lower sales. The Guatemalan business community is comparatively small and word travels quickly about local and foreign firms that offer poor service and support.

Although after-sales service is not included in the Commercial Code, many representatives, wholesalers and retailers also provide after-sales service and support.

This is particularly common with household appliances, electronic consumer goods, telecommunications and computer equipment, other electronic equipment and industrial machinery. There are no provisions in the law regarding product guarantees. However, most retailers provide some sort of guarantee that covers problems which occur under normal conditions of use.

## Protecting Intellectual Property

In any foreign market companies should consider several general principles for effective protection of their intellectual property. For background, please link to our article on Protecting Intellectual Property and Stopfakes.gov for more resources.

It is critical for companies to ensure that their brands remain protected around the world and protected from trademark infringements. It is recommended to use a lawyer with expertise and knowledge of local laws and skills to conduct in-country investigations.

In Guatemala, Intellectual Property Laws confer discretionary powers and faculties to the Customs authorities to conduct investigations and retain merchandise suspected of being counterfeit. Customs is the first line of defense as it has the authority to confiscate the counterfeited goods. Unfortunately, under Guatemalan laws, customs agents are responsible for the seizure and can only retain the merchandise for 48 hours, sometimes this is not sufficient time for the brand owners to be notified and begin legal action.

The Attorney General's office and the Customs Bureau are legally empowered to initiate investigations on intellectual property matters. However, the IPR prosecution office is small and operates with few resources. The office relies on assistance from the private sector and foreign Governments.

CAFTA-DR liberalizes bilateral trade between the United States and the region and promotes regional integration. It also requires the Central American countries to undertake needed reforms to alleviate systemic problems such as protection of intellectual property rights, customs administration services, investment, financial services, market access, and government procurement, as well as sanitary and phytosanitary and other non-tariff barriers.

In Guatemala the entity in charge of intellectual property is the Mercantile Registry and with the support of the World Intellectual Property Organization (WIPO), launched the national strategy of intellectual property (ENPI), in mid-2015. Its main objective is to promote the use of intellectual property as a tool for economic and social development, by encouraging creativity and innovation.

Guatemala has strengthened prosecution of crimes against the intellectual property of the Public Ministry. To this end, projects have been implemented with national and international organizations that provide additional knowledge and assistance. It has also carried out exchange of experiences at an institutional level with the judiciary and the Superintendence of tax administration.

It is important to mention that Guatemalan legislation on this matter is modern and in accordance to the multilateral agreements on intellectual property such as:

- TRIPS (Trade related aspects of Intellectual Property Rights),
- Paris Convention
- Berne Convention
- Rome Convention

## Due Diligence

Performing due diligence in Guatemala can be challenging and time-consuming. There are very few sources of independently verifiable information about companies and individuals. Guatemalan companies are not publicly-listed and they rarely publish information regarding officers, sales or financials. Most companies are sole proprietorships and partnerships, and business is generally conducted based on personal reputation and contacts.

Companies should request bank and trade references from potential agents and customers. Companies should also consult their own U.S. banks for information on Guatemalan banks, most of which have correspondent banking relationships with banks in Florida.

The U.S. Commercial Service in Guatemala offers an International Company Profile report to U.S. companies, in which in depth information about the local Guatemalan company may be obtained, depending on the source availability. For more information, please refer to: export.gov/guatemala/servicesforu.s.companies/index.asp

## Local Professional Services

Professional services involving lawyers, auditors, consultants, custom brokers, financial consultants, etc. can be very useful in instances such as preparation of agency and distribution agreements and are essential for the legal registration of a new company, registration of a patent or trademark, debt collection, property rights, power of attorney, and trade arbitration. As a matter of good business practice, U.S. businesspeople should not share the same attorney or auditors utilized by their local business associates. Please visit the following website: export.gov/guatemala/businessserviceproviders/index.asp to find a list of Business Service Providers.

The U.S. Government cannot recommend any attorney or professional.

### Principle Business Associations

There are several business associations in Guatemala.

The largest one, Coordinating Committee of Agricultural, Commercial, Industrial, and Financial Associations (CACIF), is the umbrella to eight chambers or associations that gather over 1,500 companies. The American Chamber of Commerce (AmCham) is also very active. All chambers accept U.S. companies as members.

These associations have an active role in advocating for rule of law, transparency, economic growth, trade, competitiveness and corporate social responsibility.

### Limitations on Selling US Products and Services

There are no significant limitations on selling U.S. products or services to the Guatemalan market, as long as the exporter or seller complies with the regulations and laws that apply to the specific product.

### Web Resources

Advertising Association: www.ugap.com

Agritrade: www.agritradecentralamerica.org

American Chamber of Commerce: www.amchamguate.com

Apparel Show: www.apparelexpo.com

Canal Antigua: www.canalantigua.tv

Chamber of Construction: www.construguate.com

COPEREX Trade Fairs: www.coperex.com.gt

El Periodico (newspaper): www.elperiodico.com.gt

Expomueble (furniture): www.expomueblecentralamerica.com

Export association: www.export.com.gt

Guatemalan Chamber of Commerce: www.ccg.com.gt

Guatemala Chamber of Industry: cig.industriaguate.com

Guatemala Managers Association: www.agg.org.gt

Guatemala Procurement Office: www.guatecompras.gt

Guatemala Radio Stations: beta.tunein.com/search/?query=guatemala

GuateVision: www.guatevision.com

## Leading Sectors for US Exports & Investments

### Automotive Aftermarket and Accessories

Overview

Guatemala continues to be an important market for automotive parts and accessories. In 2018, the sector showed a 4 percent increase from previous years. According to sources, the increase was in response to fair economic conditions in the market. On average, Guatemalans keep their automobiles for five to seven years before purchasing a newer model. To supply the demand for those who wish to purchase a new vehicle at a smaller cost, an important number of informal importers purchase damaged cars at auctions in the United States. These importers repair the automobiles and refurbish them locally for later re-sale.

As of March 2019, the total numbers of vehicles in Guatemala was 3,596,456, including motorcycles. This number represents over seventy four percent increase in the last ten years. Approximately 1.1 million vehicles circulate through Guatemala City every day.

These vehicles require continuous maintenance and replacement services. Imported parts and equipment are sold to local mechanic shops, service stations and gas stations. The significant volume of used vehicles in circulation and the poor conditions of the roads have stimulated the need for repair equipment and parts.

Thirty seven percent of all automotive parts, accessories and service equipment are imported from the U.S. with the remaining percentage of imports coming from Korea, Mexico, Japan, China, Brazil, India and Europe. A significant volume of Asian manufacturers is present in the market with significantly low-priced products. It is estimated that almost seventy five percent of the cars circulating in Guatemala are made by Asian brands.

There is a great opportunity for U.S. exporters of automotive parts and accessories to maintain the current vehicle volume.

| | 2016 | 2017 | 2018 | 2019 estimated |
|---|---|---|---|---|
| Total Exports | 16,024 | 17,626 | 18,331 | 19,064 |
| Total Imports | 519,131 | 555,470 | 577,689 | 600,796 |
| Imports from the US | 121,748 | 130,271 | 135,482 | 140,901 |
| Exchange Rates | 7.50 | 7.50 | 7.50 | 7.50 |

(total market size = (total local production + imports) - exports)
Units: $ thousands
Source: SIECA Guatemala, Central America Data Express

Leading Sub-Sectors

The most promising sub-sectors for U.S. products within the industry include aftermarket products such as: hydraulic brake fluids, liquids for hydraulic transmission systems, lead-acid, piston engines, used pneumatic tires or rubber, parts and accessories for suspension systems, oil and fuel filters, bumpers, spoilers, tail lights, wheels, sound systems, alarms, radial tires, batteries, suspension kits, mufflers, air filters, chips, exhaust systems, brakes, windshield wipers, spark plugs, wheel covers, and steering wheels.

Other promising products are service equipment such as: lifts, tire repair, electronic diagnosis, tire balancing, compressors, and equipment and tools for service stations.

Opportunities

To supply the large demand for aftermarket products, service tools and equipment, there are more than one hundred spare parts and service agents in Guatemala. The majority of agents and distributors, whether they are large companies or small entrepreneurs, are always open to look at new alternatives to offer their customers. It is very important to note that this market is price driven and that Asian brands are well positioned in the market.  Innovative, unusual products are a good opportunity for U.S. manufacturers as long as the prices remain competitive.

**Market Size:** 3,596,456 vehicles (March 2019)

**U.S. Auto Parts Exports:** USD 140.9 million in 2018

**Impact of Tariff Reduction:** Under DR-CAFTA, U.S. manufactured automotive parts enter Guatemala at zero percent import duty.  Prior to the Free Trade Agreement implementation, import tarriffs ranged from one to twenty percent.   U.S. companies can take advantage on these cost savings by applying to benefits under DR CAFTA when exporting to Guatemala.

Origin rules in CAFTA-DR allow remanufactured parts to qualify for duty free treatment, potentially expanding the market for these products in the CAFTA-DR region.

Web Resources

U.S. Commercial Service in Guatemala: www.buyusa.gov/guatemala

Official website for Government Tenders: www.guatecompras.gt

Guatemalan Chamber of Commerce: www.ccg.com.gt

Tax information official website: www.sat.gob.gt

Customs Vehicle Park Statistics: https://portal.sat.gob.gt/portal/parque-vehicular/

Statistical information: www.sieca.int

## Safety and Security Equipment

This is a best prospect industry sector for this country. Includes a market overview and trade data.

Overview

Guatemala continues to face security issues related to narcotics trafficking, organized crime, social disparity, and poverty. Most serious crimes are committed by local gangs.

An ineffective and insufficient police force along with a lack of prosecutions and convictions, make the country very insecure.

Over the past quarter century, the focus of security issues in Guatemala has shifted from the violence of civil conflict to higher levels of crime. Weak institutions, remote areas without state presence, and the country's geographic position between the drug producing nations of South America, and consumers in the United States have made Guatemala a prime target for drug traffickers and other organized criminal groups.

Citizens have little confidence in the local law enforcement agencies. In regards to this country-wide sentiment, in 2007, the Guatemalan government made progress in addressing corrupt impunity, with the help of the United Nations Commission Against Impunity in Guatemala (CICIG). However in August 2018, amongst illegal finance campaign alligations, President Jimmy Morales notified the United Nations that he will not extend the agreement and therefore CICIG concluded their term in August 2019.

Companies and individual citizens recognize the inability of the police to protect private property rights and this has led many to take security into their own hands. Guatemala has seen an increase in hired private security and demand for security systems. The country has 130,000 private guards but only 34,000 active police officers.

Guatemala continued to show marked improvements in its homicide rate, ending the year at 22.4 per 100,000 people. The country recorded 3,881 killings in 2018, down from 4,409 murders and a homicide rate of 26.1 in 2017, according to government officials.

The private security sector in Guatemala is growing fast; approximately ten to twelve percent of a typical company's budget is invested in private security. The Northern triangle countries of Guatemala, El Salvador and Honduras have the largest concentration of private security firms in the region.

According to security statistics in Guatemala:

- There are currently more than 215 companies offering private security
- More than 487,000 registered guns and approximately 1.5 million illegal guns in the country
- An estimated 400 tons of cocaine is smuggled through Guatemala every year
- The cost of a patrol to accompany a trailer from a port to the capital starts at USD150, an additional custodian guard costs USD87. Placing a satellite chip in a trailer truck costs USD700 and a monthly payment of USD40 for the maintenance of the service

A new challenge has emerged in the Safety & Security industry, the same new threat that is hoovering in Latin America, Chinese interference. China's Government presence is widely known as they are supporting all major Chinese manufacturers of cameras, video recorders and other security equipment by giving tax benefits, exemptions and unlimited financing for security projects overseas.

This not only affects the private market, in which they have very low-cost products but also for Government procurement. The Chinese Government gives strong financial assistance, so they can secure contracts around the world and Guatemala is no exception.

According to local experts, the business practices are hurting Chinese brands as well. Chinese manufacturers / brands are not loyal to their long-standing distributors in the region. If they can sell more product to a new distributor in the country, they will do so and not inform their current distributor.

Due to this business strategy, they have cannibalized the market and prices are in an all-time low; therefore, distributors are not making profits as they used to. As stated by several distributors of Chinese products in Guatemala, the ROI no longer exists and the Chinese business ethics that have been imposed on them will probably affect them in the long run.

| | 2016 | 2017 | 2018 | 2019 estimated |
|---|---|---|---|---|
| Total Exports | 22,857 | 23,744 | 25,243 | 25,674 |
| Total Imports | 616,253 | 623,574 | 634,657 | 632,728 |
| Imports from the US | 312,294 | 314,088 | 322,554 | 327,667 |
| Exchange Rates | 7.50 | 7.50 | 7.50 | 7.50 |

Units: $ thousands
Source: SIECA Guatemala

Leading Sub-Sectors

U.S. products have 50 percent of market share. Most of the well-known brand companies from the U.S. have a distributor or agent locally and offer training, installation and after-sales service.

CCTV cameras have gained immense popularity across the country with diverse application segments, projecting high growth in the upcoming years. The growing use of CCTV in schools, hospitals, streets and retail sector is expected to ensure the development of the market in the country.

Best prospects for products and services in the security and safety sector include:

- Tracking devices
- CCTV
- GPS and RFID technology
- Token
- Metal detectors (manual and arc type)
- Biometrics
- Perimeter security
- Alarms
- Access control equipment
- Armored vehicles
- Drones

Opportunities

Personal security products, protection products and high-tech solutions and services have the most significant opportunities. All security products are imported since there is no local production. Import taxes for these products range from 0 to 15 percent and free duty entrance under CAFTA - DR, plus the VAT of 12 percent.

CS Guatemala is in constant contact with security and safety equipment importers as well as the Security Chamber of Guatemala, to keep track of market trends, and importers interested in U.S. made products. CS promotes and sends a delegation of importers each year to the ISC Expo and to ASIS International Expo.

Web Resources

Secretariat for the Central American Economic Integration: www.sieca.int

Guatemalan Government Purchasing Website: www.guatecompras.gt

Guatemalan Security Association: https://www.facebook.com/gremialdeseguridad/

## Travel and Tourism

Overview

The United States is the top choice for Guatemalan travelers. At least half of the traveling community chooses to travel to American destinations due to the increasing availability of non-stop convenient flights.

An estimated 1.4 million Guatemalans live in the U.S., creating a strong family tie between the two countries. The States with the highest Guatemalan populations are California, Florida and New York, but there are also large Guatemalan communities in Illinois, New Jersey, Washington D.C., and Texas.

In addition to family related tourism, Guatemalans head to the U.S. seeking entertainment experiences. Travel to destinations with theme parks, shopping, National Parks and entertainment venues explodes during school vacations.

Growing destinations for Guatemalan visitors are Massachusetts, Texas, Nevada, Washington, D.C., California, and Georgia. Business people or trade event attendees also constitute a large category of travelers. Guatemalans distinguish themselves by taking advantage of tourist opportunities while traveling for business, and will take time to conduct tourist activities.

Commercial carriers serve the Guatemalan market with 80 -100 direct flights per week to the United States, depending on the season. The carrier capacity for transporting passengers to the U.S. is approximately 610,000 seats per year.

The following airlines offer daily non-stop flights from Guatemala to the United States: American Airlines, Avianca, Delta Airlines, Spirit and United Airlines. Other airlines also service the Guatemalan market offering flights to the U.S. and multiple destinations, such as Aeromexico, Copa Airlines, Iberia, Interjet, Tag, and, Volaris. Avianca, Aeromexico, Copa and Volaris transport thousands of Guatemalan passengers to the United States, with flights connecting in either El Salvador, Guadalajara or Panama.

Carriers offer non- stop flights to Atlanta, Chicago, Fort Lauderdale, Dallas, Houston, Los Angeles, Miami, Newark, New York, Orlando and Washington D.C. The durations of these flights range from two to four hours, which is very attractive for Guatemalans planning vacations or business trips. From these major cities, airlines offer a significant number of connections to the rest of the United States and to the rest of the world.

Leading Sub-Sectors

Sectors within the U.S. Travel and Tourism market that are considered best prospects are:

- Family attractions
- Family-friendly hotels
- Shopping venues (outlets and discount stores)
- Entertainment shows
- Sports events
- Cruise trips

Many Guatemalans look to send their children to the U.S. to enhance their English speaking skills in exchange programs. There is also a market for Higher Education Schools among Guatemalan students.

Opportunities

CS Guatemala is active in promoting U.S. Travel and Tourism destinations. CS actively supports the Visit USA Committee's activities in the country, recruits delegations to attend important tourism trade events such as

"International Pow Wow" (www.ipw.com), and maintains active contacts with the local media in order to feed them information on U.S. destinations for later distribution, printing and/or advertising.

The Visit USA Committee in Guatemala organizes a targeted International Trade Show every year to promote the U.S. as a travel and tourism destination.  Airlines, hotels, car rentals, insurance companies, cruise lines, U.S. Convention and Visitors Bureaus, and U.S. Tourism Offices are among the main exhibitors. Interested parties may contact Senior Commercial Specialist, Antonio Prieto (atonio.prieto@trade.gov) at the U.S. Commercial Service Office in Guatemala. This year the International Trade Show will take place on August 23-24, 2018.

In May 2014, Guatemala became a part of the Brand USA Committee to focus on the Mexico and Central America Region. An executive working group, led by the Visit USA Committee, prepared a Strategic Plan in accordance with Brand USA Business Objectives for the following years.   Efforts to align strategies will create opportunities for new destinations and activities to become available for promotion in Guatemala.

Web Resources

U.S. Travel Association:  www.ustravel.org

Visit USA Committee Guatemala:  www.visitusaguatemala.org

US Commercial Service in Guatemala:  www.export.gov/guatemala

Brand USA: www.thebrandusa.com

## Agricultural Sector: Processed Foods Products

Overview

Processed foods make up an important economic sector in Guatemala and are identified as the Food and Beverage category within the Manufacturing Industry. 13 different industries make up this category:

Meats and meat products,

Fish and fishery products,

Fruits, legumes and horticultural products,

Oils and fats or animal and vegetable origin,

Wheat and bakery products,

Sugar, sweeteners, beverage preparations,

Pasta and processed cereals,

Other food preparations,

Alcoholic beverages,

Pet foods and preparations for animal feed,

Tobacco products (Although this is not considered as a food and beverage product within the International product classifications, Guatemala does consider it as part of this category).

The United States is Guatemala's largest supplier of agricultural, food, fishery and forestry products. In 2018, exports totaled $1.2 billion. U.S. exports of consumer ready products such as red meats, chicken, dairy products, fresh fruits, condiments, sauces, food preparations, and processed products such as baking materials are often used to improve the quality of the processed goods produced in Guatemala. Some processors use domestic inputs in processing, but consistent supplies are not available domestically and processors rely on the U.S. to supply these goods.

Guatemala is one of the major food processing countries in Central America. Domestic brands offer a wide variety of products that include shelf-stable, ready-to-eat meals such as canned and refried beans, tomato paste and sauce, soy-based ready meals, and instant noodle soups, among other products. These products are available to consumers not only in local supermarkets, but also at corner stores, and open-air-markets throughout the country.

The Guatemalan food processing industry exports to other countries as well, and is one of the fastest growing sectors of the food industry. Approximately 25 percent of the food and beverage companies in Guatemala are large processors, 50 percent are medium-sized companies, and the rest are small processing companies.

U.S. food ingredient producers that want to enter the Guatemalan market may contact the local food processors directly or through local importers/agents/distributors depending on the type of product. The larger food processors usually prefer to import directly from the suppliers, while medium and smaller processors are sometimes not familiar with importing procedures and prefer a local distributor supply their inputs. The key to success in the market is to match local prices with higher quality inputs as Guatemala is a price-conscious market. U.S. products are well known for their quality and safety; therefore, local food processors are looking for U.S. companies that can supply products that comply with these two important factors. Local companies prefer to establish long-term business relationships with U.S. suppliers that can offer good credit terms, customer service, and marketing support.

This section should give a basic, broad overview of the sector.

| | 2016 | 2017 | 2018 | 2019 estimated |
|---|---|---|---|---|
| Total Local Production | 7,731 | 8,135 | 8,542 | 8,627 |
| Total Exports | 1,759 | 2,036 | 2,077 | 2,118 |
| Total Imports | 1,500 | 1,517 | 1,642 | 1,773 |
| Imports from the US | 339 | 369 | 398 | 429 |
| Total Market Size | 7,472 | 7,616 | 8,107 | 8,282 |
| Exchange Rates | 7.50 | 7.50 | 7.50 | 7.50 |

(total market size = (total local production + imports) - exports)
Units: $ thousands
Source: Global Trade Atlas (http://www.gtis.com); and Bank of Guatemala (http://www.banguat.gob.gt)

Leading Sub-Sectors

- Chocolate and Confectionary
- Condiments and Sauces
- Food preparations (protein concentrates, ingredients & beverage bases, baking inputs)
- Prepared/Preserved Meats
- Processed vegetables (French fries, canned vegetables)
- Dairy products (cheeses, whey protein, cream & powdered/condensed milk)
- Snacks (mixes of nuts, baked snack foods)

Opportunities

- Consumption trends in Guatemala are very much influenced by the United States not only because it is Guatemala's largest trading partner but also because high-value foods are more affordable to some families thanks to remittances sent by more than one million Guatemalans living and working in the United States.

- The trend towards more ready-to-eat foods and demand for these types of products in growing in Guatemala. The local processing industry is taking advantage of this niche market and products such as refrigerated tacos, tortillas, burritos, corn-based tamales and instant soups are among the preferred foods in the supermarkets not only for being easy to prepare but also because of affordable prices.

- Some of the major U.S. companies that have presence in the Guatemalan food processing industry are Cargill, Chiquita Brands International, Frito Lay, Pepsi-Co Bottling Co., Ralston Purina, Del Monte, and Wal-Mart. Bimbo from Mexico and Nestlé from Switzerland are present in the country as important foreign investors. Local companies are also growing not only because of a higher local demand but also because exports are increasing every year.

- Healthy foods, natural, and organic are the growing niche markets; however, these types of products are more commonly imported products and therefore marketed towards the upper class consumers.

Web Resources

U.S. Department of Agriculture, Foreign Agricultural Service in Guatemala: www.fas.usda.gov

Search engine for FAS reports 2019: www.fas.usda.gov/scriptsw/attacherep/default.asp

Shows: Feria Alimentaria Guatemala City - September 9-11, 2019 (http://feriaalimentaria.com) The largest food show in Guatemala with approximately 200 stands with local companies that exhibit and promote food products, services, packing, and equipment for the restaurant and hotel industries. The show is also used to address end consumers, introducing new products into the market. During the show there are chef competitions and cooking presentations.

## Customs, Regulations & Standards

### Trade Barriers

Agricultural trade with Guatemala is not plagued by tariff and non-tariff barriers, but there are still some issues encountered by importers of U.S. agricultural and food products. These issues include: 1) Customs regulations; 2) Sanitary and phytosanitary certifications; 3) Product fortification requirements; and 4) Product samples.

Customs Regulations

Since 2009, importers of U.S. food, agricultural products, equipment and goods have increasingly encountered issues resulting from the denial of preferential treatment for U.S. origin goods, as well as accusations from Customs of under-declaring the value of products. These problems have been characterized by the denial of preferential treatment which results in a higher tariff rate, re-classifying goods that are given a higher tariff rate, and revaluation of products which causes delays and results in additional value-added taxes. Exporters who are aware of shipments encountering these types of problems should contact the Office of Agricultural Affairs at U.S. Embassy Guatemala. Please note that although Guatemala recently updated its policy to allow for multiple corrections to the Certificate of Origin, it still does not permit rectifications after the importation.

Sanitary and Phytosanitary Concerns

Importers of U.S. seafood no longer need to request a plant-by-plant inspection of supplier warehouses or packing facilities prior to import. On February 28 of 2018, the Ministry of Agriculture (MAGA) issued Ministerial Decree 28-2018, accepting U.S. exports (origin or third country) with the National Oceanographic and Atmospheric Administration (NOAA). As of June 2018, NOAA will issue a Codex Certificate to any U.S. exporter interested in the Guatemala market. While the Codex Certificate is available online (3 to 4 months), NOAA will issue the certificate in pdf format.

Prior to May 2018, the Ministry of Agriculture of Guatemala established phytosanitary requirements for fresh produce, bulk commodities, and wood on a state-by-state basis, significantly limiting the options to source products. As of May 2018, Guatemala and Honduras have agreed on one sole list of phytosanitary requirements for U.S. exports. The new requirements eliminated the state-by-state specific attestations opening the market for products sourced at the national level. The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture will issue export certificates with updated attestations; at least 70 percent of the products no longer require attestations.

Processed products of animal origin need to be accompanied by sanitary certificates issued by the Food Safety Inspection Service (FSIS) of USDA for poultry, meats, or processed eggs, and an Agricultural Marketing Service (AMS) certificate for milk or other dairy products.

Product Fortification Requirements

Requirements for product fortification have been in place for many years. The requirements are part of the nutritional efforts carried out by the GOG. The Central American and Panama Nutrition Institute (INCAP) oversees fortification standards for the region, and evaluates ingredients intended for fortification.

Product Sample

Guatemalan law prohibits the importation of processed food samples over 20 Kg, unless they are specifically sent for product registration. At the same time, the law specifies that all processed food products must be registered before they enter the country. This limits the opportunity for possible buyers to sample new products and to test their market potential. However, the Foreign Agricultural Service can request special permits for samples intended for marketing shows. The GOG requests registration of primary food processed products (additives are the only exception, unless needed for the fortification program), per the Central American rules.

EU Geographical Indications

The Association Agreement (AA) with the European Union (EU) came into effect for Guatemala on December 1, 2013. The EU requested registration of 114 geographical indications (GIs) for various cheeses and liquors under the AA.

Guatemalan administrative authorities issued rulings on applications to register GI names that appear to be reasonable replacements for compound GI names. According to 2014 rulings on single-name GIs, there are prohibitions to commercialize gorgonzola or fontina, as they are protected due to lack of record of use in country. The following common name cheeses, among others, can be commercialized without restrictions: parmesan, provolone, mozzarella, brie, camembert, and emmental. This is considered public information; U.S. firms can find specifics for any other indications by contacting the Foreign Agricultural Service or the IP Registry Office at the Ministry of Economy.

SPS and TBT Commitments

Sanitary and Phytosanitary

Regarding SPS obligations, Guatemala has made significant efforts to meet U.S. trading requirements. Guatemala granted the U.S. meat inspection system equivalency, as part of CAFTA-DR. Guatemala accepts the FSIS export certificate as the sole valid document for microbiological, free sale, and sanitary certificates. Equivalence was strictly negotiated for U.S. meat and meat products, but U.S. eggs do not currently have access to the Guatemalan market. During 2012, Guatemala approved the MOU between FGIS/GIPSA/USDA and FDA, accepting the U.S. "Export Certificate of Grains" as valid compliance with Guatemalan food safety regulations.

The Ministry of Agriculture removed the requirement for on-site inspections of fisheries and seafood products, and a NOAA export certificate is now sufficient to export to Guatemala.

Phytosanitary requirements for fresh produce were significantly reduced, and as of June 5, 2018 state specific attestations have been eliminated. The International Regional Organization of Plant and Animal Health (OIRSA) is responsible for quarantine measures at ports of entry and is mandated to act only when the identified pest appears on the official quarantine pest list which was published in 2015.

## Import Tariff

Guatemala applies the common external tariff schedule of the Central American Common Market (CACM), which ranges from zero to 15 percent for most agricultural and industrial goods, though there are exceptions of up to 40 percent for alcoholic beverages and up to 20 percent for cigarettes with tobacco content, various types of vehicles, and firearms. The average applied rate on all products is approximately 2.4 percent.

Under CAFTA-DR, about 5,263 of a total 6,307 HS codes for U.S. industrial and consumer goods enter Guatemala duty-free, with the remaining 1,044 tariffs scheduled to be phased-out by 2026. Nearly all textile and apparel goods that meet the agreement's rules of origin are now traded duty-free and quota-free, promoting new opportunities for U.S. and regional fiber, yarn, fabric and apparel manufacturing. The agreement's tariff treatment for textile and apparel goods is retroactive to January 1, 2004. Guatemala is open to U.S. agricultural products, where 98 percent of the products already have zero tariff. Prior to CAFTA-DR, Guatemala was already complying with its WTO tariff bindings, and duties were relatively low.

Tariff-rate Quotas (TRQs)

The CAFTA-DR set TRQs on 12 agricultural products and product categories, which are managed by DACE, a department of the Administration of Foreign Commerce / Ministry of Economy. DACE has implemented a well-functioning system for distributing quotas and reporting on quota allocation.

The 12 products are: Rough Rice, White Rice, Beef, Pork, Ice-cream, Milk, Yellow Corn, White Corn, Butter, Cheese, and Other Dairy Products. The TRQ for **chicken leg quarters was eliminated in 2017 when the tariff was set to zero..** To obtain updated information on quota allocation procedures, advisory committee meetings, and quota utilization status by commodity, please contact Mrs. Yasmin Afre, yaafre@mineco.gob.gt or Mrs. Dinora Alvarez, malvarez@mineco.gob.gt.

## Import Requirements & Documentation

The Government of Guatemala has asserted that a CAFTA-DR Certificate of Origin must accompany the shipment to receive CAFTA-DR preferences. (See: http://www.mineco.gob.gt/certificado-de-origen ).

It is key to double check that the correct "preferential criteria" is included in space # 7 of the suggested form. Importers have been denied the preferential tariff for incorrect criteria designation.

The preferential criterion corresponds to letters “a”, “b”, or “c”, according to Chapter 4 - Rules of Origin.

If either the exporter or the importer does not know which criterion applies, the Ministry of Economy is willing to review the product description with the importer to determine the correct criterion.

For rules regarding how to complete the CAFTA-DR Certificate of Origin, please refer to the Directorate of Administration of Foreign Commerce (DACE) of the Ministry of Economy, or read the attachment "Instructivo de llenado” (Spanish only).

The Division of Registration and Control of Foods of the Ministry of Health, here after referred to as Food Control, is the main authority for food products legally imported or manufactured in Guatemala. Government Decree # 45-79 established the Health Code in 1979, later published and updated under Government Decree 90-97. Chapter Five of the Health Code refers to food products. Food Control, under the authority of Ministerial Decree 969-99 (which replaces Decree 132-85), is responsible for upholding food product norms set by the Guatemalan Ministry of Economy’s National Quality System, which is governed by Law 78-2005. Under the National Quality System, administered by the Ministry of Economy, three offices operate: The Standard Commission, COGUANOR; the Guatemalan Accreditation Office (OGA), and the National Metrology Center (CEME) https://www.mineco.gob.gt/direcci%C3%B3n-del-sistema-nacional-de-la-calidad.

The COGUANOR office, prior to December 17, 2005, was the sole entity responsible for setting obligatory standards regarding processed food, but after the establishment of the National Quality System, COGUANOR kept the mandate exclusive for voluntary standards. The National Quality System has approved standards since December 17,2005; prior to which standards were not modified and appeared as COGUANOR norms. The OGA, (governed by Presidential Decree 145-2002,) is responsible for accreditation of laboratories, certifying entities and inspecting organizations.

Presidential Decree 78-2005 establishes official tariffs for the services provided by the OGA, which is a signatory to the "Multilateral Recognition of the Inter American Cooperation for Accreditation" (IAAC) and has been accepted in the "Mutual Agreement of Recognition of the International Accreditation for Laboratories" (ILAC).

There are many specifications, rules, laws and other requirements regulating food products. Decree 969-99 details various regulations related to food safety. Standards for both local and imported products are the same, except for public markets and other food serving locations that require sanitary licenses but no product registration.

Any local producer, processor, packer, or distributor needs to operate under a sanitary license issued by Food Control at the Ministry of Health. Importers need to be legally registered with an active sanitary license of operations and imported products need to be registered as well. Labeling is required and imported food products are marketed in Guatemala with a Spanish-language label in accordance with the food law. Stickers are also allowed. Stickers would be required to declare name of the product, list of ingredients, and nutritional label if appropriate. Please ensure that the Spanish sticker is legible but does not block the front package or the ingredients list or the preparation instructions. A retailer who violates the food laws as interpreted by Food Control can be fined up to half the value of the previous day's total sales. Furthermore, there have been situations where imports have had difficulty clearing customs when the labels have not been in Spanish.

Product Registration is required for all primary and final processed food products in Guatemala. Food Control is responsible for all registrations. There are many food regulations approved under the Central American Customs Union, which apply to Guatemala.

Sanitary registration, a requirement throughout Central America, is causing increasing delays. The Government of Guatemala is requesting registration of primary processed food products under the same procedure that applies for registration of end processed food products; additives do not need to be registered. The Government of Guatemala has also set in place a mechanism known as "sanitary inscription for registered products," which allows for an extension option of already existing registries, for different companies. For example, if company 1 registers brand "x", and the registration number 1520-1 is assigned, company 2 can register the same brand "x" under the 1520-2 registration number. This mechanism allows for: a) title of ownership of the registered product, but not over the brand, allowing for different importers/distributors to commercialize the same product (exclusive distribution is left in the hands of commercial interests and not for regulatory purposes); and b) title of ownership of the registration and sole responsibility for the registration. For example, if for any reason, registration number 1520-1 has any specific issue (labeling, license status of the importer, food safety or other), only company 1 is affected. Besides the title of the ownership component, the "sanitary inscription for registries" also expedites the registration process -especially in the case of animal products- since the extension is granted immediately given the fact that the first registration number has already passed the laboratory analysis. The registration, in this case number 1520, is valid for five years, independent of when the extension was granted, and all extensions of this registration must be renewed every five years.

Food Control issues a sanitary registration number after a laboratory test has been performed on animal products. This registration number is valid for five years and in the case of animal products, takes at least six weeks to be issued. For other processed products not of animal origin, the registration takes approximately 10 days. Laboratory tests will take place routinely and are scheduled once a year per product category. If products do not comply with labeling standards or food safety parameters, importers will be notified as necessary. Non-animal products do not require a phyto- or sanitary certificate; a Certificate of Free Sale applies in this case. The Certificate of Free Sales is required for registration purposes only, and can be a federal or state document.

For registration purposes, the sample must come with the following documentation: a) Certificate of Free Sales, b) Bill of Lading, and c) Invoice (with any negligible quantity) specifying it is only a sample. If the product to be registered is non-animal origin, registration will take between 10-12 days; for animal origin products, registration might take up to one month.

In addition to the laboratory analysis for animal products, (for the wholesomeness of the product) the law requires inspections at the point of entry, wholesale and retail levels. Non-processed foods and food additives do not require registration. There is no environmental legislation that affects the importation of food products. The cost of registration and analysis of a product is about USD 215, independent of its category, and independent of registering it for the first time or requesting an extension of an already existing registration.

To receive an import permit, all imported foods of animal or vegetable origin, fresh or processed, must comply with the following requirements:

a) Certificate of Origin for Sanitary Purposes:

i. Plant health certificate (phytosanitary certificate) issued by APHIS if it is a fresh plant food product;

ii. Sanitary certificate issued by the Food Safety Inspection Service (FSIS) of the U.S. Department of Agriculture (USDA), if it is meat product, either fresh or processed

iii. Agricultural Marketing Service (AMS) Export Certificate for table eggs, low egg content process products (like omelets), and milk and dairy products.

iv. National Oceanographic and Atmospheric Agency (NOAA) seafood and fisheries Export Certificate.

b) Certificate of Free Sale if it is a processed food product, either primary or end, which is not a meat product;

c) Commercial invoice;

d) Bill of lading

e) Certificate of Origin for customs and tariff purposes. The CAFTA-DR certificate of origin fulfills customs requirements so that preferential tariffs can be applied.

f) Re-Export Certificate if the product is re-exported from the country, but please note that it still requires the original sanitary or phytosanitary certificate.

The Certificate of Free Sale can include a list of products to be registered, as long as all the products in that list are registered simultaneously.

For example, if twenty products are to be registered at the same time, Food Control allows for one original certificate and nineteen copies to accompany the rest of the products, since one complete file is kept per registered product.

The Unit of Norms and Regulations (UNR) of the Ministry of Agriculture, Livestock and Food Security (MAGA) controls all of these requirements and issues the import permit. Import forms are available on-line at: http://visar.maga.gob.gt/?page_id=6215. If the certificate cannot attest against specified quarantine pests, it might not be considered valid and the shipment might not receive an import permit or worse, its entry might be forbidden, even if the shipment has arrived at a Guatemalan port. Your APHIS inspector should verify that the Phytosanitary Certificate includes specific attestation when required.

Microbiological - On July 19, 2009, the Government of Guatemala (GOG) published their Central American Technical Rule (RTCA): 67.04.50:08. This ruling establishes the maximum level of food-borne pathogens permitted in processed and unprocessed food and agricultural products. The following website has further information: https://www.sieca.int/index.php/download/resolucion-no-402-2018-aprueba-rtca-67-04-5017-alimentos-criterios-microbiologicos-inocuidad-de-alimentos/ . Compliance with the microbiological criteria spelled out in the RTCA started being enforced on November 19, 2009. Compliance with the microbiological parameters will be determined during the registration process or during surveillance using laboratory analysis. Most plants in the U.S. already have systems in place to measure microbiological profiles as part of their Hazard and Critical Control Points (HACCP) programs. It is recommended to send the most recent report with the sample that will be used for registration purposes.

Under CAFTA-DR, the U.S. meat and poultry inspection system was recognized as equivalent by MAGA, so FSIS Certificate of Wholesomeness (FSIS 9060-5) is accepted by the Government of Guatemala as a Certificate of Free Sale and/or Sanitary Certificate, according to the specific case of a meat processed product and/or fresh meat product.

Central American Technical Regulations (RTCA) – As part of the Central American harmonization process, Ministries of Economy have published the RTCAs that spell out technical regulations for packaging, labeling, liquors and spirits, approved additives, infant food, sanitary license and registration of products. Though the regulations are the same for all of Central America, their implementation varies from country to country. Please, refer to the following web site to assure compliance with presently enforced technical regulations: https://www.sieca.int/index.php/integracion-economica/instrumentos-juridicos/actos-administrativos/consejo-de-ministros-de-integracion-economica/resoluciones/ .

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Medical Devices, Pharmaceutical Products and Cosmetics

The Division of Registration and Control of Medicines and Foods of the Ministry of Health issues import permits for medical devices, pharmaceutical products and cosmetics.

Some products require an inscription (registration) at the registration office of the Ministry of Health. The approximate amount of time for the registration of a medical device is between 2-3 weeks and for pharmaceuticals and 4-6 months for cosmetics. These inscriptions need to be renewed every five years.

Surgical devices that require an inscription are intended for cutting the skin or a membrane, or which touch blood, such as syringes or finger pricks. Devices such as anesthetics and asthmatic inhalers, high pressure measuring apparatus, laser-guided apparatus and others do not require an inscription. These would be classified under medical equipment and supplies and undergo normal customs clearance procedures.

The Central American Technical Regulations, CATR (RTCA in Spanish) have been recently issued and published for processed food products, pharmaceuticals and cosmetics, among others. The CATR established unified standards and requirements for commercializing agricultural products, pharmaceuticals, cosmetics, healthcare products and others within the Central America and Panama region. Compliance with these technical regulations assures that products may be imported without major complications.

For more information on these technical regulations, please visit:

http://medicamentos.mspas.gob.gt/index.php/legislacion-vigente/resoluciones-comieco

Registration Requirements for Pharmaceutical Products:

Pharmaceutical products, including but not limited to specialty pharmaceuticals, homeopathic, radiopharmaceutical, supplements, biological, biotechnology and allergens require a Sanitary permit to be imported and commercialized in Guatemala.

Details and registration forms for pharmaceutical products and renewal process may be found in the following link: http://medicamentos.mspas.gob.gt/index.php/formularios/registro-e-inscripcion

A simplified list of requirements for obtaining a sanitary permit is below: *

1. Fill and submit the appropriate forms in original and duplicate
2. Product formula and composition (mention both common and scientific names) (using appropriate form)

3. Sanitary license, valid or prior license (usually from FDA or PAHO)

4. Legalized copy of the Trade Mark registry

5. Free Sale Certificate from the country of origin; CBL approved by a recognized organization such as the OMS

6. Monograph study, when it is a new product

7. Product description

8. Product specifications

9. Method of analysis used

10. Packaging materials used (a sample), originals and copy

11. Instructions on label in Spanish

12. Copy of contract (in case of manufacture under drawback or "maquila" law)

13. Stability study for products with 24 months life expectancy or more, according to product

14. Samples

15. Bio-equivalence study, when applied

16. Standard of raw material of active principle/s for new molecules

17. Copy of the Sanitary License of the local distributor

18. All foreign language documents must be legally translated into Spanish.

*This is a simplified guide; it is recommended that the U.S. Company visits the appropriate links to obtain updated and specific guidance on how to register products.

Registration Requirements for Medical Devices, Dental Materials, Laboratory

Reagents:

Details and registration forms for these products may be found in the following link http://medicamentos.mspas.gob.gt/index.php/servicios/autorizacion-de-productos-farmaceuticos-y-afines/registros-sanitarios

**under subtitle: "F-AS-f-08:** Solicitud de Inscripción Sanitaria de Productos Afines"

Cosmetics

Authorization to commercialize cosmetic products in Guatemala is required.

In Guatemala, the owner of the sanitary registration must be a local company. It is recommended that the U.S. exporter find local representation to take care of the ownership of its sanitary registrations.

When products are registered under a distributor's name, and the U.S. Company determines that there is a need to change the distributor, it is necessary to present a document or contract, signed by both parties to the Ministry of Health.

If the U.S. Company owns the sanitary registrations through a local representative or company and chooses to change a distributor, such change must be notified to the Ministry of Health; this is a simple procedure.

Some requirements for sanitary registration include, but are not limited to:

Good Manufacturing Practices

This document must be filed once for all the products manufactured by the same Company. It must be issued by the Health Authority or similar authority in the country/state of origin of the product. If this document is not issued by the Health Authority or similar, a Sanitary License of the Manufacturer may be accepted.

Qualitative and Quantitative Formula

This document must be issued by the producer/manufacturer, and must be signed by a responsible person (responsible professional in the Company).

Finished Product Specifications

This information may be contained in the Analysis Certificate.

The document must include the physical specifications of the product: (odor, color, appearance), and the chemical and microbiological specifications.

Original labels or its projects

Original Labels

Labels must be in Spanish.

If they are in English, they should be translated by a legal translator, and the relevant information must be bonded to the product.

Power of Attorney

This document must be apostilled, or legalized, by a Guatemalan Consulate in the United States.

The Power of Attorney will allow a third party to sign in the name of the foreign company, and it must also specify a person that will be responsible for any sanitary eventuality when importing and commercializing the product in Guatemala.

Apostille

This is an international certification comparable to a notarization in U.S. domestic law, and normally supplements a local notarization of the document. In the United States, the Secretary of State is responsible for the apostille procedure for all public documents. https://travel.state.gov/content/travel/en/legal/travel-legal-considerations/internl-judicial-asst/authentications-and-apostilles/apostille-requirements.html

Additional Requirements

When a product has an active ingredient that exceeds the maximum percentage permitted by Law, the manufacturer is required to issue a letter declaring whether the ingredient is pure or part of a blend. Guatemala requires a distributor, with valid sanitary permits, to have the proper facilities to import and storage cosmetic products.

Source: "Sanitary Registration of Cosmetic Products in Central America" by Unimark Law Firm, www.unimarkcr.com

Details and registration forms for cosmetic products may be found in the following link:

http://medicamentos.mspas.gob.gt/index.php/formularios/registro-e-inscripcion under the following subtitle:

"F-AS-f-08: Solicitud de Inscripción Sanitaria de Productos Afines"

Validity and Renewal

The sanitary registration is valid for five years. It can then be renewed for five more years. The renewal procedure must be initiated before its expiration, and the requirements for the renewal process may be found at http://medicamentos.mspas.gob.gt/index.php/formularios/registro-e-inscripcion

under the following subtitles:

"F-AS-f-05: Solicitud Renovación de Registro" (Renewal)

"F-AS-f-09: Solicitud Actualización de Registro" (Update)

The Division of Registration and Control of Medicines and Foods of the Ministry of Health generally does not reply to inquiries via email or telephone. A request for personal appointments is highly recommended.

U.S. businesses that have an experienced and strong representative in Guatemala will find that this is the best means to easy registration in the country.

For more information please refer to:

Dirección General de Regulación, Vigilancia y Control de la Salud,

Departamento de Regulación y Control de Productos Farmacéuticos, Higiénicos, Quirúrgicos y Cosméticos

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www.mspas.gob.gt

## Labeling/Marking Requirements

SIECA is the technical and administrative unit that guides and coordinates the economic integration agenda, in which technical regulations are analyzed and resolved. Central American Technical Regulations, (RTCA in Spanish) have been issued and published for processed food products, and include:

a. General labeling,

RTCA 67.01.07:10

b. Nutritional labeling,

RTCA 67.01.60:10

c. Additives,

RTCA 67.04.54:10

d. Sanitary licenses and Product registration,

RTCA 67.01.31:07

e. Liquor labeling

RTCA 67.01.05:11

f. Microbiological criteria

RTCA 67.04.50:17

g. Fruit nectars

RTCA 67.04.48:08

h. Dairy and Cheeses

RTCA 67.04.73:17

The RTCAs apply to all Central American countries, though the extent of the implementation and interpretation may vary from country to country. For more information, please visit:

https://www.sieca.int/?s=RTCA&lang=en

## U.S. Export Controls

The United States imposes export controls to protect national security interests and promote foreign policy objectives. The United States also participates in various multilateral export control regimes to prevent the proliferation of weapons of mass destruction and prevent destabilizing accumulations of conventional weapons and related material. The U.S. Department of Commerce's Bureau of Industry and Security (BIS) administers U.S. laws, regulations and policies governing the export and reexport of commodities, software, and technology (collectively "items") falling under the jurisdiction of the Export Administration Regulations (EAR). The primary goal of BIS is to advance national security, foreign policy, and economic objectives by ensuring an effective export control and treaty compliance system and promoting continued U.S. strategic technology leadership. BIS also enforces anti-boycott laws and coordinates with U.S. agencies and other countries on export control, nonproliferation and strategic trade issues.

BIS is responsible for implementing and enforcing the EAR, which regulate the export, reexport, and transfer (in-country) of items with commercial uses that can also be used in conventional arms, weapons of mass destruction, terrorist activities, or human rights abuses, and less sensitive military items.

BIS's Export Administration (EA) reviews license applications for exports, reexports, transfers and deemed exports (technology transfers to foreign nationals in the United States) subject to the EAR. Through its Office of Exporter Services, EA provides information on BIS programs, conducts seminars on complying with the EAR, and provides guidance on licensing requirements and procedures. EA's Office of Technology Evaluation (OTE) analyzes U.S. export data on items subject to the EAR, BIS license application data, and global trade information to assess data trends. OTE's data portal provides excerpts from statistical reports, along with data sets to enable the public to perform analyses of exports and licensing on its own.

U.S. exporters should consult the EAR for information on how export license requirements may apply to the sale of their items. If necessary, a commodity classification request may be submitted in order to obtain BIS assistance in determining how an item is controlled (*i.e.,* the item's classification) and the applicable licensing policy. Exporters may also request a written advisory opinion from BIS about application of the EAR to a specific situation. Information on commodity classifications, advisory opinions, and export licenses can be obtained through the BIS website at www.bis.doc.gov or by contacting the Office of Exporter Services at the following numbers:

Washington, D.C. Tel: (202) 482-4811 Fax: (202) 482-3322
Western Regional Office Tel: (949) 660-0144 Fax: (949) 660-9347
Further information on export controls is available at:
http://www.bis.doc.gov/licensing/exportingbasics.htm

BIS's Export Enforcement (EE) is responsible for the enforcement of the EAR. BIS works closely with U.S. embassies, foreign governments, industry, and trade associations to ensure that exports from the United States are secure. In accordance with the EAR, BIS officials conduct site visits, also known as End-Use Checks (EUCs), globally with end-users, consignees, and/or other parties to transactions involving items subject to the EAR, to verify compliance.

An EUC is an on-site verification of a party to a transaction to determine whether it is a reliable recipient of U.S. items. EUCs are conducted as part of BIS's licensing process, as well as its compliance program, to determine if items were exported in accordance with a valid BIS authorization or otherwise consistent with the EAR. Specifically, an EUC verifies the *bona fides* of recipient(s) of items subject to the EAR, to include: confirming their legitimacy and reliability relating to the end use and end user; monitoring their compliance with license conditions; and ensuring such items are used and/or re-exported or transferred (in-country) in accordance with the EAR.

BIS officials rely on EUCs to safeguard items subject to the EAR from diversion to unauthorized end uses/users. The verification of a foreign party's reliability facilitates future trade, including pursuant to BIS license reviews. If BIS is unable to verify the reliability of the company or is prevented from accomplishing an EUC, the company may receive, for example, more regulatory scrutiny during license reviews or be designated on BIS's Unverified List or Entity List, as applicable.

BIS has developed a list of "red flags," or warning signs, intended to discover possible violations of the EAR.

Also, BIS has "Know Your Customer" guidance.

BIS provides a variety of training sessions to U.S. exporters throughout the year. These sessions range from one to two day seminars and focus on the basics of exporting as well as more advanced topics. Check a current seminar schedule for a list of upcoming seminars.

BIS also provides online training.

The EAR does not regulate transactions involving all U.S. goods, services, and technologies. Other U.S. Government agencies regulate more specialized exports. For example, the U.S. Department of State's Directorate of Defense Trade Controls has authority over defense articles and services. A list of other agencies involved in export control can be found on the BIS website or in Supplement No. 3 to Part 730 of the EAR.

The EAR is available on the BIS website.

And on the e-CFR (Electronic Code of Federal Regulations) website.

The Consolidated Screening List (CSL) is a list of parties for which the United States Government maintains restrictions on certain exports, reexports or transfers of items. The CSL consolidates a number of smaller lists of restricted parties that are maintained by a variety of U.S. Government agencies, including the Department of Commerce, as an aid to industry in conducting electronic screens of potential parties to regulated transactions. The CSL is available here: [http://apps.export.gov/csl-search](http://apps.export.gov/csl-search) or [https://developer.trade.gov/consolidated-screening-list.html](https://developer.trade.gov/consolidated-screening-list.html).

## Temporary Entry

Guatemala's 1989 drawback and export promotion law allows duty and tax-free entry of raw materials, intermediate products, packaging and labels used in the production or assembly of merchandise exported to markets outside of Central America. Some exporters, however, complain that the local tax administration, SAT, asks for payments to process these drawback refunds.

Drawback law, also known as "Ley de Maquilas":

[http://www.sice.oas.org/investment/NatLeg/GTM/ActExportMaquila_s.pdf](http://www.sice.oas.org/investment/NatLeg/GTM/ActExportMaquila_s.pdf)

## Prohibited & Restricted Imports

Arms and Ammunitions

The Guatemalan Ministry of Defense's Department for the Control of Arms and Munitions (DECAM) enforces a law which virtually prohibits the import of high powered weapons, as well as a range of military weapons and hardware except for use by the Guatemalan government.

Pharmaceuticals

Pseudoephedrine and any products containing pseudoephedrine are banned from importation or sale within Guatemala as of April 2009.

Food Products

The Technical Directorate of Plant Health of MAGA, (Plant Health), regulates pesticides. The Office of Vegetable Health was established by Government Decree # 43-74 and regulates all agriculturally related chemical use by authority of Ministerial Decree 377-90. Plant Health maintains a list of pesticides that are not permitted in Guatemala. This list is based on standards set by the Environmental Protection Agency (EPA), Codex Alimentarius, and the United Nations Food and Agriculture Organization (FAO), among others. All pesticides must be registered with Plant Health.

## Customs Regulations

Check information on Customs Regulations and a list of Business Service Providers in Guatemala or contact the Office of Global Markets in Guatemala at 011-502-2334-3147.

## Standards for Trade

Standards

In general, U.S. standards set the pace for Guatemalan standards. Many products made in the U.S. already meet Guatemala's standards. The main area of difference is found in items intended for human consumption, such as pharmaceuticals and food. In Guatemala, registration and labeling requirements for these cases require U.S. exporters to follow strict local guidelines.

The United States actively serves as a resource to assist Guatemala in developing or streamlining standards. The objectives of Chapter 7 (Technical Barriers to Trade) in the CAFTA-DR agreement are to: increase and facilitate trade through improvement to the Technical Barriers to Trade (TBT) agreement and eliminate unnecessary barriers and enhance bilateral cooperation. Read more on Technical Barriers to Trade under CAFTA-DR.

Food Products:

Products labeled as "diet supplements", "homeopathic", "and prophylactic" or "phyto-therapeutic" must be registered as medicines. All products that apply for registration must be tested by the Health National Laboratory (LNS), which is the Ministry of Health's only laboratory. Product samples must be provided at time of registration.

RTCA 67.01.15:07 rules fortified wheat flour, providing specifications and approved additives for wheat flour, http://www.sieca.int/index.php/download/resolucion-no-201-2007-aprueba-rtca-67-01-1507-harinas-harina-de-trigo-fortificada/.

Testing, Inspection and Certification

Publication of Technical Regulations

"Members of the World Trade Organization (WTO) are required under the Agreement on Technical Barriers to Trade (TBT Agreement) to notify the WTO of proposed technical regulations and conformity assessment procedures that could affect trade. Notify U.S. (www.nist.gov/notifyus) is a free, web-based e-mail registration service that captures and makes available for review and comment key information on draft regulations and conformity assessment procedures. Users receive customized e-mail alerts when new notifications are added by selected countries and industry sectors of interest, and can also request full texts of regulations. This service and its associated website are managed and operated by the USA WTO TBT Inquiry Point housed within the National Institute of Standards and Technology, part of the U.S. Department of Commerce."

## Trade Agreements

The United States, the Dominican Republic, and five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua), signed the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) in August 2004. The Agreement went into effect in Guatemala on July 1, 2006, after the country completed all the commitments necessary for implementation.

CAFTA-DR liberalizes bilateral trade between the United States and the region and promotes regional integration. It also requires the Central American countries to undertake needed reforms to alleviate systemic problems in areas such as customs administration, protection of intellectual property rights, services, investment, financial services, market access, and government procurement, as well as sanitary and phytosanitary and other non-tariff barriers.

Under CAFTA-DR, 100 percent of U.S. consumer and industrial goods enter the CAFTA-DR countries duty free (for goods that meet the country of origin requirements). Approximately 80 percent of these products entered duty-free following when CAFTA-DR first went into effect in 2006 (for the countries that implemented at that time). The remaining 20 percent of consumer and industrial goods were on a 5 or 10-year phased tariff reduction schedule.

Under CAFTA-DR, 95 percent of U.S. agricultural exports enter Guatemala duty free. Guatemala will eliminate its remaining tariffs on virtually all U.S. agricultural products by 2020 (a few product categories will be eliminated over subsequent years - e.g.; rice and dairy products). In 2017, Guatemala eliminated its out-of-quota tariff for chicken leg quarters, five years early. For certain agricultural products, tariff-rate quotas (TRQs) will permit some duty-free access for specified quantities during the tariff phase-out period, with the duty-free amount expanding during that period.

In addition to CAFTA-DR, Guatemala has signed bilateral or regional free trade agreements with Chile, Mexico, Colombia, Taiwan, Panama, the European Union, Peru, and the European Free Trade Association (EFTA) countries and is currently negotiating free trade agreements with South Korea, the United Kingdom, and Canada. Guatemala has also signed partial scope agreements, which cover a reduced number of products and do not include chapters beyond trade, with Belize, Ecuador, Cuba, Trinidad and Tobago, and Venezuela, while also currently negotiating partial-scope agreements with Israel and Bolivia. Central America established a common external tariff schedule in 1998. Six Central American countries signed a revised protocol for economic integration and macroeconomic coordination in October 1993. The integration protocol allows Central American countries to advance at varying rates toward more open trade. The "Northern Triangle" countries (Guatemala, El Salvador and Honduras) have moved the most rapidly to eliminate trade barriers among themselves. In January 2009, the presidents of Guatemala and El Salvador signed an amendment to the framework agreement that facilitates the establishment of a customs union between the two countries. Honduras joined the agreement in May 2009. Guatemala ratified the amendment to the framework agreement in February 2011, but it was not ratified by El Salvador and Honduras.

In February 2015, as part of the Plan for the Alliance for Prosperity of the Northern Triangle countries, the presidents of Guatemala and Honduras signed a general framework agreement to establish a customs union between the two countries. In January 2016, the Guatemalan Congress approved the protocol to enable a customs union with Honduras, which will allow for the free movement of people and goods between the two countries. Guatemala's protocol to enable the customs union with Honduras went into force in May 2016. After completing regulatory, technical, and administrative procedures, the two countries implemented the first stage of the customs union process in June 2017. El Salvador began negotiations to join the customs union between Guatemala and Honduras in October 2017 and deposited its instrument of adhesion to the customs union between Honduras and Guatemala with the General Secretariat of the Central American Integration System (SICA) in August 2018. El Salvador signed a resolution to join the customs union process on legal and administrative aspects with Guatemala and Honduras in November 2018.

## Investment Climate Statement

### Executive Summary

Guatemala has the largest economy in Central America, with a USD 78.45 billion gross domestic product (GDP) and an estimated 3.0 percent growth rate in 2018. Remittances, mostly from the United States, increased by 13.4 percent in 2018 and were equivalent to 11.8 percent of GDP. The United States is Guatemala's most important economic partner. The Government of Guatemala (GoG) continues to make efforts to enhance competitiveness, promote investment opportunities, and work on legislative reforms aimed at supporting economic growth. More than 200 U.S. and other foreign firms have active investments in Guatemala, benefitting from the U.S. Dominican Republic-Central America Free Trade Agreement (CAFTA-DR). Foreign direct investment (FDI) stock was USD 16.36 billion in 2018, a 1.5 percent increase over 2017. Despite this, FDI flows fell 11.8% in 2018. Some of the activities that attracted most of the FDI flows in the last three years were commerce, banking and insurance, manufacturing, telecommunications, and electricity.

Despite steps to improve Guatemala's investment climate, international companies choosing to invest in Guatemala face significant challenges. Complex and confusing laws and regulations, inconsistent judicial decisions, bureaucratic impediments, and corruption continue to constitute practical barriers to investment. Under CAFTA-DR obligations, the United States has raised concerns with the GoG regarding its enforcement of both its labor and environmental laws.

Since 2006, the UN-sponsored International Commission against Impunity in Guatemala (CICIG) has undertaken numerous high-profile official corruption investigations, leading to significant indictments. In 2015, CICIG uncovered several cases of high-level official corruption. A case revealing a customs corruption scheme led to the resignations of the president and vice president. Since 2016, the public's perception of the commitments of President Morales and Congress to anti-corruption efforts has eroded following allegations of corruption against Morales and members of his family. President Morales announced he would not renew CICIG's mandate on August 31, 2018. CICIG's mandate is set to expire on September 3, 2019.

Table 1: Key Metrics and Rankings

| Measure | Year | Index/Rank | Website Address |
|---|---|---|---|
| TI Corruption Perceptions Index | 2018 | 144 of 180 | http://www.transparency.org/research/cpi/overview |
| World Bank's Doing Business Report | 2019 | 98 of 190 | http://www.doingbusiness.org/en/rankings |

| | | | |
|---|---|---|---|
| Global Innovation Index | 2018 | 102 of 126 | https://www.globalinnovationindex.org/analysis-indicator |
| U.S. FDI in partner country ($M USD, stock positions) | 2017 | $1,048 | http://www.bea.gov/international/factsheet/ |
| World Bank GNI per capita | 2017 | $4,060 | http://data.worldbank.org/indicator/NY.GNP.PCAP.CD |

## Openness To, and Restrictions Upon, Foreign Investment

Policies Towards Foreign Direct Investment

The GoG continues to promote investment opportunities and work on reforms to enhance competitiveness and the business environment. Guatemala's investment promotion office, Guatemala Trade and Investment (GTI), currently operates within the Ministry of Economy and Foreign Trade (MINECO). GTI provides support to potential foreign investors by offering information, assessment, and personalized assistance, including coordination of country visits and contact referrals. Services are available to all investors without discrimination. The 2019 Heritage Economic Freedom Index gave Guatemala a score of 62.6 out of 100, down 0.8 points from 2018, reflecting declines in trade freedom and business freedom and slight improvements in fiscal health and government spending. The 2019 Economic Freedom Index noted government integrity, property rights, judicial effectiveness, and business freedom were as areas of concern. The World Bank's Doing Business 2019 ranked Guatemala 98 out of 190 countries, one position lower than its rank in 2018. The two areas where the country had the highest rankings were access to credit and electricity. Areas where challenges remain and reforms are most needed are: protecting minority investors, enforcing contracts, and resolving insolvency. Guatemala's ranking in the 2018 World Economic Forum's Global Competitiveness Index 4.0 declined five positions from 91 to 96 (out of 140 economies). Guatemala ranked highly in internal labor mobility, attitudes towards entrepreneurial risk, and soundness of banks, but ranked 138 in organized crime and 132 in both homicide rate and mobile-broadband subscriptions.

International investors tend to engage with the GoG via chambers of commerce or industry associations, or directly with specific government ministries. There is no formal business roundtable with regard to investment retention.

Limits on Foreign Control and Right to Private Ownership and Establishment

The Guatemalan Constitution recognizes the right to hold private property and to engage in business activity. Foreign private entities can establish, acquire, and dispose freely of virtually any type of business interest, with the exception of some professional services as noted below. The Foreign Investment Law specifically notes that foreign investors enjoy the same rights of use, benefits, and ownership of property as

Guatemalans. Guatemalan law prohibits foreigners, however, from owning land immediately adjacent to rivers, oceans, and international borders.

There are no impediments to the formation of joint ventures or the purchase of local companies by foreign investors. The absence of a developed, liquid, and efficient capital market, in which shares of publicly-owned firms are traded, makes equity acquisitions in the open market difficult. Most foreign firms, therefore, operate through locally incorporated subsidiaries.

There are no restrictions on foreign investment in the telecommunications, electrical power generation, airline, or ground-transportation sectors. The Foreign Investment Law removed limitations to foreign ownership in domestic airlines and ground-transport companies in January 2004. The GoG currently does not have any screening mechanisms for inbound foreign investment.

Some professional services may only be supplied by professionals with locally recognized academic credentials. Public notaries must be Guatemalan nationals. Foreign enterprises may provide licensed, professional services in Guatemala through a contract or other relationship with a Guatemalan company. In July 2010, the Guatemalan Congress approved an insurance law that allows foreign insurance companies to open branches in Guatemala, a requirement under CAFTA-DR. This law requires foreign insurance companies to fully capitalize in Guatemala.

Other Investment Policy Reviews

Guatemala has been a World Trade Organization (WTO) member since 1995. The GoG had its last WTO trade policy review (TPR) in November 2016. In 2011, the United Nations Conference on Trade and Development (UNCTAD) conducted an investment policy review (IPR) on Guatemala. The WTO TPR highlighted Guatemala's efforts to increase trade liberalization and economic reform efforts by eliminating export subsidies for free trade zone and export-focused manufacturing and assembly operation (maquila) regimes as well as the passage of amendments to the government procurement law to improve transparency and efficiency. The WTO TPR also noted that Guatemala continues to lack a general competition law and a corresponding competition authority. The UNCTAD IPR recommended strengthening the public sector's institutional capacity and highlighted that adopting a competition law and policy should be a priority in Guatemala's development agenda. The GoG agreed to approve a competition law by November 2016 as part of its commitments under the Association Agreement with the European Union, but it has not been approved as of April 2019. Other important recommendations from the UNCTAD IPR were to further explore alternative dispute resolution mechanisms and the establishment of courts for commercial and land disputes, though as of April 2019 the GoG had not made substantive progress on these recommendations either.

Business Facilitation

The GoG has a business registration website (https://minegocio.gt/), which facilitates on-line registration procedures for new businesses. Foreign companies are able to use the online business registration, but the process is faster, less expensive, and requires fewer official notifications if the company is incorporated locally. As a result of the entry into force of the Commercial Code amendments in January 2018, the time to register a new business online for a locally incorporated company went down from an average of 18.5 days in 2016 to an average of six days as of April 2019. The legal cost to register a business also fell by approximately 75 percent. The new procedures allow locally incorporated businesses to receive their business registration certificates online. According to a self-assessment from the Guatemalan Ministry of Economy, which the Global Enterprise Registration also reviewed, businesses can simultaneously request more than 50 percent of the mandatory registrations online and the site provides phone or online contacts to submit complaints for each registration requirement. At minimum, each company must register with the business registry, the tax administration authority, the social security institute, and the labor ministry.

Outward Investment

Guatemala does not incentivize nor restrict outward investment.

Bilateral Investment Agreements and Taxation Treaties

In 2004, the United States, the Dominican Republic, Guatemala, Costa Rica, El Salvador, Honduras and Nicaragua signed the Central America Free Trade Agreement (CAFTA-DR).  The agreement entered into force in Guatemala on July 1, 2006. CAFTA-DR contains a chapter on investments.

Guatemala has bilateral investment agreements with Argentina, Austria, Belgium, Cuba, Chile, Finland, France, Germany, Israel, Italy, South Korea, Spain, Sweden, Switzerland, Taiwan, the Czech Republic, the Netherlands, and Trinidad and Tobago, and Turkey.  It also signed a bilateral investment agreement with Russia, which was not in force as of April 2019.

In addition to CAFTA-DR, Guatemala signed bilateral or regional free trade agreements with Chile, the European Union, Peru, Mexico, Colombia, Taiwan, Panama, and the European Free Trade Association (EFTA) countries and is currently negotiating free trade agreements with South Korea, the United Kingdom, and Canada.  Guatemala also signed partial-scope agreements, which cover a reduced number of products and do not include chapters beyond trade, with Belize, Cuba, Ecuador, Trinidad and Tobago, and Venezuela while also currently negotiating partial-scope agreements with Israel and Bolivia.

The United States and Guatemala do not have a bilateral taxation agreement.  The GoG signed a bilateral taxation agreement with Mexico in 2015 but it has not yet ratified it.

## Legal Regime

Transparency of the Regulatory System

Tax, labor, environment, health, and safety laws do not directly impede investment in Guatemala.  Bureaucratic hurdles are common for both domestic and foreign companies, including lengthy processes to obtain permits and licenses and receive shipments.  The legal and regulatory systems are confusing and not transparent. Regulations often contain few explicit criteria for government administrators, resulting in ambiguous requirements that are applied inconsistently by different government agencies and the courts.  While there is no apparent systematic discrimination against foreign companies in these processes, these inconsistencies can favor local firms that are more familiar with these challenges.

Public participation in the promulgation of laws or regulations is rare.  In some cases, private sector or civil society groups are able to submit comments to the issuing government office or to the congressional committee reviewing the bill, but with limited effect.  There is no consistent legislative oversight of administrative rule-making. The Guatemalan Congress publishes all draft bills on its official website, but does not make them available for public comment.  The congress often does not disclose last-minute amendments before congressional decisions. Final versions of laws, once signed by the President, must be published in the official gazette before going into force.  Congress publishes scanned versions of all laws that published in the official gazette. Information on the budget and debt obligations is publicly available at the Ministry of Finance's primary website, but information on debt obligations does not include contingent and state-owned enterprise debt.

The Guatemalan Congress passed the Law to Strengthen Fiscal Transparency and Governance of Guatemala's Tax and Customs Authority (SAT) in July 2016, which included amendments to SAT's Internal Law, the Tax Code, and other laws to allow SAT's access to banking records for auditing purposes with a judge's approval.  Guatemala's Constitutional Court (CC) provisionally suspended the 2016 law's provision that allowed SAT's access to banking records in August 2018 due to a claim of unconstitutionality filed against that provision. The final CC's decision remains pending as of April 2019. The SAT is also analyzing methods to streamline various internal and external procedures.

International Regulatory Considerations

Guatemala is a member of the Central American Common Market and as such adopted the Central American uniformed customs tariff schedule. As a member of the WTO, the GoG notifies the WTO Committee on Technical Barriers to Trade (TBT) of draft technical regulations. The Guatemalan Congress approved the WTO's Trade Facilitation Agreement in January 2017, which entered into force for Guatemala March, 8, 2017. Guatemala classified 63.9 percent of its commitments under Category A, which includes commitments to be implemented upon entry into the agreement; 8.8 percent under Category B, which includes commitments to be implemented between February 2019 to July 2020; and 27.3 percent under Category C, which includes commitments to be implemented between February 2020 and July 2024. Guatemala transmitted its list of official websites with information for governments and trade participants to the WTO's Committee on Trade Facilitation in March 2019.

In 1996, Guatemala ratified Convention 169 of the International Labor Organization (ILO 169), which entered into force in 1997. Article 6 of the Convention requires the government to consult indigenous groups or communities prior to initiating a project that could affect them directly. Potential investors should determine whether their investment will affect indigenous groups and, if so, request that the GoG lead a consultation process in compliance with ILO 169. The Guatemalan Congress is currently considering a draft law to create a community consultation mechanism to fulfill its ILO-mandated obligations.

Legal System and Judicial Independence

Guatemala follows the civil law system. The codified Judicial Branch Law stipulates that jurisprudence or case law is also a source of law. Guatemala has a written and consistently applied Commercial Code. Contracts in Guatemala are legally enforced when the holder of a property right that has been infringed upon files a lawsuit to enforce recognition of the infringed right or to receive compensation for the damage caused. The civil law system allows for civil cases to be brought before, after, or concurrently with criminal claims. Guatemala does not have specialized commercial courts, but it does have civil courts that hear commercial cases and specialized courts that hear labor or tax cases.

The judicial system is designed to be independent of the executive branch, and the judicial process for the most part is procedurally competent, fair, and reliable. However, there have been accusations of corruption within the judicial branch.

Laws and Regulations on Foreign Direct Investment

More than 200 U.S. firms as well as hundreds of foreign firms have active investments in Guatemala. CAFTA-DR established a more secure and predictable legal framework for U.S. investors operating in Guatemala. Under CAFTA-DR, all forms of investment are protected, including enterprises, debt, concessions, contracts, and intellectual property. U.S. investors enjoy the right to establish, acquire, and operate investments in Guatemala on an equal footing with local investors in almost all circumstances. The U.S. Embassy in Guatemala places a high priority on improving the investment climate for U.S. investors. Guatemala passed a foreign investment law in 1998 to streamline and facilitate foreign investment. The GoG continues to work on legislative reforms aimed at supporting economic growth and closing regulatory loopholes that are barriers to investment. In order to ensure compliance with CAFTA-DR, the Guatemalan Congress approved in May 2006 a law that strengthened existing legislation on intellectual property rights (IPR) protection, government procurement, trade, insurance, arbitration, and telecommunications, as well as the penal code. Congress approved an e-commerce law in August 2008, which provides legal recognition to electronically-executed communications and contracts; permits electronic communications to be accepted as evidence in all administrative, legal, and private actions; and, allows for the use of electronic signatures. The GOG does not regulate online payments outside of the formal financial sector, however.

The United States has filed two separate cases regarding concerns with the GoG's adherence to its CAFTA-DR obligations. For a labor law case, the GOG established an arbitral panel, pursuant to CAFTA-DR procedures, to consider whether Guatemala met its obligations to effectively enforce its labor laws. The arbitral panel held a hearing in June 2015 and issued a decision favorable to Guatemala in June 2017. Regarding an environmental case, the CAFTA-DR Secretariat for Environmental Matters suspended its investigation in 2012 when the GoG provided evidence that the relevant facts of the case were under consideration by Guatemala's Constitutional Court. The court dismissed the case on procedural grounds in 2013.

Complex and confusing laws and regulations, inconsistent judicial decisions, bureaucratic impediments and corruption continue to constitute practical barriers to investment. According to the World Bank's Doing Business Reports for 2015 and 2016, Guatemala made paying taxes easier and less costly by improving the electronic filing and paying system ("Declaraguate") and by lowering the corporate income tax rate. The GoG developed a useful website to help navigate the laws, procedures and registration requirements for investors http://asisehace.gt/). The website provides detailed information on laws and regulations and administrative procedures applicable to investment, including the number of steps, names, and contact details of the entities and persons in charge of procedures, required documents and conditions, costs, processing time and legal grounds justifying the procedures.

Companies that carry out export activities or sell to exempted entities have the right to claim value added tax (VAT) credit refunds for the VAT paid to suppliers and documented with invoices for purchases of the goods and services used for production. During the past few years, local and foreign companies experienced significant delays in receiving their refunds. Guatemala's Tax and Customs Authority (SAT) began implementing a new plan in 2017 to streamline the process and expedite VAT credit refunds. The Guatemalan congress approved legal provisions in April 2019 that will contribute to expediting VAT credit refunds to exporters later in 2019.

As part of its 2012 income tax reform, the GoG began implementing transfer pricing provisions in 2016.

Competition and Anti-Trust Laws

Guatemala does not currently have a law to regulate monopolistic or anti-competitive practices. The GoG agreed to approve a competition law by November 2016 as part of its commitments under the Association Agreement with the European Union. The GoG submitted a draft competition law to Congress in May 2016, but it was still pending approval by Congress as of April 2019.

Expropriation and Compensation

Guatemala's constitution prohibits expropriation, except in cases of eminent domain, national interest, or social benefit. The Foreign Investment Law requires proper compensation in cases of expropriation. Investor rights are protected under CAFTA-DR by an impartial procedure for dispute settlement that is fully transparent and open to the public. Submissions to dispute panels and dispute panel hearings are open to the public, and interested parties have the opportunity to submit their views.

The GoG maintains the right to terminate a contract at any time during the life of the contract, if it determines the contract is contrary to the public welfare. It has rarely exercised this right and can only do so after providing the guarantees of due process.

In June 2007, a U.S. company operating in Guatemala filed a claim under the investment chapter of CAFTA-DR against the GoG with the International Centre for Settlement of Investment Disputes (ICSID Convention). The claimant alleged the GoG indirectly expropriated the company's assets through a breach of contract. The company requested USD 65 million in compensation and damages from the GoG. The ICSID court issued its ruling on this case in June 2012 and stated that the GoG had in fact breached the minimum standard of treatment under Article 10.5 of CAFTA-DR and required the GoG to pay an award of USD 14.6 million. The GoG paid the award in November 2013.

Dispute Settlement

ICSID Convention and New York Convention

Guatemala is a signatory to convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958 New York Convention), the Inter-American Convention on International Commercial Arbitration (Panama Convention), and is a member state to the International Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention).

Investor-State Dispute Settlement

CAFTA-DR incorporated dispute resolution mechanisms for investors. Over the past ten years, three investment disputes involving U.S. businesses were filed under the investment chapter of CAFTA-DR against the GoG with the ICSID – one in 2010 and the other in 2018. A Spanish firm filed a claim with the ICSID in 2009 on the same case filed by the U.S. investor in 2010. The U.S. investor filed the first claim under the agreement in June 2007 and the status of that case is described under the Expropriation and Compensation section of this report.

In October 2010, a U.S. company operating in Guatemala filed the second claim against the GoG with the ICSID. The claim seeks to resolve a dispute against the GoG regarding the regulation of electricity rates and the eventual sale of the company. In 2013, ICSID's arbitral tribunal issued its judgment and awarded the company over USD 21 million in damages over electricity rates and USD 7.5 million to cover legal expenses. In 2014, the GoG filed an appeal to have the 2013 award annulled. On the same date, the company also filed for a partial annulment of the award. The ICSID ad-hoc committee issued its decision on both annulment proceedings in April 2016. The company then filed a request to resubmit the dispute over the sale to a new tribunal in October 2016. The new ICSID tribunal, constituted in February 2017, held a hearing on jurisdiction and merits of this case in March 2019. The case remains pending before the ICSID as of April 2019.

In December 2018, a U.S company operating in Guatemala filed the third claim against the GoG under the investment chapter of CAFTA-DR with the ICSID. The claim seeks to resolve a dispute against the GoG regarding the suspension of the claimant's mining exploitation license by the Guatemalan courts in 2016 due to lack of consultations with local communities pursuant to International Labor Organization (ILO) 169 Convention. The case remains pending before the ICSID as of April 2019.

International Commercial Arbitration and Foreign Courts

Guatemala's Foreign Investment Law also allows alternative dispute resolution mechanisms, if agreed to by the parties. Currently, there are two alternative dispute resolution mechanisms available in Guatemala to settle disputes between two private parties: the Center of Arbitration and Conciliation of the Guatemalan Chamber of Commerce (CENAC) and the Conflict Resolution Commission of the Guatemalan Chamber of Industry (CRECIG). Both dispute resolution centers provide support with arbiters and logistics. Guatemala's Arbitration Law of 1995 uses the U.N. Commission on International Trade Law (UNCITRAL) Model Law as the basis for its rules on international arbitration. The Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958 New York Convention), of which Guatemala is a signatory, recognizes the subsequent enforcement of arbitral awards under these arbitration rules. The Law of the Judiciary recognizes judgments of foreign courts, but judgments must be final and comply with a legalization process to corroborate validity of the judgment.

Bankruptcy Regulations

Guatemala does not have an independent bankruptcy law. However, the Code on Civil and Mercantile Legal Proceedings contains a specific chapter on bankruptcy proceedings. Under the code, creditors can request to be included in the list of creditors; request an insolvency proceeding when a debtor has suspended payments of liabilities to creditors; and constitute a general board of creditors to be informed of the proceedings against the debtor. Bankruptcy is not criminalized, but it can become a crime if a court determines there was intent to defraud. According to the World Bank's 2019 Doing Business Report, Guatemala ranked 156 out of 190 countries in resolving insolvency. The Ministry of Economy and members of the Congressional Economic and Foreign Trade Committee submitted a draft bankruptcy law to Congress in May 2018, which is pending Congressional approval as of April 2019.

## Industrial Policies

Investment Incentives

Guatemala's main investment incentive programs are specified in law and are available countrywide to both foreign and Guatemalan investors without discrimination.

Guatemala's primary incentive program – the Law for the Promotion and Development of Export Activities and Maquilas – is aimed mainly at the apparel and textile sector and at services exporters such as call centers and business processes outsourcing (BPO) companies. The government grants investors in these two sectors a 10-year income tax exemption. Additional incentives include an exemption from duties and value-added taxes (VAT) on imported machinery and equipment and a one-year suspension of the same duties and taxes on imports of production inputs, samples, and packing material. Taxes are waived when the goods are re-exported. The Free Trade Zone Law provides similar incentives to the incentive program described above, but its beneficiaries include only some services providers and a limited number of manufacturing activities such as apparel manufacturers and motorcycle assemblers. The Guatemalan Congress approved the Law for Conservation of Employment (Decree 19-2016) in February 2016, amending Guatemala's two major incentive programs to replace tax incentives related to exports that Guatemala dismantled on December 31, 2015, per WTO requirements. The income tax exemption granted through the Law for the Promotion and Development of Export Activities and Maquilas applies exclusively to apparel and textile companies as well as to exporters of services, such as call centers and BPO companies.

The public Free Trade Zone of Industry and Commerce Santo Tomas de Castilla (ZOLIC) that operates contiguous to the state-owned port Santo Tomas de Castilla issued a regulation in January 2019 allowing the establishment of ZOLIC's special public economic development zones outside of ZOLIC's customs perimeter. The ZOLIC law grants businesses operating within the new special public economic development zones a 10-year income tax exemption. Additional exemptions include an exemption from VAT, customs duties, and other charges on imports of goods entering the area, including raw materials, supplies, machinery and, equipment and a VAT exemption on all taxable transactions carried out within the free trade zone. Incentives are available to local and foreign investors engaged on manufacturing and commercial activities as well as on the provision of services.

Foreign Trade Zones/Free Ports/Trade Facilitation

Decree 65-89, Guatemala's Free Trade Zones Law and its amendments approved through Decree 19-2016, Law for Conservation of Employment, permits the establishment of free trade zones (FTZs) in any region of the country. Developers of private FTZs must obtain authorization from MINECO to install and manage a FTZ. Businesses operating within authorized FTZs also require authorization from MINECO. The law specifies investment incentives, which are available to both foreign and Guatemalan investors without discrimination. As of April 2019, there were 10 authorized FTZs operating in Guatemala. Currently, services and a limited number of manufacturing activities are the only beneficiaries of Guatemala's Free Trade Zones Law. The Guatemalan Congress is considering amendments to the Free Trade Zones Law to reinstate tax incentives to some of the activities removed during the previous reform.

Performance and Data Localization Requirements

Guatemala does not impose performance, purchase, or export requirements, other than those normally associated with free trade zones and duty drawback programs. The Labor Code requires that at least 90 percent of employees must be Guatemalan, but the requirement does not apply to high-level positions such as managers and directors. Companies are not required to include local content in production.

Guatemalan companies do not require foreign IT providers to turn over source code and/or provide access to surveillance. Some industries, such as the banking and financial sector, can request that their institution or a source code facilities management company receive a copy of the source code in case of potential problems with the IT provider in the software license contract.

## Protection of Property Rights

Real Property

Guatemala follows the real property registry system. Defects in the titles and ownership gaps in the public record can lead to conflicting claims of land ownership, especially in rural areas. The government stepped up efforts to enforce property rights by helping to provide a clear property title. Nevertheless, when rightful ownership is in dispute, it can be difficult to obtain and subsequently enforce eviction notices.

Mortgages are available to finance homes and businesses. Approximately half of the banks offer mortgage loans with terms as long as 15-20 years for residential real estate. Mortgages and liens are recorded at the real estate property registry. According to the 2019 World Bank's Doing Business Report, registering property in Guatemala takes 24 days, and it costs 3.7 percent of the property value. In the 2019 report, Guatemala ranked 86 out of 190 countries in the category of Registering Property.

The legal system is readily accessible to foreigners. Foreign investors are advised to seek reliable local counsel early in the investment process.

Intellectual Property Rights

Guatemala has been a member of the WTO since 1995 and the World Intellectual Property Organization (WIPO) since 1983. It is also a signatory to the Paris Convention, Berne Convention, Rome Convention, Phonograms Convention, and the Nairobi Treaty. Guatemala has ratified the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT). In June 2006, as part of CAFTA-DR implementation, Guatemala ratified the Patent Cooperation Treaty and the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure. Also in June 2006, the Guatemalan Congress approved the International Convention for the Protection of New Varieties of Plants (UPOV Convention). Implementing legislation that would allow Guatemala to become a party to the convention, however, is still pending. The Guatemalan Congress approved the Trademark Law Treaty in February 2016.

Guatemala has a registry for intellectual property. Trademarks, copyrights, patents rights, industrial designs, and other forms of intellectual property must be registered in Guatemala to obtain protection in the country.

Guatemala has a sound intellectual property rights legal framework. The Guatemalan Congress passed an industrial property law in August 2000, bringing the country's intellectual property rights laws into compliance with the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement. Congress modified the legislation in 2003 to provide pharmaceutical test data protection consistent with international practice and again in 2005 to comply with IPR protection requirements in CAFTA-DR. CAFTA-DR provides for improved standards for the protection and enforcement of a broad range of IPR, which are consistent with U.S. standards of protection and enforcement as well as emerging international standards.  Congress approved a law to prohibit the production and sale of counterfeit medicine in November 2011. It approved amendments to the Industrial Property Law in June 2013 to allow the registration of geographical indications (GI), as required under the Association Agreement with the European Union. Guatemalan administrative authorities issued rulings on applications to register GIs that appear sound and well-reasoned for compound GI names, but U.S. exporters are concerned that 2014 rulings on single-name GIs will effectively prohibit new U.S. products in the Guatemalan market from using what appear to be generic or common names when identifying their goods locally.

Enforcement of IPR laws has been inconsistent. Guatemalan public prosecutors have pursued a number of raids, cases, and prosecutions but resource constraints and lack of coordinated government action impede efficient enforcement efforts.  Piracy of works protected by copyright and infringement of other forms of intellectual property, such as trademarks, including those of some major U.S. food and pharmaceutical brands, remains problematic in Guatemala.

Guatemala remains on USTR's Special 301 Watch List in 2019 for more than 10 years.  Despite a generally strong legal framework in place, resource constraints, a lack of political will, and poor coordination among law enforcement agencies have resulted in IP enforcement that appears inadequate in relation to the scope of the problem in Guatemala.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at http://www.wipo.int/directory/en/.

## Financial Sector

Capital Markets and Portfolio Investment

Guatemala's capital markets are weak and inefficient because they lack a securities regulator.  The local stock exchange (Bolsa Nacional de Valores) deals almost exclusively in commercial paper, repurchase agreements (repos), and government bonds.  The Guatemalan Central Bank (Banguat) and the Superintendence of Banks (SIB) were drafting an updated capital markets bill as of April 2019. Notwithstanding the lack of a modern capital markets law, the government debt market continues to develop.  Domestic treasury bonds now represent 56.4 percent of total public debt.

Guatemala lacks a market for publicly-traded equities, which raises the cost of capital and complicates mergers and acquisitions.  As of December 2018, borrowers faced a weighted average annual interest rate of 15.7 percent, with some banks charging over 30 percent on consumer or micro-credit loans.  Commercial loans to large businesses offered the lowest rates and were on average 7.2 percent as of December 2018. Dollar-denominated loans typically are several percentage points lower than those issued in local currency.  Foreigners rarely rely on the local credit market to finance investments.

Money and Banking System

Overall, the banking system remains stable.  According to information from the SIB, Guatemala's 17 commercial banks had an estimated USD 43.75 billion in assets in 2018.  The six largest banks control about 89 percent of total assets. In addition, Guatemala has 13 non-bank financial institutions, which perform primarily investment banking and medium- and long-term lending, and three exchange houses.  Access to financial services is very high in Guatemala City, as well as in major regional cities. Guatemala has 16.9 access points per 10,000 adults at the national level and 23.4 access points per 10,000 adults in the metropolitan area.  Most banks offer a variety of online banking services.

Foreigners are normally able to open a bank account by presenting their passport and a utility bill or some other proof of residence. However, requirements may vary by bank.

In April 2002, the Guatemalan Congress passed a package of financial sector regulatory reforms that increased the regulatory and supervisory authority of the SIB, which is responsible for regulating the financial services industry. The reforms brought local practices more in line with international standards and spurred a round of bank consolidations and restructurings. The 2002 reforms required that non-performing assets held offshore be included in loan-loss-provision and capital-adequacy ratios. As a result, a number of smaller banks sought new capital, buyers, or mergers with stronger banks, reducing the number of banks from 27 in 2005 to 17 in 2018.

Guatemalan banking and supervisory authorities and the Guatemalan Congress actively work on new laws in the business and financial sectors. In August 2012, the Guatemalan Congress approved reforms to the Banking and Financial Groups Law and to the Central Bank Organic Law that strengthened supervision and prudential regulation of the financial sector and resolution mechanisms for failed or failing banks. In July 2010, the Guatemalan Congress approved a new insurance law, which strengthened supervision of the insurance sector and allowed foreign insurance companies to open branches in Guatemala. Groups of affiliated credit card, insurance, financial, commercial banking, leasing, and related companies must issue consolidated financial statements prepared in accordance with uniform, generally accepted, accounting practices. The groups are audited and supervised on a consolidated basis.

Foreign banks may open branches or subsidiaries in Guatemala subject to Guatemalan financial controls and regulations. These include a rule requiring local subsidiaries of foreign banks and financial institutions operating in Guatemala to meet Guatemalan capital and lending requirements as if they were stand-alone operations.

There have been some changes to correspondent banking relationships over the past few years, but the changes were similar to those seen throughout the region and reflected a trend of de-risking. The total number of relationships with Guatemala's financial sector showed a slight decline in 2016 but the situation stabilized in 2017.

Alternative financial services that are present in Guatemala include credit and savings unions and microfinance institutions, which serve those segments not covered by banks.

Foreign Exchange and Remittances

Foreign Exchange

Guatemala's Foreign Investment Law and CAFTA-DR commitments protect the investor's right to remit profits and repatriate capital. There are no restrictions on converting or transferring funds associated with an investment into a freely usable currency at a market-clearing rate. U.S. dollars are freely available and easy to obtain within the Guatemalan banking system. In October 2010, monetary authorities approved a regulation to establish limits for cash transactions of foreign currency to reduce the risks of money laundering and terrorism financing. The regulation establishes that monthly deposits over USD 3,000 will be subject to additional requirements, including a sworn statement by the depositor stating that the money comes from legitimate activities. There are no legal constraints on the quantity of remittances or any other capital flows and there have been no reports of unusual delays in the remittance of investment returns.

The Law of Free Negotiation of Currencies allows Guatemalan banks to offer different types of foreign-currency-denominated accounts. In practice, the majority of such accounts are in U.S. dollars. Some banks offer "pay through" dollar-denominated accounts in which depositors make deposits and withdrawals at a local bank while the bank maintains the actual account on behalf of depositors in an offshore bank.

Capital can be transferred from Guatemala to any other jurisdiction without restriction. The exchange rate moves in response to market conditions. The government sets one exchange rate as reference, which it applies only to its own transactions and which is based on the commercial rate. The Central Bank intervenes in the foreign exchange market only to prevent sharp movements. The reference exchange rate of Quetzals (GTQ) to the U.S. dollar has remained relatively stable since 1999.

Remittance Policies

There are no time limitations on remitting different types of investment returns.

Sovereign Wealth Funds

Guatemala does not have a sovereign wealth fund.

## State-Owned Enterprises

With the exception of the National Electricity Institute (INDE) and two state-owned ports, Guatemala does not have significant state-owned enterprises (SOEs). INDE is a state-owned electricity company responsible for expanding the provision of electricity to rural communities. INDE owns approximately 13 percent of the country's installed effective generation capacity, and it participates in the wholesale market under the same rules as its competitors. It also provides a subsidy to consumers of up to 100 kilowatt-hours (kWh) per month. Its board of directors comprises representatives from the government, municipalities, business associations, and labor unions. The board of directors appoints the general manager.

The GoG currently owns 16 percent of the shares of Rural Development Bank (BanRural), the second largest bank in Guatemala, and holds 3 out of 10 seats on its board of directors. BanRural is a mixed capital company and operates under the same laws and regulations as other commercial banks. The GoG also appoints the manager of GUATEL, the former state-owned telephone company dedicated to providing rural and government services that split off from the fixed-line telephone company during its privatization in 1998. GUATEL's operations are small and it continuously fails to generate sufficient revenue to cover expenses. The GUATEL director reports to the Guatemalan president and to the board of directors.

Privatization Program

The GoG privatized a number of state-owned assets in industries and utilities in the late 1990s including power distribution, telephone services, and grain storage. Guatemala does not currently have a privatization program.

## Responsible Business Conduct

There is a general awareness of expectations of standards for responsible business conduct (RBC) on the part of producers and service providers, as well as Guatemalan business chambers. A local organization called the Center for Socially Responsible Business Action (CentraRSE) promotes, advocates, and monitors RBC in Guatemala. They operate freely with multiple partner organizations, ranging from private sector to United Nations entities. CentraRSE currently has over 100 affiliated companies from 20 different sectors that represent about 30 percent of GDP and provide employment to over 150,000 individuals. CentraRSE defines RBC as a business culture based on ethical principles, strong law enforcement, and respect for individuals, families, communities, and the environment, which contributes to businesses competitiveness, general welfare, and sustainable development. The GoG does not have a definition of RBC as of April 2019. Guatemala joined the Extractive Industries Transparency Initiative (EITI) in February 2011 and was designated EITI compliant in March 2014. The EITI board suspended Guatemala in February 2019 for failing to publish the 2016 EITI report and the 2017 annual progress report by the December 31, 2018 deadline. Guatemala published the 2016-2017 EITI report and the 2017 annual progress report in February and March 2019.

In January 2014, the State Department recognized a U.S.-based company as one of twelve finalists for the Secretary of State's 2013 Award for Corporate Excellence for its contributions to sustainable development in Guatemala. The Department has also recognized U.S. companies such as McDonald's, Starbucks, and Denimatrix for corporate social responsibility (CSR) programs that aimed to foster safe and productive workplaces as well as provide health and education programs to workers, their families, and local communities. Communities with low levels of government funding for health, education, and infrastructure generally expect companies to implement CSR practices.

Conflict surrounding extractive projects – in particular mining and hydroelectric projects – is frequent, and there have been several cases of violence against protestors in the recent past, including several instances of murder. The GoG continues to improve its capacity to respond to protests and help facilitate a peaceful resolution. Protests against companies are normally peaceful and usually take place only after the aggrieved parties have attempted to dialogue directly with the company in question.

## Corruption

Bribery is illegal under Guatemala's Penal Code. However, corruption remains a serious problem that companies may encounter at many levels. Guatemala scored 27 out of 100 points on Transparency International's 2018 Corruption Perception Index, ranking it 144 out of 180 countries globally, and 29 out of 32 countries in the region. The score dropped one point compared to the score observed in the 2017 report.

Investors find corruption especially pervasive in customs transactions, particularly at ports and borders away from the capital. The Tax and Customs Authority (SAT) launched a customs modernization program in November 2006, which implemented an advanced electronic manifest system and resulted in the removal of many corrupt officials. However, reports of corruption at major customs locations such as ports and border points remain prevalent. Since 2006, the UN-sponsored International Commission against Impunity in Guatemala (CICIG) undertook numerous high-profile official corruption investigations, leading to significant indictments. Notably, CICIG unveiled a customs corruption scheme in 2015 that led to the resignations of the president and vice president.

In February 2018, the Public Ministry brought charges against former president Alvaro Colom and nine former members of his cabinet after a long-running investigation into fraud involving a bus system in Guatemala City known as Transurbano. Prosecutors claimed Colom's cabinet approved payments of USD 35 million in government funds to a consortium of private bus companies in charge of the Transurbano without proper legal oversight. According to prosecutors, almost one-third of those payments went to equipment that was never used. On March 1, a judge found sufficient evidence to charge the defendants, and authorities placed Colom and the former members of his cabinet under house arrest.

In January 2018, the Public Ministry, accompanied by CICIG personnel, conducted raids as part of an investigation of the Brazilian company Odebrecht, which allegedly paid USD 17.9 million in bribes to local officials. The investigation led to charges against former presidential candidate Manuel Baldizon, who U.S. authorities detained in Florida on an international arrest warrant in September 2018 on separate money laundering and conspiracy charges. Prosecutors accused Baldizon of accepting at least USD 1.3 million in bribes from Odebrecht to help it win public works contracts. Authorities also sought the arrest of former communications minister Alejandro Sinibaldi, who allegedly distributed the bribes and embezzled at least nine million dollars. Sinibaldi remains a fugitive and was implicated in another case of bribery and influence peddling linked to former president Otto Perez Molina's administration.

Guatemala's Government Procurement Law requires most government purchases over USD 119,694 to be submitted for public competitive bidding. Since March 2004, GoG entities are required to use Guatecompras, an Internet-based electronic procurement system to track GoG procurement processes. GoG entities must also comply with GoG procurement commitments under CAFTA-DR. In August 2009, the Guatemalan Congress approved reforms to the Government Procurement Law, which simplified bidding procedures; eliminated the fee previously charged to receive bidding documents; and provided an additional opportunity for suppliers to raise objections over the bidding process. Despite these reforms, large government procurements are often subject to appeals and injunctions based on claims of irregularities in the bidding process (e.g., documentation issues and lack of transparency). In November 2015, the Guatemalan Congress approved additional amendments to the Government Procurement Law that improved transparency of procurement processes by barring government contracts for financers of political campaigns and parties, members of Congress, other elected officials, government workers, and their family members. The 2015 reforms expanded the scope of procurement oversight to include public trust funds and all institutions (including NGOs) executing public funds. The U.S. government continues to advocate for the use of open, fair, and transparent tenders in government procurement as well as procedures that comply with CAFTA-DR obligations, which would allow open participation by U.S. companies.

El Salvador, Guatemala, Honduras, and the United States agreed to specific commitments in a joint statement to the support of the Alliance for Prosperity on February 24, 2016. The countries agreed to measures that will ensure more accountable, transparent, and effective public institutions; invest in human capital; provide greater opportunities to all citizens; and guarantee a safe and secure environment for their people, with a particular focus on the underlying conditions driving migration to the United States. The statement follows progress on commitments agreed to by the same countries in March 2015.

Guatemala ratified the U.N. Convention against Corruption in November 2006, and the Inter-American Convention against Corruption in July 2001. Guatemala is not a party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. In October 2012, the Guatemalan Congress approved an anti-corruption law that increases penalties for existing crimes and adds new crimes such as illicit enrichment, trafficking in influence, and illegal charging of commissions.

Resources to Report Corruption

Contact at government agencies responsible for combating corruption:

Public Ministry
23 Calle 0-22 Zona 1, Ciudad de Guatemala
Phone: (502) 2251-4105; (502) 2251-4219; (502) 2251-5327; (502) 2251-8480; (502) 2251-9225
Email: **fiscaliacontracorrupcion@mp.gob.gt**

Comptroller General's Office
7a Avenida 7-32 Zona 13
Phone: (502) 2417-8700

Contact at "watchdog" organization:

Name: Accion Ciudadana (Guatemalan Chapter of Transparency International)
Address: Avenida Reforma 12-01 Zona 10, Edificio Reforma Montufar, Nivel 17, Oficina 1701
Phone: (502) 2388- 3400
Toll free to submit corruption complaints: 1-801-8111-011
Email: **alac@accionciudadana.org.gt** or **accionciudadana@accionciudadana.org**

## Political and Security Environment

Guatemala has one of the highest violent crime rates in Latin America. According to the National Civil Police (PNC), the murder rate in 2018 was 22.4 per 100,000, making Guatemala one of the most dangerous countries in the world. Rule of law is lacking and the judicial system is weak, overworked, and inefficient. The police are understaffed and sometimes corrupt.

Given the weak rule of law, violent crime such as armed robbery and murder, is common. Gang activity, such as extortion, violent street crime, and narcotics trafficking, is widespread. Local police may lack the resources to respond effectively to serious criminal incidents. Although security remains a widespread concern, foreigners are not usually singled out as targets of crime. Recent examples of violence include extrajudicial killings, illegal detentions, and property damage as a result of protests against some investment projects.

The main source of tension among indigenous communities, Guatemalan authorities, and private companies is the lack of prior consultation and alleged environmental damage. The UN's Office of the High Commissioner for Human Rights (OHCHR) reported an increase in conflicts over the exploitation of natural resources in indigenous areas between 2012 and 2014. In more than a dozen incidents between 2012 and 2014, the government's response was the declaration of a state of emergency, limiting certain constitutional rights in the conflicted areas.

Damage to projects or installations is rare. However, there was an instance in October 2018 in which unidentified arsonists burned machinery and other equipment at the site of a hydroelectric construction project near the northern border with Mexico.

## Labor Policies and Practices

The Guatemala workforce consists of an estimated 2.0 million individuals employed in the formal sector and roughly 4.82 million individuals who work in the informal sector, including some who are too young for formal sector employment. According to the 2017 Survey on Employment and Income, child labor, particularly in rural areas, remains a serious problem in certain industries. Approximately 33 percent of the total labor force is engaged in agricultural work. The availability of a large, unskilled, and inexpensive labor force led many employers, such as construction and agricultural firms, to use labor-intensive production methods. Roughly 16 percent of the employed workforce is illiterate. In developed urban areas, however, education levels are much higher, and a workforce with the skills necessary to staff a growing service sector emerged. Even so, highly capable technical and managerial workers remain in short supply, with secondary and tertiary education focused on social science careers.

No special laws or exemptions from regular labor laws cover export-processing zones. In December 2015, then-President Alejandro Maldonado issued an executive order establishing a lower minimum wage for workers employed by light manufacturing export companies in four of 340 municipalities of the country, with the intention of attracting foreign investment and creating jobs in those areas. The order never took effect due to a temporary injunction filed against it. The Morales Administration revoked the executive order in February 2016. The Labor Code requires that at least 90 percent of employees be Guatemalan, but the requirement does not apply to high-level positions. The Labor Code sets out employer responsibilities regarding working conditions, especially health and safety standards, benefits; severance pay; premium pay for overtime work; minimum wages; and bonuses. Mandatory benefits, bonuses, and employer contributions to the social security system can add up to about 55 percent of an employee's base pay. However, many workers, especially in the agricultural sector, do not receive the full compensation package mandated in the labor law. According to the Human Rights Ombudsman (PDH) 2018 report, the Social Security Institute in Guatemala reported that in 2017 the social security system covered 18.3 percent of the Guatemalan population. All employees are subject to a two-month trial period during which time they may resign or be discharged without any obligation on the part of the employer or employee. An employer may dismiss an employee at any time, for any reason (except pregnancy) and without giving the employee any notice during the trial period. For any dismissal after the two-month trial period, the employer must pay unpaid wages for work already performed, proportional bonuses, and proportional vacation time. If an employer dismisses an employee without just cause, the employer must also pay severance equal to one month's regular pay for each full year of employment.

Guatemala's Constitution guarantees the right of workers to unionize and to strike, with an exception to the right to strike for security force members and workers employed in hospitals, telecommunications, and other public services considered essential to public safety. Before a strike can be declared, workers and employers must engage in mandatory conciliation and then approve a strike vote by 50 percent plus one worker in the enterprise. If conciliation fails, either party may ask the judge for a ruling on the legality of conducting a strike or lockout. Legal strikes in Guatemala are extremely rare. The Constitution also commits the state to support and protect collective bargaining, and holds that international labor conventions ratified by Guatemala establish the minimum labor rights of workers if they offer greater protections than national law. In most cases, labor unions operate independently of the government and employers both by law and in practice. The law requires unions to register with the Ministry of Labor (MinTrab) and their leadership must obtain credentials from MinTrab to carry out their functions. Delays in such proceedings are common. The law prohibits anti-union discrimination and employer interference in union activities and requires employers to reinstate workers dismissed for organizing union activities. A combination of inadequate allocation of budget resources to MinTrab and other relevant state institutions, and inefficient administrative and justice sector processes, act as significant impediments for more effective enforcement of labor laws to protect these workers' rights. As a result, investigating, prosecuting, and punishing employers who violate these guarantees remain a challenge, particularly the enforcement of labor court orders requiring reinstatement and payment of back wages resulting from dismissal. The rate of unionization in Guatemala is very low. The PDH's 2018 report indicates that there are only 640 active unions and 55 percent of those are in the public sector. In the private sector, PDH estimates that less than one percent of workers are unionized.

Both the U.S. government and Guatemalan workers have filed complaints against the GoG for allegedly failing to adequately enforce its labor laws and protect the rights of workers. In September 2014, the U.S. government convened an arbitral panel alleging that Guatemala had failed to meet its obligations under CAFTA-DR to enforce effectively its labor laws related to freedom of association and collective bargaining and acceptable conditions of work. The panel held a hearing in June 2015 and issued a decision favorable to Guatemala in June 2017. Separately, the GoG faced an International Labor Organization (ILO) complaint filed by workers in 2012 alleging that the government had failed to comply with ILO Convention 87 on Freedom of Association. The complaint called for the establishment of an ILO Commission of Inquiry, which is the ILO's highest level of scrutiny when all other means failed to address issues of concern. In 2013, the GoG agreed to a roadmap with social partners in an attempt to avoid the establishment of a Commission. The government took some steps to implement its roadmap, including the enactment of legislation in 2017 that restored administrative sanction authority to the labor inspectorate for the first time in 15 years. As part of a tripartite agreement reached at the ILO in November 2017, a National Tripartite Commission on Labor Relations and Freedom of Association was established in February 2018 to monitor and facilitate implementation of the 2013 roadmap. Nevertheless, the ILO noted several areas where additional and urgent action was needed, including investigation and prosecution of perpetrators of trade union violence, the adoption of protection measures for union officials and members, additional legislative reforms to bring national law into compliance with Convention 87, and significantly increasing compliance with labor court orders related to anti-union dismissal. Based in large part on the 2017 tripartite agreement, the ILO Governing Body closed the complaint against Guatemala in November 2018.

## OPIC and Other Investment Insurance Programs

Guatemala ratified the Multilateral Investment Guarantee Agency (MIGA) Convention in 1996. The Overseas Private Investment Corporation (OPIC) is active in Guatemala, providing both insurance and investment financing. OPIC applicants are generally able to obtain foreign government approval quickly. For more information, U.S. investors should contact OPIC headquarters in Washington, D.C., at (202) 336-8799, or go to www.opic.gov.

## Foreign Direct Investment and Foreign Portfolio Investment Statistics

Guatemala has the largest economy in Central America, reaching a USD 78.45 billion gross domestic product (GDP) in 2018, with an estimated 3.0 percent growth rate in 2018. Remittances, mostly from the United States, increased by 13.4 percent in 2018 and were equivalent to 11.8 percent of GDP. The United States is Guatemala's most important economic partner. According to preliminary Banguat data, FDI stock was USD 16.36 billion in 2018, a 1.5 percent increase in relation to 2017. Estimated foreign portfolio investment totaled USD 4.91 billion in 2018, with about 60 percent invested in government bonds. There is no official data available on sources of stock of FDI or foreign portfolio investment.

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

| | Host Country Statistical Source* | | USG or International Statistical Source | | USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other |
|---|---|---|---|---|---|
| Economic Data | Year | Amount | Year | Amount | |
| Host Country Gross Domestic Product (GDP) ($M USD) | 2018 | $78,450 | 2017 | $75,620 | www.worldbank.org/en/country |
| Foreign Direct Investment | Host Country Statistical source* | | USG or international statistical source | | USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, |
| U.S. FDI in partner country ($M USD, | N/A | N/A | 2017 | $1,048 | BEA data available at https://www.bea.gov/international/direct-in multinational-enterprises-comprehensive-data |

| | | | | | |
|---|---|---|---|---|---|
| stock positions) | | | | | |
| Host country's FDI in the United States ($M USD, stock positions) | N/A | N/A | 2016 | $2 | BEA data available at https://www.bea.gov/international/direct-in multinational-enterprises-comprehensive-data |
| Total inbound stock of FDI as % host GDP | 2018 | 20.9 | 2017 | 21.9 | UNCTAD data available at https://unctad.org/en/Pages/DIAE/World%20Investment%20R Fact-Sheets.aspx |

* Bank of Guatemala http://www.banguat.gob.gt.  Estimated GDP year-end figures were published in December 2018 and preliminary FDI year-end data were published on March 29, 2019.

Table 3: Sources and Destination of FDI

| Direct Investment From/in Counterpart Economy Data | | | | | |
|---|---|---|---|---|---|
| From Top Five Sources/To Top Five Destinations *(US Dollars, Millions)* | | | | | |
| Inward Direct Investment | | | Outward Direct Investment | | |
| Total Inward | 16,125 | 100% | Total Outward | 981 | 100% |

| | | | | | |
|---|---|---|---|---|---|
| United States | 3,220 | 19.97% | El Salvador | 194 | 19.78% |
| Mexico | 2,475 | 15.35% | Bahamas, The | 176 | 17.94% |
| Colombia | 1,842 | 11.42% | Panama | 164 | 16.72% |
| Spain | 833 | 5.17% | Barbados | 110 | 11.21% |
| Switzerland | 722 | 4.48% | Mexico | 109 | 11.11% |

"0" reflects amounts rounded to +/- USD 500,000.

According to data from the Coordinated Investment Survey for 2017 published by the IMF, about one fifth of FDI in Guatemala comes from the United States. Other important sources of FDI are Mexico, Colombia, and Spain (please see Table 3 on sources and destinations of FDI below). Preliminary data from Banguat also show that the flow of FDI totaled USD 1.03 billion in 2018 (1.31 percent of GDP), an 11.8 percent decline compared to USD 1.17 billion (1.55 percent of GDP) received in 2017. Some of the activities that attracted most of the FDI flows in the last three years were commerce, banking and insurance, manufacturing, telecommunications, and electricity.

Table 4: Sources of Portfolio Investment

Portfolio investment data are not available for Guatemala.

## Contact for More Information

Audrey Slover
Economic Officer
U.S. Embassy Guatemala
Av. Reforma 7-01 Zona 10, Guatemala
(502) 2326-4706
Email: **GuatemalaPOL-ECON@state.gov**

## Trade & Project Financing

### Methods of Payment

The most secure means of payment are cash in advance or irrevocable letters of credit. However, many Guatemalan imports are financed through short term (typically 60-day) lines of credit. Generally, these are extended directly by the U.S. exporter to the Guatemalan importer. This method of financing is usually only available to large importers and long-term clients. The larger Guatemalan importers frequently have their own source of capital abroad, which can be used to finance or to leverage financing for imports such as Exim or OPIC. U.S. exporters should exercise caution when extending credit, the pursuit of claims against Guatemalan firms for lack of payment can be time-consuming and costly.

### Banking Systems

Overall, the banking system remains stable. According to information from the Superintendence of Banks (SIB), the Guatemalan banking system comprises 17 commercial banks, which held an estimated USD 43.75 billion in assets in 2018. The six largest banks control about 89 percent of total assets. In addition, there are 13 non-bank financial institutions specializing in investment operations, three licensed exchange houses, twenty-eight insurance companies, six credit card issuers, fourteen bonded warehouses, and four offshore banks which, by law, are affiliated with domestic financial groups. The Superintendence of Banks is responsible for regulating the financial services industry.

Guatemalan banking regulatory authorities and the Guatemalan Congress have been actively working on new laws to strengthen the financial sector. In August 2012, the Guatemalan Congress approved reforms to the Banking and Financial Groups Law and to the Central Bank Organic Law that strengthen supervision and prudential regulation of the financial sector and resolution mechanisms for failed or failing banks. Financial sector regulations passed by the Guatemalan Congress in April 2002 increased the scope of supervision and brought local practices more in line with international standards. The 2002 regulations included Banking and Financial Groups Law, a Financial Supervision Law, and a Central Bank Law.

The Guatemalan Congress also passed strong anti-money laundering legislation in December 2001. The Financial Action Task Force removed Guatemala from the list of non-cooperating countries in July 2004. Terrorism finance legislation was passed in August 2005. For more information on the banking system please read the section **Capital Markets and Portfolio Investment** of the Investment Climate Chapter.

### Foreign Exchange Controls

Guatemala maintains an open and unrestricted exchange regime. There are no restrictions on converting or transferring funds associated with an investment into a freely usable currency at a market-clearing rate. The exchange rate moves in response to market conditions. The government sets one exchange rate as its reference, which it applies only to its own transactions and which is based on the commercial rate. The Central Bank intervenes in the foreign exchange market only to prevent sharp movements. There are no legal constraints on the quantity of remittances or any other capital flows, or delays in acquiring foreign exchange. Since May 2001, banks are permitted to offer accounts and conduct business in any foreign currency. In October 2010, monetary authorities approved a regulation to establish limits for cash transactions of foreign currency to reduce the risks of money laundering and terrorism financing. The regulation establishes that monthly deposits over USD 3,000 will be subject to additional requirements, including a sworn statement by the depositor stating that the money comes from legitimate activities. The reference exchange rate of Quetzals (GTQ) to the U.S. dollar (USD) has remained relatively stable since 1999.

## US Banks & Local Correspondent Banks

The Guatemalan Bank Association site has a link to most Guatemalan banks and their correspondent U.S. banks. More information at: www.abg.org.gt.

## Project Financing

A wide variety of sources of project financing are available in Guatemala, both from U.S. and international organizations. The U.S. Overseas Private Investment Corporation (OPIC), EXIMBANK, and the U.S. Trade and Development Agency (USTDA) are all involved in private sector projects in Guatemala and after CAFTA-DR implementation have shown interest in participating in more projects in the region. The International Finance Corporation (IFC-World Bank Group), the Multi-Lateral Investment Guaranty Agency (MIGA), the World Bank and the Inter-American Development Bank are all active players in project finance in Guatemala, especially when projects coincide with these organizations' priorities related to the implementation of Guatemala's peace accords. The Central American Bank of Economic Integration (CABEI) continues to play an important role in many projects, especially those related to public services and infrastructure.

## Multilateral Development Banks

The Commercial Service maintains Commercial Liaison Offices in each of the main Multilateral Development Banks, including the Inter-American Development Bank and the World Bank. These institutions lend billions of dollars to developing countries on projects aimed at accelerating economic growth and social development by reducing poverty and inequality, improving health and education, and advancing infrastructure development. The Commercial Liaison Offices help American businesses learn how to get involved in bank-funded projects, and advocate on behalf of American bidders. Learn more by contacting the Commercial Liaison Offices to the Inter-American Development Bank (http://export.gov/idb) and the World Bank (http://export.gov/worldbank).

## Financing Web Resources

Trade Finance Guide: A Quick Reference for U.S. Exporters, published by the International Trade Administration's Industry & Analysis team: http://www.export.gov/tradefinanceguide/index.asp

Export-Import Bank of the United States: www.exim.gov

Country Limitation Schedule: https://www.exim.gov/tools-for-exporters/country-limitation-schedule

OPIC: www.opic.gov

U.S. Trade and Development Agency: www.ustda.gov

U.S. Small Business Administration, Office of International Trade: www.sba.gov/oit/

USDA Commodity Credit Corporation: www.fsa.usda.gov/about-fsa/structure-and-organization/commodity-credit-corporation/index

Commercial Liaison Office to the World Bank http://export.gov/worldbank

Commercial Liaison Office to the Inter-American Development Bank http://export.gov/idb

U.S. Agency for International Development: www.usaid.gov

Guatemalan Superintendence of Banks: www.sib.gob.gt/web/sib/inicio

Inter-American Development Bank: www.iadb.org/

## Business Travel

### Business Customs

Guatemala, with a population of over 15 million, has the largest economy of Central America and is one of the most important U.S. trading partners in the Caribbean Basin Region. Guatemalan business executives and government officials place great importance on personal contacts with suppliers. U.S. suppliers should be prepared to have a local representative or distributor, and to travel to Guatemala personally.

Travelers are often surprised by the accessibility of key decision-makers and by the frankness of local buyers.

U.S. executives interested in pursuing business in Guatemala should approach local business people in the same manner that they would approach good clients in the United States. Exporters should be prepared to explain how their products and services can complement existing products and systems.

The dress code for Guatemala City business appointments depends on the type of meetings planned. For meetings in the city executives should use proper business attire but for meetings in factories, farms or plants casual attire is recommended.

Although many Guatemalans in the private sector speak and read English, promotional material should be in Spanish and emphasize U.S. origin. Guatemalans are extremely receptive to technical presentations that are educational rather than sales oriented.

### Travel Advisory

The U.S. Embassy in Guatemala provides travel information to U.S. citizens through the Country Information Sheet which is updated annually and can be accessed through www.travel.state.gov.

As of January 10, 2018, Guatemala has a Level 3 Travel Advisory in effect for reconsideration of travel due to crime. A description of the Travel Advisory Levels can be found on the Country Information Sheet. In addition, the U.S. Embassy regularly shares information with U.S. Citizens in Guatemala through messages that can be accessed through the Crime and Public Safety section of the Embassy's website.

All U.S. citizens traveling to or residing in Guatemala are encouraged to register with the Embassy through the online Smart Traveler Enrollment Program (STEP).

### Visa Requirements

U.S. Citizens do not need to obtain a visa before traveling to Guatemala. Upon entry into Guatemala, visitors are normally granted a temporary stay of 90 days.

Those who wish to remain longer will need to apply to extend their visa with Guatemalan immigration authorities within 90 days of their arrival in Guatemala.

Information about applying for permanent residency or extending a visa in Guatemala can be found at: http://igm.gob.gt/

U.S. Companies that require travel of foreign businesspersons to the United States should be advised that each traveler will need to apply and qualify separately for a Non-Immigrant Visa. Visa applicants should go to the following links:

- State Department Visa Website: travel.state.gov/visa/
- U.S. Embassy Guatemala Nonimmigrant Visa Services: Nonimmigrant Visas | Embassy of the United States Guatemala

## Currency

Local currency is the "Quetzal". The U.S. Dollar is commonly accepted in tourist transited areas such as artisan markets, certain restaurants and hotels. There is a broad presence of ATM machines throughout the Capital City, but they become less available as one travels into the country's rural areas. In general, the Capital City, and areas where most famous tourist sites are located, well established hotels and restaurants will accept international credit cards. When traveling to the rural areas or smaller towns in Guatemala, it is a recommended practice to bring local cash to purchase artisan products, or food from smaller local vendors.

## Telecommunications/Electronics

Internet access is widely accessible by computers and smartphones. Hotels offer Internet and telephone service and cell phone systems can be used throughout most of Guatemala. Cell phones must be programmed for roaming in Guatemala; once programmed, calls can be placed to the United States without any problems. Calls can also be placed through hotel operators or directly with AT&T, MCI, or Sprint calling cards, or collect. Claro, Telefonica, Tigo, Movistar, and other international companies compete in the market and provide telecommunications services, including Internet.

## Transportation

Several airlines offer direct flights to Guatemala from the United States, including American Airlines, Avianca, Delta, United, and Spirit. Other airlines operating in Guatemala include COPA, Interjet, Aeromexico, Iberia and Volaris. There are direct flights between Guatemala and Atlanta, Chicago, Dallas, Ft. Lauderdale, Houston, Los Angeles, Miami, Washington, Newark, New York and Orlando.

Transportation between the airport and hotels is available by hotel shuttle or taxi. Several rental car companies are represented at Guatemala City's airport. However, traffic is often very heavy and chaotic. Additionally, Guatemala has one of the highest rates of crime in Latin America; therefore, it is recommended that travelers take taxis from the major hotels, or dispatch taxis such as Taxis Amarillos (yellow cabs). Reservations can be made at (502) 2470-1515. (Agents speak only Spanish.) Uber is also authorized. Public bus transportation is unsafe and is not recommended. Visitors should only travel between cities during daylight hours and we recommend contacting the Guatemalan Protection of Tourist Office at (502) 2421-2810 for updates on safety issues and possible security escorts for specific routes.

## Language

While there are over 22 languages in use in Guatemala, Spanish is the official language. Many firms are accustomed to working in English; however, correspondence should be in Spanish. Catalogs and technical literature should be provided with a careful translation.

## Health

*Medical Facilities and Health Information:* A full range of medical care is available in Guatemala City, but medical care outside the capital is limited. Guatemala's public hospitals frequently experience serious shortages of basic medicines and equipment. Care in private hospitals is generally adequate for most common illnesses and injuries, and many of the medical specialists staffing them are U.S.-trained and certified.

*Food:* Most well-known restaurants in Guatemala serve safe food and beverages. As in any part of the world, common sense should prevail. Hot food should be eaten hot, and cold food should be cold. Meat should be well cooked.

*Drink:* Bottled drinks are considered safe. Tap water is generally not potable. Commercially available water bottled in Guatemala at the Salvavidas plant has been judged safe for consumption. Be sure the heat-molded seal on the bottleneck has not been broken. All reputable restaurants in Guatemala use commercially-produced ice that is safe for consumption. Contrary to notices occasionally posted in some hotels, water from faucets and other non-bottled sources should not be considered safe to drink.

Information on vaccinations and other health precautions, such as insect bite protection, may be obtained from the Centers of Disease Control and Prevention's (CDC) by calling 1-800-232-4636 or visiting CDC's Internet site at www.cdc.gov/travel/. For information about outbreaks of infectious diseases abroad and additional health information for travelers, consult the site of the World Health Organization at www.who.int/en.

*Medical Insurance:* The Department of State strongly urges Americans to consult with their health insurance company prior to traveling abroad to confirm whether their policy applies overseas and whether it will cover emergency expenses such as medical evacuations. Many hospitals in Guatemala require payment prior to treating patients, even if personal insurance will cover the treatment. Hospitals do not typically enter into payment plan agreements. Travelers should be aware that they may have to pay in advance and seek reimbursement.

## Local Time, Business Hours and Holidays

The time in Guatemala is one hour behind Eastern Standard Time. For example:

Guatemala: 2:00 p.m. Chicago: 2:00 p.m. Miami: 3:00 p.m.

This difference changes to 2 hours during Daylight Savings Time.

The United States Embassy in Guatemala will remain closed for the following dates, in observance of American and/or Guatemalan Holidays:

| | | |
|---|---|---|
| January 1 | Tuesday | New Year's Day |
| January 21 | Monday | Martin Luther King's Birthday |
| February 18 | Monday | Washington's Birthday |
| April 18 | Thursday | Holy Thursday |
| April 19 | Friday | Good Friday |
| April 29 | Monday | Guatemalan Labor Day |
| May 27 | Monday | Memorial Day |
| July 1 | Monday | Army Day |
| July 4 | Thursday | U.S. Independence Day |
| August 15 | Thursday | Feast of the Assumption |
| September 2 | Monday | U.S. Labor Day |
| September 15 | Sunday | Guatemalan Independence Day |
| October 14 | Monday | Columbus Day |
| October 21 | Monday | Revolution Day |
| November 1 | Friday | All Saints Day |
| November 11 | Monday | Veterans Day |
| November 28 | Thursday | Thanksgiving Day |

| | | |
|---|---|---|
| December 24 | Tuesday | Christmas Eve – Half Day |
| December 25 | Wednesday | Christmas Day |
| December 31 | Tuesday | New Year's Eve – Half Day |

## Temporary Entry of Materials or Personal Belongings

The temporary entry of materials and belongings for personal use while in Guatemala (such as camera equipment, cellular telephones, laptop computers) is generally not a problem. Larger quantities of products and display systems for participation in trade events or tools and equipment for projects should be imported temporarily with the assistance of a customs broker, or with the help of the particular event organizer.

Donations:

Generous donations are often delayed in customs or prevented from entering the country due to missing paperwork. At times, medicines, equipment, food, clothing and organs for transplants are lost because they lack the proper registration.

The U.S. Foreign Commercial Service recommends that donors communicate with the local importers or recipients of goods well in advance of the date to ship donations.

Some products might take up to 10 months to receive a proper import permit; therefore the U.S. Foreign Commercial Service recommends reaching out to the following institutions to obtain advanced understanding of how to import donated goods:

• **SAT** (Customs)

Customs Management Unit, SAT

Website: https://portal.sat.gob.gt/portal/gobierno-abierto/

Telephone: (502) 23297070 ext.: 3301 y 3302

**Ministry of Health** (Website: www.mspas.gob.gt)

1. Pharmaceutical, Cosmetic and Medical Devices Unit

Website: http://medicamentos.mspas.gob.gt/

Address: 3 Calle Final 2-10, Zona 15
Colonia Valles de Vista Hermosa
01015 Guatemala

Telephone: (502) 2502-2503

2. Regulation and Control of Food Products Unit

http://www.mspas.gob.gt/index.php/servicios

Address: 5ª Avenida 13-27, Zona 9 (Only paperwork submission)

E-mail: consultasdrca@gmail.com

Telephone: (502) 2502-25022

3. Ministry of Agriculture

Website: http://web.maga.gob.gt/

Tel: (502) 2413-7000

Single Imports Window

## Travel Related Web Resources

U.S. Department of State Country Specific Information Sheet: travel.state.gov/content/passports/english/country/guatemala.html

State Department Visa Information: travel.state.gov/visa/visa_1750.html

U.S. Bureau of Consular Affairs Travel Information: travel.state.gov

Visa Information from the U.S. Embassy in Guatemala: guatemala.usembassy.gov/non-immigrant_visas.html

World Health Organization: www.who.int/en

Guatemalan Ministry of Foreign Affairs (in Spanish): www.minex.gob.gt

Travel, Immigration, and Customs Information: https://www.cbp.gov/travel/international-visitors/know-before-you-visit

U.S. Embassy in Guatemala: gt.usembassy.gov

INGUAT -Guatemalan Institute of Tourism: http://www.inguat.gob.gt