

GUATEMALA

TRADE SUMMARY

In 2001, the U.S. trade deficit with Guatemala was \$713 million, an increase of \$6 million from the U.S. trade deficit of \$707 million in 2000. U.S. goods exports to Guatemala were \$1.9 billion, a decrease of \$24 million (1.3 percent) from the level of U.S. exports to Guatemala in 2000. Guatemala was the United States' 42nd largest export market in 2001. U.S. imports from Guatemala were \$2.6 billion in 2001, a decrease of \$18 million (0.7 percent) from the level of imports in 2000.

The stock of U.S. foreign direct investment (FDI) in Guatemala in 2000 amounted to \$904 million, an increase of 56.4 percent from the level of U.S. FDI in 1999. U.S. FDI in Guatemala is concentrated largely in the manufacturing and petroleum sectors.

IMPORT POLICIES

Guatemala's tariffs on most goods from outside the Central American Common Market are currently within the zero to 15 percent range, though there are exceptions of up to 25 percent, particularly in the area of agricultural and food products.

Guatemala eliminated its annual tariff-rate quota (TRQ) and the use of reference prices to calculate tariffs for poultry parts in 2001. Invoice prices are now used for calculating tariffs for poultry parts. Nevertheless, both procedures could be suspended without prior notice, as they are not based in legislation approved by Congress. Corn and rice imports are subject to TRQs.

The Government of Guatemala committed to implement the WTO Customs Valuation Agreement by November 2001. Nevertheless, that deadline was not met as Guatemala lacks national Customs Valuation legislation. The

Government of Guatemala is working to approve necessary legislation to comply with the WTO Customs Valuation Agreement by July 2002. In the interim, U.S. exporters of watches, and telecommunications products have reported problems with arbitrary and unclear valuation procedures. In December 2001, the WTO Committee on Customs Valuation granted Guatemala's request to retain use of minimum values on certain poultry, rice, used clothing, and used motor vehicle products. Minimum values are permitted until November 21, 2002 for the poultry products listed; until May 21, 2003 for the rice products listed; and until November 21, 2004 for the used clothing and used vehicle products listed.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Guatemalan law requires that food products sold in the domestic market be tested, registered and carry labels in Spanish, although stick-on labels are permitted. Products sold in bulk are exempt from the labeling requirement unless they are to be sold at the retail level as an individual unit. The law requires that every size or form of product sold be registered separately, even if the product content is of identical composition. Trained personnel available to carry out this process are in short supply. The registration and testing process takes six weeks regardless of the company or product. Products are often damaged during the process and are susceptible to pilferage while awaiting completion of the tests and registration. Enforcement of the product registration and labeling requirements has been irregular, but it is becoming stricter.

GOVERNMENT PROCUREMENT

The Government Procurement Law requires most government purchases over \$114,000 to be submitted for public competitive bidding to no fewer than five bidders, but many government contracts are awarded without following prescribed procedures. Agencies exempt from standard procurement practices received 13 percent of the budget in 2001. Foreign suppliers no

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longer need to meet pre-qualification requirements, though it is sometimes required of their local counterparts. Bids must be submitted through locally registered representatives, a bureaucratic process which can place foreign bidders at a competitive disadvantage. The government often declares certain projects a matter of national emergency, thereby avoiding the competitive bidding process. Guatemala is not a signatory of the WTO Government Procurement Agreement.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Legal reforms enacted in 2000 greatly improved the basis for protecting intellectual property rights (IPR) in Guatemala. In addition, the Attorney General has appointed a special prosecutor for IPR violations, a development that should enhance enforcement of new intellectual property laws. Enforcement is improving, but piracy rates remain high.

Patents

Guatemala's 2000 Industrial Property Law improved the protection afforded to patent holders by increasing the term of protection for a patent to 20 years. It also increased the number of products and services that are considered patentable, including living organisms, commercial plans and chemical compounds or compositions. Nevertheless, mathematic formulas, scientific theories and economic methods remain unpatentable, and exceptions are allowed only for national security or health purposes. The new law provides patent protection for pharmaceutical and agricultural products for the first time and has established a mailbox system to process cases filed since 1995.

Copyrights

Piracy of copyrighted material, including videos and software, remains widespread. Some

progress has been achieved, however, in reducing the incidence of pay television piracy and in concluding valid licensing agreements with copyright holders. Legislation to ratify the WIPO Copyright Treaty (WCT) was signed by the President and sent to the Congress for its consideration this summer. Yet legislation to ratify the WIPO Performances and Phonograms Treaty (WPPT) still remains with the President. Nevertheless, Guatemala has already incorporated some of the substantive obligations of these Treaties into its Copyright Law Amendments of 2000.

Trademarks

Exclusive rights for trademarks are granted on a first-to-file basis, thus permitting third parties to register and gain exclusive use of these trademarks. A dispute resolution system has been established in the event that a well-known or famous trademark is granted to a third party. The local Internet domain name registrar does not accept applications for well-known and famous names as frequently as before. Additionally, when receiving an Internet domain name registration, the domain name owner is required to submit the registration to the WIPO online dispute resolution system in the event of a challenge by a third party.

SERVICES BARRIERS

International telephone traffic must be routed through the facilities of an enterprise licensed by the Guatemalan Superintendency of Telecommunications. Foreign banks are not permitted to open branches in Guatemala, but they can establish local subsidiaries subject to the requirements of the Monetary Board, including capital and lending requirements.

Guatemalan law forbids the operation of foreign insurance companies or companies offering services reserved for professionals with locally recognized academic credentials. Professionals

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such as engineers, lawyers, accountants, architects, and physicians must have graduated from a recognized university and must be registered in a professional association. Guatemala's National University can validate foreign degrees but often requires additional course work or examinations.

INVESTMENT BARRIERS

Guatemala's 1998 investment law generally provides for national treatment of foreign investment. Specific restrictions remain in several sectors of the economy, including auditing, insurance and forestry, although these restrictions are not always enforced. Complex and confusing laws, regulations, red tape, and corrupt officials constitute practical barriers to investment.