SUMMARY

1. During the period under review, Guatemala intensified its trade liberalization and economic reform efforts. An important step in this process was the elimination, at the beginning of 2016, of the export performance requirements for production under the free-zone and maquila regimes. At the same time, Guatemala updated its government procurement legislation to ensure greater transparency and efficiency, as well as its legislation governing certain aspects of intellectual property rights protection, and took steps to facilitate trade. A number of challenges remain, however, particularly in the competition policy area, where no legislation has yet been implemented.

2. Guatemala achieved moderate but steady growth during the review period (2009-2015), with an average annual GDP growth rate of 3.2%. Inflation was kept under control at about 4-5% per year, generally within the fluctuation band established by the Bank of Guatemala. In recent years, Guatemala has posted one of the best economic performances in Latin America, with a per capita GDP growth of nearly 50% between 2009 and 2015, when it reached US$3,943. But in spite of this growth, poverty increased from 51% in 2006 to 59.3% in 2014. This was due partly to the rapid population growth, rising food prices and income inequality. A number of major hurdles still stand in the way of further per capita income growth and sustainable poverty reduction.

3. Guatemala embarked on a programme of tax reforms in 2012, involving a review of the taxation system in order to boost tax revenue (which still remains low), and substantial spending cuts. The Tax Update Law introduced a series of reforms to the income tax law, such as a gradual reduction in the profit tax, and to the value added tax (VAT) law, and introduced a tax on land motor vehicles. Rules were also introduced to contain public spending until public revenues attained significant levels. Guatemala's public debt has remained moderate: in 2015 it represented 24.4% of GDP, of which approximately half was external debt. Meanwhile, the fiscal deficit as a percentage of GDP decreased from about 3.3% in 2010 to about 1.4% in 2015.

4. Guatemala's balance of payments current-account deficit remained high during the review period, reaching US$6.9 billion in 2015, or 11% of GDP. The considerable merchandise trade deficit is largely financed by remittances from workers abroad, which totalled US$6,285 million in 2015. Remittances also play an important role in supporting domestic demand, particularly consumer demand. Guatemala's main trading partners are the United States, the other Central American countries, the EU, Mexico and China (for imports). Manufactured goods, especially textiles and made-up articles, as well as sugar, bananas, oils and fats, and fruits are the country's main export products, while automobiles and machinery and equipment are the main imports. Merchandise trade continued to grow during the review period, with total exports reaching US$10,716 million in 2015, an increase of almost 50% over 2009. Maquila exports grew at above-average rates, reaching US$3,582 million in 2015, 56% higher than in 2009. Free-zone exports reached US$734 million in 2015, an increase of 150% over 2009. Meanwhile, imports totalled US$17,639 million in 2015, 52% above the 2009 level.

5. In 2012, Guatemala adopted the "Integrated Policy on Foreign Trade, Competitiveness and Investment" aimed at improving the country's competitiveness, broadening and diversifying the range of exportable products, consolidating openness and access to international markets, and promoting foreign trade and foreign investment opportunities. Strengthening the Central American Customs Union is also a major objective.

6. Guatemala has participated actively in the WTO, particularly in the negotiation of the Trade Facilitation Agreement, which it hopes to ratify at the end of 2016. During the review period, Guatemala participated as complainant in six dispute settlement cases, and brought its WTO notifications up to date.

7. Regional trade agreements (RTAs) have become an increasingly important part of the country's trade policy. Guatemala is a member of the Central American Common Market (CACM) together with Costa Rica, El Salvador, Honduras, Nicaragua, and since 2013, Panama. It is also a member of the Free Trade Agreement between the Dominican Republic, Central America and the United States (CAFTA-DR) and the Association Agreement between Central America and the European Union. Together with the original members of the CACM, Guatemala negotiated a trade agreement with Mexico which entered into force in 2013. It also has RTAs with the Separate

Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei) (2006), Colombia (2009), and Chile (2010). It is currently negotiating, jointly with the rest of Central America, a trade agreement with the Republic of Korea. In 2015, Guatemala's trade with partners with which it had RTAs accounted for 83.4% of its exports and 75.3% of its imports.

8. Guatemala has an open investment regime which generally guarantees national treatment. Foreign investors are allowed to participate, without any quantitative limitations, in almost all economic activities. The only restrictions are those that are laid down by the Constitution or the laws regulating specific economic activities; for example, the exploitation of forestry resources is reserved to Guatemalan natural or legal persons. The Foreign Investment Law authorizes the free transfer of remittances of profits, and provides for international arbitration. It also prohibits the imposition of investment-related measures that may have trade-restrictive or –distorting effects, and the imposition of any performance requirement as a condition for the establishment of a foreign investment.

9. Guatemala adopted a number of trade facilitation measures during the review period, including better utilization of risk management systems and the implementation of a computerized clearance process. It also has a one-stop window for exports (VUPE), and since 2014, a streamlined window for imports and transit (VAI). At the same time, Guatemala changed its customs regulations with respect to tariff classification criteria, administrative offences, undeclared goods, auction of goods, the sale of duty-free vehicles and procedures for challenging action by the Customs Service.

10. Guatemala has an open trade regime, and its applied tariffs are relatively low, with an average MFN applied rate in 2015 of 5.7%. All of Guatemala's tariffs are *ad valorem*. A zero rate is applied to 49.5% of its tariff lines. The rates for other lines are 5%, 10% and 15%, the last of these being the most common. The rates range from zero to 40%. Agricultural products (WTO definition) are subject to an average tariff of 9.6%, while the average tariff on non-agricultural products, excluding petroleum, is 5%. The maximum rate is 40%, and applies, for example, to imports of malt beer, vermouth and ethyl alcohol. Some 93% of tariff lines are aligned to Guatemala's Central American trading partners. Guatemala has bound all of its tariff lines, thereby bringing predictability to its tariff regime. The rates applicable to non-agricultural products were bound at a general level of 45%, while agricultural products were bound at rates ranging from 10% to 257%.

11. In 2015, Guatemala applied tariff quotas within the WTO framework to imports under three tariff lines corresponding to rice, yellow maize and white maize. The tariff quota fill rate varied greatly from one product to another. In 2015, it was 91% for rough rice, 89% for white maize, but only 47% for yellow maize. In addition to the WTO quotas, Guatemala applies another 42 quotas under the different preferential agreements it has signed.

12. Guatemala applies a value-added tax (VAT) at a rate of 12% on both domestic and imported goods and services. VAT on imports is paid at the border on the CIF value plus import duty. Guatemala also imposes a number of internal taxes on country-wide distribution of alcoholic and non-alcoholic beverages, cement, cigarettes, and petroleum-based fuels, whether imported or locally produced.

13. Guatemala has notified the WTO that it does not have an import licensing system as such, but the import of certain products is subject to special administrative formalities, including the granting of prior import permits, as laid down in various laws and regulations. These products include: fuels and bituminous materials; inorganic or organic compounds of precious metals, radioactive elements, rare-earth metals or isotopes; organic chemicals; rubber; plastics; machinery and equipment; powder and explosives; matches; and weapons and ammunition. Sanitary or phytosanitary permits are also required for a certain number of products.

14. Guatemala did not use any safeguard measures or anti-dumping and countervailing measures during the review period.

15. The National Quality System is responsible for promoting and coordinating standardization, metrology, accreditation, conformity assessment and technical regulation activities. As of June 2016, the relevant regulations were still pending. Guatemala submitted 35 notifications to the

WTO Committee on Technical Barriers to Trade between 2009 and April 2016, most of them relating to draft regulations prepared by the Ministries of the Economy, Agriculture and Public Health. There is no automatic mechanism for eliminating technical regulations; it is done by means of a government decision repealing out-of-date regulations and replacing them, where appropriate, with updated regulations.

16. Guatemalan law provides that sanitary and phytosanitary (SPS) measures are established on the basis of an assessment of the actual risks involved. SPS drafts are drawn up by various authorities with competence for the different aspects involved. Before being put up for approval and unless there is an emergency, SPS drafts must be notified to the WTO. Between 2009 and February 2016, Guatemala notified 18 sanitary and phytosanitary measures to the WTO. The import of genetically modified products is not prohibited.

17. During most of the period under review, Guatemala had three export subsidy programmes: (1) special customs regimes ("maquila"); (2) free zones; and (3) the Industrial and Free Trade Zone (ZOLIC). The three regimes allowed exemption from payment of tariffs and other import duties (including VAT) on imports of machinery, equipment, parts, components and accessories needed for the production process. The Emergent Law on job protection, which repeals the provisions on export subsidies for the free zones and the maquila regime, entered into force on 31 March 2016 with a view to complying with the requirements of Article 27.4 of the SCM Agreement. The authorities have said that the law applies in spite of the absence of regulations, and that the tax benefits linked to exports had ended as of 31 December 2015. The only areas of activity to receive production subsidies under the new legal framework are textiles and clothing, and information and communications technology-related service providers offering call centres or contact centres. The ZOLIC programme, aimed at boosting economic and social development of the Department of Izabal, remains in force.

18. In addition to the incentives provided in the Emergent Law on job protection, Guatemala provides support for micro, small and medium-sized enterprises and for research and development. The main objective of the support for the MSMEs is to facilitate access to financing sources and business development services in order to raise their productivity and competitiveness in the industrial, agro-industrial, crafts, trade, services and tourism sectors.

19. Guatemala is the only country in Central America that still has neither competition policy legislation nor a competition authority. Sectoral laws do not include any provisions on competition, and sector regulators do not have any power of enforcement in that area, or the authority to examine mergers. A draft law is currently under review, but it is not clear when it will be approved. For the moment, anti-competitive practices are not investigated, and there is no mechanism to review mergers or other acts of economic concentration.

20. Guatemala has a decentralized government procurement regime under which each procuring entity makes its purchases on the basis of an annual plan and of the financial resources available, although the relevant general legislation applies. In December 2015, new provisions amending the government procurement legislation were adopted to enhance transparency and introduce a new procurement method, online auction. The law does not determine which should be the normal method of procurement, nor does it expressly promote competitive methods. The value of contracts awarded through non-competitive methods accounted for an average for 57% of the total amount of contracts awarded annually during the review period, although the percentage has tended to diminish in recent years. The special procurement method was reorganized in the 2015 amendments to the law, now requiring competitive procedures and the use of online bidding.

21. During the review period, Guatemala strengthened its framework for protection of intellectual property rights (IPR), mainly by amending the Industrial Property Law in 2013. Among other provisions, this amendment introduced special forms of protection for geographical indications and appellations of origin in Guatemala. June 2014 saw the entry into force of a law on the protection of plant varieties, but it was revoked almost immediately in the face of strong public opposition. Guatemalan law has provision for international exhaustion of IPRs for trademarks and patents. The owner of such rights in Guatemala may not prevent the import of products lawfully marketed and purchased in another country simply because they are protected by a patent or trademark in Guatemala.

22. The agricultural sector accounts for about 25% of goods exports, the main export products being sugar, coffee, bananas and cardamom. At the same time, Guatemala is a net importer of staple grains (yellow maize and rice). Agriculture receives a moderate level of government support in the form of technical training, funds for research and development in respect of grain seed varieties, subsidization of fertilizers, and food aid for vulnerable population groups. Moreover, tariffs on agricultural products are higher than the average. Guatemala has undertaken a commitment in the WTO to open tariff quotas for 30 agricultural by-products. It has also opened tariff quotas for agricultural products under its RTAs.

23. The manufacturing industry remains important for the country's economy, accounting for 42% of goods exports. Clothing continues to be the main export product. Together with other export-oriented industries, the clothing industry operates within the free zone and maquila regimes, under which they received subsidies until 31 December 2015. Exports of manufactured goods from the free zones and the maquila industry represent one third of total goods exports. The average MFN tariff for manufactured goods is 5.6%; the products with above-average tariffs include foodstuffs, beverages and tobacco; textiles, clothing and leather goods; and wood and wood products.

24. The energy sector, above all the electricity industry, has expanded in recent years, supported by appreciable investment flows and incentives for the development of renewable energies. Guatemala is now the leading electricity exporter in Central America. Electricity prices are freely determined, with the exception of tariffs for transmission and final distribution services, which are regulated. Guatemala produces oil, but exports about 80% of its production for processing, mainly to the United States. Domestic and foreign enterprises are free to participate in hydrocarbon-related operations by concluding contracts with the State and paying royalties. The State holds an equity stake in each oil project. The resulting financial resources are paid into a fund (FONPETROL) for the development of the production areas.

25. Services account for 63% of GDP, and approximately 50% of employment. In the WTO, Guatemala has undertaken specific commitments in 5 of the 12 GATS services categories. It did not take part in the negotiations on financial services and did not ratify the Fourth Protocol of the GATS, although it adopted the majority of commitments on basic telecommunications services and has accepted the WTO reference paper. Guatemala has continued to liberalize its services regime through unilateral action and commitments undertaken in connection with its RTAs. As a result, the services regime currently applied is more liberal than the commitments undertaken in the context of the GATS.

26. There were no fundamental changes in the legislative framework for telecommunications during the review period. There are no restrictions on foreign investment in the sector. The law provides for freedom of entry into the market, freedom to amalgamate, free pricing and free use of technologies, and interconnection contracts are freely negotiated between operators. However, the Law on Telecommunications has very few provisions controlling anti-competitive behaviour, and there seems to be room to provide the regulatory authority with greater powers and to improve effective competition, particularly in the absence of a general competition law. The Government is working on a National Connectivity and Broadband Plan with a view to reducing the digital divide and promoting technological development.

27. The financial sector's soundness and solvency indicators remain reasonable. During the review period, further progress was made in consolidating and deepening the financial system, and there was a notable expansion in banking assets and credit. At the same time, financial legislation was strengthened by incorporating international standards of supervision. There are no restrictions on foreign investment in banking. As regards insurance, the law adopted in 2010 authorizes the entry of branches of foreign insurance and reinsurance companies into the domestic market. Cross-border trade in insurance against the risks of maritime shipment, commercial aviation and goods in international transit, reinsurance and retrocession, and services auxiliary to insurance is permitted.

28. Guatemala does not have a merchant fleet, nor does it have any legislation in that respect. International maritime transport is conducted by foreign vessels, which are allowed to provide domestic cabotage services. Seaports are State-owned and only one of them operates under a private concession, although there are no restrictions on domestic and foreign investment in the operation of ports and the provision of auxiliary services (except for pilotage). Ports tend to be

congested, which increases the waiting time and operating costs. For years, the authorities have been considering draft legislation to establish a new port structure and authority.

29. The State owns and operates the main airports, although there are no legal restrictions on the participation of private investment in the sector. National air transport companies can be 100% foreign-owned, but they must have their principal domicile in Guatemala and more than half of their directors and managers must be Guatemalan citizens or residents. With respect to international commercial air services, Guatemalan law grants all countries the third, fourth and fifth freedoms of the air, the remaining freedoms being subject to reciprocity, except for the ninth freedom, which is not granted. Guatemala currently has twelve bilateral air transport service agreements in force. There are no restrictions on the number of providers of computer reservation systems.

30. Tourism accounts for 14% of the country's exports. National treatment is granted to foreign investors in hotels, lodging services, tour operators, travel agencies and other tourism-related services, although they are required to register. Foreigners may provide tourist guide services as long as they are registered, work independently and reside in the country. Only "community" tourist guides must be Guatemalan nationals.