GUATEMALA

TRADE SUMMARY

The U.S. goods trade surplus with Guatemala was $2.1 billion in 2011, an increase of $777 million from 2010. U.S. goods exports in 2011 were $6.2 billion, up 38.6 percent from the previous year. Corresponding U.S. imports from Guatemala were $4.1 billion, up 29.7 percent. Guatemala is currently the 38th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Guatemala was $1.1 billion in 2010 (latest data available), up from $971 million in 2009.

IMPORT POLICIES

Free Trade Agreement

On August 5, 2004, the United States signed the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR or "Agreement") with five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic (the "Parties"). Under the Agreement, the Parties are significantly liberalizing trade in goods and services. The CAFTA-DR also includes important disciplines relating to customs administration and trade facilitation; technical barriers to trade; government procurement; investment; telecommunications; electronic commerce; intellectual property rights; transparency; and labor and environmental protection.

The Agreement entered into force for the United States, El Salvador, Guatemala, Honduras, and Nicaragua in 2006 and for the Dominican Republic in 2007. The CAFTA-DR entered into force for Costa Rica on January 1, 2009.

In 2008, the Parties implemented amendments to several textile-related provisions of the CAFTA-DR, including, in particular, changing the rules of origin to require the use of U.S. or regional pocket bag fabric in originating apparel. The Parties also implemented a reciprocal textile inputs sourcing rule with Mexico. Under this rule, Mexico provides duty-free treatment on certain apparel goods produced in a Central American country or the Dominican Republic with U.S. inputs, and the United States provides reciprocal duty-free treatment under the CAFTA-DR on certain apparel goods produced in a Central American country or the Dominican Republic with Mexican inputs. These changes further strengthen and integrate regional textile and apparel manufacturing and create new economic opportunities in the United States and the region.

In February 2011, the CAFTA-DR Free Trade Commission (FTC), the central oversight body for the Agreement, met for the first time in San Salvador, El Salvador. The FTC reviewed the implementation of the Agreement and its trade and economic impact on the region and agreed to certain changes to strengthen the Agreement's operation. The FTC discussed a broad range of ways to enhance competitiveness in the region and endorsed several initiatives to generate new opportunities for all of the countries to realize the benefits of the CAFTA-DR Agreement, with a heightened focus on small and medium sized businesses.

The United States hosted a FTC meeting on January 23, 2012 in Miami at which CAFTA-DR countries recognized continued growth in trade and integration and acted to further strengthen CAFTA-DR institutions and initiatives.

Tariffs

As a member of the Central American Common Market, Guatemala applies a harmonized external tariff on most items at a maximum of 15 percent with some exceptions.

Under the CAFTA-DR, however, 100 percent of U.S. industrial trade will enter Guatemala duty free by 2015. Nearly all textile and apparel goods that meet the Agreement's rules of origin now enter Guatemala duty free and quota free, promoting new opportunities for U.S. and regional fiber, yarn, fabric, and apparel manufacturing companies.

Under the CAFTA-DR, more than half of U.S. agricultural exports now enter Guatemala duty free. Guatemala will eliminate its remaining tariffs on nearly all agricultural products by 2020 (2023 for rice and chicken leg quarters and 2025 for dairy products). For certain products, tariff-rate quotas (TRQs) permit some duty-free access for specified quantities during the tariff phase out period, with the duty-free amount expanding during that period. Guatemala will liberalize trade in white corn through expansion of a TRQ, rather than by tariff reductions.

Nontariff Measures

Under the CAFTA-DR, all CAFTA-DR countries, including Guatemala, committed to improve transparency and efficiency in administering customs procedures, including the CAFTA-DR rules of origin. The CAFTA-DR countries also committed to ensuring greater procedural certainty and fairness in the administration of these procedures, and agreed to share information to combat illegal trans-shipment of goods.

U.S. companies have raised concerns that the Guatemalan customs authority has not provided adequate advance notice regarding administrative changes in documentation requirements for imported shipments, such as information needed on certifications of origin. The United States raised this issue with the customs authority and received assurances that future changes will be communicated in advance and will be available on the tax and customs website: http://portal.sat.gob.gt/sitio/. However, in 2010, Guatemala began reviewing some imports from prior years and assessing duties and penalties for certifications of origin that were deemed to have been improperly completed, despite the lack of advance notice of requirements. U.S. companies continued to raise concerns in 2011 about the procedures imposed by the Guatemalan government regarding certification of origin under CAFTA-DR. These procedures have sometimes led to the denial of preferential tariffs under the CAFTA-DR and other penalties. The United States continues to raise these customs-related issues with Guatemalan authorities.

GOVERNMENT PROCUREMENT

The CAFTA-DR requires that procuring entities use fair and transparent procurement procedures, including advance notice of purchases and timely and effective bid review procedures, for procurement covered by the Agreement. Under the CAFTA-DR, U.S. suppliers are permitted to bid on procurements of most Guatemalan government entities, including government ministries and state-owned enterprises, on the same basis as Guatemalan suppliers. The anticorruption provisions of the Agreement require each government to ensure under its domestic law that bribery in matters affecting trade and investment, including in government procurement, is treated as a criminal offense or is subject to comparable penalties.

In 2009, the Guatemalan Congress approved reforms to the Government Procurement Law, which simplified bidding procedures, eliminated the fee previously charged to suppliers for bidding documents, and provided an additional opportunity for suppliers to raise objections to the bidding process. Foreign suppliers must submit their bids through locally registered representatives, a process that can place foreign bidders at a competitive disadvantage.

Some U.S. companies have complained that the procurement process is not transparent, especially when the government makes a direct purchase. The government has canceled some direct purchases after complaints from interested bidders.

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

EXPORT SUBSIDIES

Under the CAFTA-DR, Guatemala may not adopt new duty waivers or expand existing duty waivers that are conditioned on the fulfillment of a performance requirement (*e.g.*, the export of a given level or percentage of goods). However, under the CAFTA-DR, Guatemala was permitted to maintain such measures through December 31, 2009, provided that it maintained the measures in accordance with its obligations under the WTO Agreement on Subsidies and Countervailing Measures. The U.S. Government is working with the Guatemalan government in an effort to ensure compliance with its CAFTA-DR obligations.

Guatemala provides tax exemptions to investors in free trade zones and maintains duty drawback programs aimed mainly at garment manufacturing and assembly operations or "*maquiladoras*" (firms that are permitted to operate outside a free trade zone and still receive tax and duty benefits). The Law for the Promotion and Development of Export Activities and Drawback provides tax and duty benefits to companies that import over half of their production inputs/components and export their completed products. Investors in this sector are granted a 10 year exemption from both income taxes and the Solidarity Tax, which is Guatemala's temporary alternative minimum tax. Additionally, companies are granted an exemption from payment of tariffs and value-added taxes on imported machinery, and a one year suspension (extendable to a second year) of the same tariffs and taxes on imports of production inputs and packing material. Taxes are waived when the goods are re-exported.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Guatemala was listed on the Watch List in the 2011 Special 301 report. The United States recognized Guatemala's efforts to increase enforcement actions, highlighting the efforts of the intellectual property rights (IPR) prosecutor and the increase in raids, seizures, and corresponding convictions of IPR violators. However, inadequate resources for the IPR prosecutor's office were noted as an area of concern. The report highlighted the need for continued efforts to implement Guatemala's obligations under the CAFTA-DR, including those to ensure that proper resources are available for its enforcement activities, to achieve improved coordination among enforcement agencies, and to concentrate its enforcement efforts on manufacturers of pirated and counterfeit goods.

The United States will continue to monitor Guatemala's implementation of its IPR obligations under the CAFTA-DR.

SERVICES BARRIERS

Under the CAFTA-DR, Guatemala granted U.S. services suppliers substantial access to its services market, including financial services.

Under the CAFTA-DR, Guatemala has in addition agreed to ensure reasonable and nondiscriminatory access to essential telecommunications facilities. It also has agreed to ensure that major suppliers provide interconnection at cost-oriented rates.

However, concerns remain over the ability of the Guatemalan telecommunications regulator, the Superintendency of Telecommunications (which operates as a division of the Ministry of Communications, Infrastructure and Housing), to carry out Guatemala's obligations under the CAFTA-DR. The United States continues to work with the Guatemalan government to ensure compliance with its obligations under the CAFTA-DR.

Foreign enterprises may provide licensed professional services in Guatemala only through a contract or other relationship with an enterprise established in Guatemala.

INVESTMENT BARRIERS

Some U.S. companies operating in Guatemala have complained that complex and unclear laws and regulations continue to constitute practical barriers to investment.

OTHER BARRIERS

Some U.S. firms and citizens have found corruption in government, including in the judiciary, to be a significant concern and a constraint to successful investment in Guatemala. Administrative and judicial decision-making appear at times to be inconsistent, nontransparent, and very time-consuming.