

GUATEMALA

In 1997, the U.S. trade deficit with Guatemala was \$262 million, an increase of \$153 million from the U.S. trade deficit of \$109 million in 1996. U.S. merchandise exports to Guatemala were \$1.7 billion, an increase of \$164 million (10.5 percent) from the level of U.S. exports to Guatemala in 1996. Guatemala was the United States' forty-fifth largest export market in 1997. U.S. imports from Guatemala were \$2.0 billion in 1997, an increase of \$317 million (19.0 percent) from the level of imports in 1996.

The stock of U.S. foreign direct investment (FDI) in Guatemala in 1996 was \$217 million, an increase of 42.8 percent from the level of U.S. FDI in 1995. U.S. FDI in Guatemala is concentrated largely in the manufacturing, petroleum, and finance sectors.

IMPORT POLICIES

Tariffs

Guatemala is a member of the Central American Common Market (CACM), which also includes Costa Rica, Nicaragua, El Salvador, and Honduras. CACM members are working toward the full implementation of a common external tariff (CET), and with few exceptions there are no tariffs on goods traded among members of the CACM. Guatemala's tariffs on goods from outside the CACM are between zero and 19 percent.

Poultry Tariff Rate Quota and Customs Valuation Policies for Poultry

In October 1996 Guatemala announced a new poultry import policy that expanded the annual tariff rate quota (TRQ) from 3600 MT to 7000 MT for 1997. In addition, Guatemala reduced the in-quota tariff from 20 percent to 15 percent. The new import policy far exceeds Guatemala's negotiated WTO obligations for poultry imports. However, Guatemala still applies a valuation policy on imported poultry parts. Notwithstanding agreement to switch to transaction value for the calculation of tariffs on chicken parts as part of its Uruguay Round commitments, the Government of Guatemala continues to use a reference price methodology. For tariff purposes, poultry parts are valued at \$0.56 per pound, irrespective of the actual invoice price. This policy effectively doubles the tariff on imported poultry. Guatemalan poultry producers are seeking further protection by pressing the government to increase the valuation price to \$0.69 per pound and to increase the out-of-quota duty to 200 percent. If taken, these actions will effectively prohibit legal imports of poultry meat correctly valued at over \$6 million the elimination of this valuation.

Grain Price Bands

Price bands for corn and rice were eliminated in late 1995. Guatemala has yet to formally eliminate price bands for sorghum. However, in view of the January 1, 1997, across-the-board reductions in tariffs on most agricultural products, price bands for sorghum have been effectively eliminated.

Apple Import Permits

Guatemala

U.S. companies have cited the uncertainty of obtaining an import license as the reason they have not expanded their investment to distribute U.S. apples. The result is an estimated loss in export sales of less than \$10 million.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Under Guatemalan law, products sold in the domestic market must be tested, registered, and carry labels in Spanish. Both enforcement of and compliance with the law are irregular. If fully enforced, the requirement could restrict and/or delay the entry of an estimated \$25 to \$100 million of U.S. exports due to the time required to test and register products.

GOVERNMENT PROCUREMENT

Under the government procurement law, all government purchases over \$160,000 must be submitted for public competitive bidding of no less than five bidders. Foreign suppliers must meet pre-qualification requirements and submit bids through locally-established representatives. The Guatemala government recently sanctioned a number of municipalities for failure to comply with the procurement law - of nearly 1500 contracts examined, over half were awarded without following prescribed procedures.

LACK OF INTELLECTUAL PROPERTY PROTECTION

Guatemala's protection of intellectual property is inadequate. Legislation enabling accession to the Paris Convention has been pending for several years.

Copyrights

In 1992 the GOG passed a law authorizing the establishment of a regulatory agency to police the cable television industry. The regulatory entity has not been established and regulation of this industry is insufficient to protect U.S. rights holders. Piracy of signals continues, though the unauthorized retransmission of premium channels has diminished. A new law to regulate the cable TV industry has been drafted, but it contains significant deficiencies. Guatemalan law does not expressly protect computer software programs.

Patents

Guatemala's patent law is out of date and deficient in several areas, including limits on protection to only fifteen years (ten years for food, beverages, medicines, and agrochemicals), broad compulsory licensing provisions, and lack of protection against parallel imports. A number of subject areas are not patentable, including mathematical methods, living organisms, commercial plans, and chemical compounds or compositions. Under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Guatemala was required to establish a patent "mailbox" for pharmaceutical and agricultural chemical products by January 1, 1995. In addition, Guatemala does not provide exclusive marketing rights for pharmaceutical and agricultural products, which are subject to "mailbox" applications, as required by the TRIPS Agreement.

Trademarks

Guatemala's law provides insufficient protection for owners of well-known trademarks, since the right to exclusive use is granted to the first to file. This has permitted third parties to register and use (or prevent the genuine trademark holder from using) internationally-well-known trademarks. Sales of falsified name-brand clothing and other merchandise are common in Guatemala, though an amendment to Guatemala's criminal code has made it easier for license-holders or brand owners to initiate legal action against merchants who traffic in counterfeit merchandise.

SERVICES BARRIERS

Guatemala is overdue in providing to the World Trade Organization an acceptance of the Fourth Protocol to the General Agreement on Trade in Services, which is necessary to bring its commitments on basic telecommunications services into effect. The WTO Council on Trade in Services has extended the deadline for submission of the acceptance until July 31, 1998. In addition, majority foreign ownership in telecommunications services is not permitted.

INVESTMENT BARRIERS

Guatemala generally welcomes foreign investment, although the complex and often confusing welter of laws and regulations can be discouraging. On February 4, 1998 the Guatemalan Congress approved Decree 9-98, Law on Foreign Investment, which addresses some of these issues, including national treatment for foreign investors. However, restrictions on foreign investment remain in several sectors of the economy, including public utilities, auditing, insurance, mineral exploitation, forestry, and the media. In response to the need for additional investment in telecommunications and electricity supply, in late 1996 the government adopted legislation liberalizing ownership, access controls, and demonopolizing these sectors.