GUATEMALA

TRADE SUMMARY

The U.S. goods trade balance with Guatemala went from a trade deficit of $302 million in 2005 to a trade surplus of $418 million in 2006. U.S. goods exports in 2006 were $3.5 billion, up 24.1 percent from the previous year. Corresponding U.S. imports from Guatemala were $3.1 billion, down 1.2 percent. Guatemala is currently the 39th largest export market for U.S. goods.

The stock of U.S. foreign direct investment in Guatemala in 2005 was $379 million (latest data available), down from $400 million in 2004.

IMPORT POLICIES

Free Trade Agreement

The United States concluded free trade agreement negotiations with El Salvador, Guatemala, Honduras and Nicaragua in December 2003 and with Costa Rica in January 2004. In May 2004, the six countries signed the United States–Central America Free Trade Agreement. During 2004, the United States and the Central American countries integrated the Dominican Republic into the free trade agreement. On August 5, 2004, the seven countries signed the Dominican Republic–Central America–United States Free Trade Agreement (CAFTA-DR).

All of the signatory countries have ratified the agreement, with the exception of Coast Rica. The agreement entered into force for Guatemala on July 1, 2006. The agreement also has entered into force for the Dominican Republic, El Salvador, Honduras and Nicaragua.

The agreement removes barriers to trade and investment in the region and will strengthen regional economic integration. The CAFTA-DR also requires the Central American countries and the Dominican Republic to undertake needed reforms to provide market liberalization as well as greater transparency and certainty in a number of areas, including: customs administration, protection of intellectual property rights, services, investment, financial services, government procurement, and sanitary and phytosanitary (SPS) measures.

Tariffs

As a member of the Central American Common Market (CACM), Guatemala agreed in 1995 to reduce its common external tariff to a maximum of 15 percent. There are exceptions, however, including tariffs of up to 40 percent on alcoholic beverages and up to 20 percent on white corn, beans, sugar, cigarettes, various types of vehicles and firearms. Other exceptions include the higher tariffs applied to agricultural commodity imports in excess of any applicable tariff-rate quota (TRQ). The average applied rate on all products is approximately 6 percent.

Under the CAFTA-DR, about 80 percent of U.S. industrial and consumer goods now enter Guatemala duty-free, with the remaining tariffs phased-out over ten years. 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.

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 within 15 years (18 years for rice and chicken leg quarters and 20 years for dairy products). For the most sensitive products, tariff-rate quotas (TRQs) will permit some immediate duty-free access for specified quantities during the tariff phase-out period, with the duty-free amount expanding during that period. Guatemala will slowly liberalize trade in white corn, a particularly sensitive product, through expansion of a TRQ projected to increase at a 2 percent annual rate with an aggregate increase to 24 percent by the end of 2025. Guatemala's imports of corn consist mainly of yellow corn, 90 percent of which already comes from the United States.

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

STANDARDS, TESTING, LABELING AND CERTIFICATION

Guatemalan law requires that food products sold in the domestic market be tested, registered and labeled 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. Enforcement of product registration and labeling requirements has been inconsistent but is improving. Labeling standards are required for food, pharmaceuticals, pesticides, footwear and distilled beverages. At this point, food registration has been standardized for the region so that sample analysis is not necessary if the product has been registered in any of the CAFTA-DR countries.

When the United States and Central America launched the free trade agreement negotiations, they initiated a working group dialogue on SPS barriers to agricultural trade that met in conjunction with the negotiations to facilitate market access. The objective was to use the impetus of active trade negotiations to seek changes to the Central American countries' SPS regimes. Through the work of this group, Guatemala has committed to resolving specific measures that may affect U.S. exports to Guatemala. In addition, in connection with the CAFTA-DR, Guatemala agreed to recognize the equivalence of the U.S. food safety and inspection system for meat and poultry, thereby eliminating the need for plant-by-plant inspections.

The five Central American countries, including Guatemala, are in the process of developing common standards for the importation of several products, including distilled spirits, which should facilitate trade.

GOVERNMENT PROCUREMENT

Guatemala is not a signatory to the World Trade Organization (WTO) Government Procurement Agreement. Guatemala's Government Procurement Law requires most government purchases over 900,000 quetzals (approximately $117,800) to be submitted for public competitive bidding. Foreign suppliers must submit their bids through locally registered representatives, a process that can place foreign bidders at a competitive disadvantage. Additionally, U.S. companies have alleged that corruption exists in public procurement, which is a barrier to entry.

Since 2004, Guatemalan entities have been required to use Guatecompras, an Internet-based electronic system to publicize Guatemala's procurement needs; this has improved transparency in the government procurement process. Reforms to the Government Procurement Law approved as part of CAFTA-DR implementation also require the use of Guatecompras in all procurements.

The CAFTA-DR requires the use of 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 will be permitted to bid on procurements of most Guatemalan government entities, including key ministries and state-owned enterprises, on the same basis as Guatemalan suppliers. The anti-corruption provisions in 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.

EXPORT SUBSIDIES

Under the CAFTA-DR, Guatemala may not adopt new duty waivers or expand existing duty waivers conditioned on the fulfillment of a performance requirement (e.g., the exportation of a given level or percentage of goods). Guatemala may maintain existing duty waiver measures through 2009 provided such measures are consistent with its WTO obligations.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

In May 2006, Guatemala strengthened its legal framework for the protection of intellectual property rights (IPR) with the passage of laws in preparation for the entry into force of the CAFTA-DR. The CAFTA-DR provides for improved standards for the protection and enforcement of a broad range of intellectual property rights, which are consistent with U.S. standards of protection and enforcement and with emerging international standards. Such improvements include state-of-the-art protections for digital products such as U.S. software, music, text and videos; stronger protection for U.S. patents and trademarks; and further deterrence of piracy and counterfeiting. The CAFTA-DR also requires Guatemala to protect undisclosed test data submitted for the purpose of product marketing approval of pharmaceutical and agricultural chemical products against disclosure and unfair commercial use. We are monitoring Guatemala's compliance with these provisions in particular.

SERVICES BARRIERS

Foreign banks may open branches or subsidiaries in Guatemala subject to the conditions of the Monetary Board, including capital and lending requirements based exclusively on the balance sheet of the local entity.

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 an enterprise established in Guatemala. Under the CAFTA-DR, U.S. insurance companies are able to establish wholly-owned subsidiaries and joint ventures, with a four-year phase-in for branches. U.S. insurance suppliers will also be able to provide cross-border insurance in areas such as marine, aviation and transportation, goods in international transit and the brokerage for these products, and reinsurance. Services auxiliary to insurance such as claims settlement, actuarial, risk assessment and consulting may be provided on a cross-border basis as well.

The CAFTA-DR requires Guatemala to ensure reasonable and non-discriminatory access to essential telecommunications facilities and to ensure that – by no later than 2007 – major suppliers provide interconnection at cost-oriented rates. U.S. companies have raised allegations of anti-competitive behavior, including unilateral changes of interconnection rates and suspension of service, by the country's dominant fixed-line telephone service provider, Telgua, a subsidiary of Telmex of Mexico. Although Guatemala's courts have ruled against Telgua in those cases where a verdict has been reached, the companies allege that the anticompetitive practices continue.

INVESTMENT BARRIERS

The CAFTA-DR establishes a more secure and predictable legal framework for U.S. investors operating in Guatemala. Under the CAFTA-DR, all forms of investment are protected, including enterprises, debt, concessions, contract and intellectual property. U.S. investors enjoy, in almost all circumstances, the right to establish, acquire and operate investments in Guatemala on an equal footing with local investors. Among the rights afforded to U.S. investors are due process protections and the right to receive a fair market value for property in the event of an expropriation. Investor rights are protected under the CAFTA-DR by an effective, impartial procedure for dispute settlement that is fully transparent and open to the public. Submissions to dispute panels and dispute panel hearings will be open to the public, and interested parties will have the opportunity to submit their views.

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

ELECTRONIC COMMERCE

The CAFTA-DR includes provisions on electronic commerce that reflect its importance to global trade. Under the CAFTA-DR, Guatemala has committed to provide non-discriminatory treatment to U.S. digital products, not to impose customs duties on digital products transmitted electronically, and to work together with the United States in policy areas related to electronic commerce.

OTHER BARRIERS

Allegations of official corruption under the previous administration and a poor security environment may have weakened investors' confidence and affected investment and trade decisions related to Guatemala.