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TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

GUATEMALA

This report, prepared for the third Trade Policy Review of Guatemala, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Guatemala on its trade policies and practices.

Any technical questions arising from this report may be addressed to Mr Angelo Silvy (022 739 5249) and Ms Martha Lara (022 739 6033).

Document WT/TPR/G/348 contains the policy statement submitted by Guatemala.

Note: This report is subject to restricted circulation and press embargo until the end of the first session of the meeting of the Trade Policy Review Body on Guatemala. This report was drafted in Spanish.

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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.

1 ECONOMIC ENVIRONMENT

1.1 Production and employment

1.1. Guatemala remains Central America's largest economy, generating a quarter of the gross domestic product (GDP) of the Central American Common Market (CACM). In recent years, it has posted one of Latin America's best economic performances, with growth rates above 3% since 2012, and over 4% in 2014 and 2015. Per capita GDP was US$3,943 in 2015, 47% higher than in 2009. Nonetheless, it is one of the few countries in the region where poverty has increased in the last few years, with the rate rising from 51% in 2006 to 59.3% in 2014.[1] This is partly the result of rapid demographic growth, rising food prices and income inequality. Guatemala still faces major challenges in achieving further per capita income growth and sustainable poverty reduction.

1.2. Guatemala's real GDP grew by an average of 3.2% per year in 2009-2015, below the 3.8% reported in the previous Review covering 2001-2007. This reduction was mainly caused by the effects of the global financial crisis, which intensified in 2009 and cut real GDP growth to just 0.5%. Nonetheless, although the crisis damaged the Guatemalan economy, the effects were more moderate than in other developing countries, and there was no recession.

1.3. Having gathered pace in 2010 and 2011, GDP growth slowed in the following year, before resuming a more sustained growth path as from 2013. Real GDP grew by 4.2% and 4.1%, in 2014 and 2015 respectively (Table 1.1), outpacing potential output growth (3.5%), driven on the expenditure side by the greater momentum of domestic demand, particularly private consumption. This is associated with an increase in household incomes, thanks to a rise in average wages, an increase in foreign exchange inflows from family remittances, growth of bank lending to the private sector, the income effect of the fall in the international price of oil and other hydrocarbons, and lower inflation.[2] Private consumption accounted for 85% of GDP in 2015, whereas total consumption, including that of the government, represented over 95%. Gross capital formation has a relatively small GDP share: 13.2% in 2015 — less than at the start of the decade.

Table 1.1 Basic economic indicators, 2009-2015

	2009	2010	2011	2012	2013[a]	2014[a]	2015[a]
Current GDP (Q billion)	307.97	333.09	371.01	394.72	423.10	454.05	488.33
Current GDP (US$ million)	37,734	41,338	47,655	50,388	53,851	58,722	63,794
GDP at 2001 constant prices (Q billion)	193.91	199.47	207.78	213.95	221.86	231.12	240.71
GDP at 2001 constant prices (US$ million)	23,759	24,755	26,688	27,311	28,238	29,890	31,445
Real GDP, growth rate (%)	0.5	2.9	4.2	3.0	3.7	4.2	4.1
Per capita GDP (US$)	2,691	2,879	3,240	3,344	3,488	3,716	3,943
Structure of GDP (% of current GDP)							
Agriculture, forestry, hunting and fishing	11.7	11.1	11.1	10.6	10.6	10.7	10.5
Mining and quarrying	1.6	2.0	2.8	2.2	1.8	2.2	1.8
Manufacturing	18.6	18.6	18.6	19.1	19.1	18.8	18.5
Electricity and water	2.2	2.4	2.0	2.2	2.3	2.3	2.4
Construction	4.6	4.0	4.0	4.2	4.1	4.0	3.9
Services	61.3	61.9	61.4	61.8	62.0	62.0	63.0
Wholesale/retail trade	16.2	17.0	18.1	18.7	19.5	20.1	21.6
Hotels and restaurants	2.5	2.4	2.2	2.3	2.3	2.3	2.3
Transport, storage and communications	8.0	7.9	7.8	7.7	7.5	7.4	7.6
Financial intermediation, insurance and auxiliary activities	3.2	3.2	3.1	3.3	3.4	3.4	3.4
Housing rental	9.0	8.7	8.2	8.0	7.8	7.5	7.3
Business activities and other real estate activities	7.0	6.9	6.6	6.5	6.4	6.3	6.1
Public administration and defence; compulsory social security plans	4.2	4.3	4.1	4.2	4.4	4.3	4.2
Education	3.1	3.2	3.3	3.2	3.2	3.3	3.4
Social services and health	2.9	2.9	2.8	2.9	2.9	2.9	2.8
Other community, social and personal service activities	0.8	0.8	0.8	0.8	0.8	0.8	0.8
Private households with domestic service	1.0	1.0	1.0	0.9	0.9	0.9	0.9

[1] Online information from the World Bank. Viewed at: http://www.bancomundial.org/es/country/guatemala.

[2] Bank of Guatemala (2016), *Informe de Política Monetaria, a marzo de 2016*. Viewed at: http://www.banguat.gob.gt/Publica/Comunica/informe_pol_mon_mar2016.pdf.

	2009	2010	2011	2012	2013[a]	2014[a]	2015[a]
Financial intermediation services indirectly measured (FISIM)	-2.9	-2.9	-2.9	-2.9	-3.0	-3.0	-2.9
Taxes net of product subsidies	6.2	6.3	6.3	6.1	5.9	5.8	5.6
Structure of GDP (% annual growth at 2001 prices)							
Agriculture, forestry, hunting and fishing	3.8	-0.2	5.0	4.9	4.7	3.2	3.3
Mining and quarrying	3.3	3.5	18.4	-19.3	3.5	46.7	8.4
Manufacturing	-0.9	3.3	3.0	3.3	3.5	3.2	3.5
Electricity and water	0.7	5.1	5.6	6.4	5.2	5.0	4.5
Construction	-10.8	-11.5	2.4	0.8	1.7	4.4	3.4
Services	1.5	4.3	4.0	3.6	3.6	3.4	4.4
Wholesale/retail trade	-2.3	3.7	3.8	3.0	3.2	3.8	5.8
Hotels and restaurants	1.6	3.4	3.5	2.6	3.1	3.9	5.1
Transport, storage and communications	2.5	2.9	4.8	3.1	2.9	3.0	3.3
Financial intermediation, insurance and auxiliary activities	4.0	3.3	5.5	12.3	11.4	9.2	14.5
Housing rental	3.1	2.9	2.9	3.0	3.0	3.1	3.1
Business activities and other real estate activities	1.9	4.2	4.9	2.3	3.2	3.5	3.7
Public administration and defence; compulsory social security plans	8.8	7.5	1.3	10.0	8.4	4.3	6.5
Education	12.0	11.1	8.0	0.4	0.6	-0.3	-1.9
Social services and health	3.7	2.9	3.8	4.0	6.4	3.8	2.6
Other community, social and personal service activities	-1.3	4.2	6.0	1.7	3.1	2.9	2.4
Private households with domestic service	0.1	2.3	2.9	2.8	2.7	2.5	2.8
Financial intermediation services indirectly measured (FISIM)	7.0	2.4	7.0	8.9	11.2	8.7	10.1
Taxes net of product subsidies	-3.6	5.1	4.3	3.9	3.4	4.5	5.6
Composition of GDP by type of expenditure (% of current GDP)							
Total final consumption	96.1	96.6	95.5	96.3	97.1	96.7	95.3
Total final consumption of households and NPISH	85.9	86.1	85.3	85.9	86.5	85.8	85.0
Final consumption of general government	10.2	10.5	10.2	10.3	10.6	10.8	10.4
Gross fixed capital formation	15.1	14.8	14.8	14.8	14.3	13.9	13.2
Change in inventories	-2.1	-0.9	0.4	0.2	-0.2	-0.1	0.2
Exports of goods and services	24.0	25.8	26.6	24.9	23.7	23.2	21.3
(-) Imports of goods and services	33.1	36.3	37.4	36.1	34.8	33.6	30.0
Composition of GDP by type of expenditure (% annual growth at 2001 prices)							
Total final consumption	1.0	3.9	3.7	3.4	3.9	4.1	5.2
Total final consumption of households and NPISH	-0.3	3.4	3.6	3.1	3.7	3.9	5.8
Final consumption of general government	14.3	7.8	4.1	5.8	5.6	5.9	-0.1
Gross fixed capital formation	-13.1	-2.1	7.1	3.6	1.5	4.4	5.5
Change in inventories	36.9	-61.0	-150.4	-61.3	-259.8	-46.1	-256.4
Exports of goods and services	-2.7	6.1	3.0	1.8	6.7	7.9	4.0
(-) Imports of goods and services	-7.8	10.0	7.0	2.8	4.3	7.0	8.9
Memorandum item							
Population (thousand)	14,017	14,362	14,714	15,073	15,438	15,807	16,176

a Preliminary figures.

Source: Central Bank of Guatemala and National Institute of Statistics of Guatemala.

1.4. Although total GDP grew at similar rates in 2015 and 2014, domestic demand expanded faster in 2015, by 5.2% compared to the 4.1% recorded in the previous year. The stronger momentum of domestic demand reflects an acceleration in the growth rates of private consumption and gross fixed capital formation, while public consumption retreated. Export demand in the case of goods and services grew by an estimated 4% in 2015, down from the previous year's 7.9%. The strongest growing components of external demand in volume terms included bananas, nickel concentrates, edible fats and oils, iron and steel, fruit and sugar.[3] Imports of goods and services were up by 8.9% in 2015, with increases in both capital goods and consumer goods.

1.5. The services sector contributed 63.0% of GDP in 2015, the leading component being wholesale and retail trade, which accounted for 21.6% of the total. Crop farming, livestock

[3] Bank of Guatemala (2016), *Informe de Política Monetaria, a marzo de 2016*. Viewed at: http://www.banguat.gob.gt/Publica/Comunica/informe_pol_mon_mar2016.pdf.

breeding, hunting, forestry and fishing jointly represented 10.5% of GDP in 2015, while manufacturing accounted for 18.5%. The GDP shares of the two latter activities have remained broadly unchanged since the previous review period (Table 1.1).

1.6. The individual sectors that contributed positively to economic growth include financial intermediation, insurance and auxiliary activities; wholesale and retail trade; and mining and quarrying. As in earlier years, manufacturing output and crop farming, livestock breeding, hunting, forestry and fishing grew in line with overall GDP, posting similar growth rates.

1.7. Services provided employment for 49.6% of the economically active population in 2015, while manufacturing industry employed 13.1%, agriculture 31.7% and construction 5.6%. In that year, 67.9% of total employment was informal.[4]

1.2 Fiscal policy

1.8. With the aim of reducing the fiscal deficit, Guatemala launched a tax reform process in 2012, which led to the approval of two legislative decrees: Decree No. 4-2012 of the Congress of the Republic, approved on 26 January 2012, or Anti-evasion Law II (provisions for strengthening the tax system and combating fraud and contraband); and Decree No. 10-2012 of the Congress of the Republic, approved on 16 February 2012, or Tax Update Law. Anti-evasion Law II contains measures to improve the control and inspection of taxes, and to combat evasion. The law includes measures that amend income tax (ISR), value-added tax (VAT) and the road and maritime vehicle tax; and it introduces reforms to the Tax Code and Penal Code. In the case of the ISR, tighter controls were introduced for deductible expenses, which are now more clearly defined, limiting the deduction of interest and setting eligibility requirements for certain deductions. In the case of VAT, the base level for its assessment was raised, and the tax credit for small-scale taxpayer invoices was eliminated.

1.9. The Tax Update Law introduces a series of reforms, and contains: (i) a new ISR law; (ii) a new tax on the initial registration of road motor vehicles (IPRIMA); (iii) customs provisions; (iv) reforms to VAT; (v) reforms to the vehicle tax; and (vi) reforms to the tax on fiscal stamps and official sealed paper. The ISR reforms set a tax rate of 5% for gross income (taxable income in the case of wage earners) for natural persons of up to Q 30,000 (US$3,947), and 7% on income in excess of this amount. In the case of corporate entities, profit tax was gradually lowered from 31% to 25%.[5] A 5% tax is levied on dividends. The Law also increased the minimum exemption for wage earners (from Q 36,000 to Q 48,000). In the case of VAT, the law reformed the tax on the secondary sale of goods; it also doubled the vehicle tax rate, although this measure was repealed in 2013 at the initiative of the President of the Republic. The Tax Update Law created the IPRIMA and eliminated tariffs on vehicle imports, which were replaced by a domestic tax. The IPRIMA is charged at rates ranging from 5% to 20%, depending on the type of vehicle. Tourism vehicles for individual or family use are taxed at 20%, while collective transport vehicles, along with ambulances, tractors, and freight vehicles, pay 5%.[6]

1.10. In 2009-2015, the government accounts continued to fluctuate within a relatively narrow band; government incomes have been equivalent to between 10.8% and 11.6% of GDP, and expenditure between 12.3% and 14.5%. This has generated central government deficits varying from 1.4% to 3.3% of GDP, higher than in the previous review period. Relative to GDP, both income and expenditure remain low compared to those of other countries in the region. As a result of the 2012 reform, the tax burden eased slightly during the period under review, from 10.3% of GDP in 2009 to 10.2% in 2015 (Table 1.2).[7] The current account has been in surplus throughout the review period, varying between 0.7% and 1.2% of GDP.

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[4] Online information from the National Institute of Statistics. Viewed at: https://www.ine.gob.gt/index.php/estadisticas/tema-indicadores.

[5] As a result of the reduction in profit tax, revenue in 2014 dropped by 5.6% from the year-earlier level, and fell by a further 3.2% in 2015, when it totalled Q 3,564.3 million.

[6] In addition, hybrid vehicles are taxed at 5%, while six-to-nine seater passenger vehicles pay 15%, as do four-wheel-drive vehicles. Lastly, tanker vehicles, garbage collection trucks and motorcycles are subject to a 10% rate. See Chapter 4 of Decree No. 10-2012 of the Congress of the Republic. Viewed at: http://portal.sat.gob.gt/sitio/index.php/descargas/doc_download/3055-decreto-10-2012.html.

[7] The tax burden is defined as tax revenue net of VAT tax credit reimbursements to exporters and social security contributions.

Table 1.2 Government finances, 2009-2015

(% of GDP)

	2009[a]	2010[a]	2011[a]	2012[a]	2013[a]	2014[b]	2015[b]
Total income	**11.1**	**11.2**	**11.6**	**11.6**	**11.6**	**11.5**	**10.8**
Current income	**11.0**	**11.2**	**11.6**	**11.6**	**11.6**	**11.5**	**10.8**
Tax revenue	10.3	10.4	10.9	10.8	11.0	10.8	10.2
Direct taxes	3.2	3.1	3.4	3.4	3.8	3.9	3.6
Income tax	2.3	2.3	2.7	2.7	3.0	3.1	2.8
Other[c]	0.8	0.8	0.7	0.7	0.8	0.8	0.8
Indirect taxes	7.2	7.3	7.4	7.4	7.2	6.9	6.6
Value-added tax	4.9	5.1	5.2	5.3	5.2	5.1	4.8
Domestic	2.0	2.0	2.0	2.1	2.2	2.2	2.2
Imports	2.9	3.1	3.2	3.2	3.0	2.9	2.6
Import duties	0.7	0.7	0.7	0.6	0.5	0.5	0.4
Distribution of oil and petroleum products	0.7	0.7	0.6	0.5	0.5	0.5	0.6
Other[d]	0.9	0.9	0.9	1.0	1.0	0.8	0.8
Non-tax income and transfers	0.7	0.8	0.8	0.8	0.7	0.7	0.6
Capital income	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Total expenditure	**14.2**	**14.5**	**14.4**	**14.0**	**13.8**	**13.4**	**12.3**
Current expenditure	**10.1**	**10.4**	**10.5**	**10.7**	**10.8**	**10.5**	**10.1**
Compensation of employees	3.6	3.8	3.8	3.8	4.0	4.1	4.2
Goods and services	1.9	1.9	1.9	2.2	2.1	2.1	1.6
Discounts and bonuses	0.0	0.0	0.0	0.0	0.1	0.0	0.0
Social security provisions	0.9	0.9	0.8	0.8	0.8	0.8	0.8
Interest	1.4	1.5	1.5	1.5	1.6	1.4	1.6
Domestic debt	0.8	0.8	0.9	1.0	1.0	1.0	1.0
External debt	0.6	0.7	0.6	0.5	0.6	0.5	0.5
Loans	0.4	0.4	0.4	0.4	0.4	0.3	0.3
Bonds	0.2	0.2	0.2	0.1	0.2	0.1	0.2
Transfers	2.3	2.3	2.3	2.3	2.2	2.0	1.9
Rest of the public sector	1.6	1.6	1.7	1.6	1.6	1.4	1.5
Private sector	0.7	0.7	0.6	0.6	0.6	0.6	0.4
External sector	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Capital expenditure	**4.1**	**4.1**	**4.0**	**3.3**	**3.0**	**2.9**	**2.2**
Direct real investment	1.8	1.8	1.8	1.0	0.9	0.9	0.4
Financial investment	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Transfers	2.3	2.3	2.1	2.3	2.1	2.0	1.8
Rest of the public sector	2.1	2.1	1.9	2.1	2.0	1.9	1.6
Private and external sector	0.2	0.2	0.3	0.1	0.1	0.1	0.1
Current account balance	**0.9**	**0.8**	**1.2**	**0.9**	**0.9**	**1.0**	**0.7**
Budget balance	**-3.1**	**-3.3**	**-2.8**	**-2.4**	**-2.1**	**-1.9**	**-1.4**
Total financing	**3.1**	**3.3**	**2.8**	**2.4**	**2.1**	**1.9**	**1.4**
Net external financing	**1.3**	**1.5**	**0.1**	**1.5**	**1.5**	**0.0**	**0.7**
Loans	1.3	1.5	0.8	0.1	0.8	0.0	0.7
Disbursements	2.0	2.1	1.4	0.6	1.3	0.5	1.3
Amortization	0.7	0.6	0.6	0.5	0.5	0.5	0.5
Net bond trading	0.0	0.0	-0.7	1.4	0.7	0.0	0.0
Net domestic financing	**1.8**	**1.8**	**2.7**	**0.9**	**0.6**	**1.9**	**0.7**
Net bond trading	1.4	1.9	2.2	0.5	0.5	1.8	0.8
Variation in cash (+) reduction (-) increase	**0.4**	**-0.1**	**0.5**	**0.5**	**0.1**	**0.1**	**-0.1**
Public debt	**23.0**	**24.5**	**23.9**	**24.4**	**24.8**	**24.7**	**24.4**
External	13.1	13.5	11.8	12.5	13.1	12.0	11.7
Domestic	9.9	11.0	12.1	11.9	11.7	12.7	12.6

a Pursuant to the legislation in force up to 2013, the VAT revenue figures correspond to total receipts less reimbursements of the VAT tax credit to the export sector.
b Preliminary figures.
c Includes the taxes on real estate and other property, commercial and agricultural enterprises; the extraordinary and temporary tax to support the peace accords; and the solidarity tax.
d Includes fiscal stamps; the vehicle tax; IPRIMA; oil and hydrocarbon royalties subject to revenue sharing; taxes on departure from the country; distribution of beverages; tobacco; cement distribution; and others.

Source: Ministry of Finance and Central Bank of Guatemala.

1.11. Indirect taxes continue to generate a very large share of Guatemala's tax revenue, growing to 61% in 2015. About one third of government income comes from trade-related taxes. Among these, the most important revenue source is VAT on imports, which accounted for 24% of total revenue in 2015, while tariffs generated just 3.7% of the total.

1.12. According to Decree No. 14-2015 of the Congress of the Republic, the budget for fiscal 2016 amounted to Q 70,796.3 million (US$9,315 million), equivalent to 13.5% of GDP. This is the lowest level recorded in the last 20 years. The estimated fiscal deficit is Q 8,379.6 million (1.6% of GDP), which is expected to be financed mainly by issuing Treasury bonds.[8] Under Government Decision No. 57-2016 of 8 April 2016, the 2016 budget was increased by Q 250 million to Q 71,046.3 million, in which estimated tax revenues are equivalent to 10.4% of GDP, up by 9.7% from the 2015 level. The authorities believe that this target will be hard to achieve without measures to strengthen tax administration.[9]

1.13. To prevent public expenditure from rising, the Government issued rules to control and contain public spending, under which, until public revenues attain significant levels, it will be necessary to continue applying measures that encourage the rational use of available resources on a priority basis. Those regulations require the public sector to refrain from requesting new posts and hirings that involve additional tax costs. It must also refrain from negotiating collective agreements that raise wages and increase benefits for public employees, and suspend the procurement of transport equipment and office remodelling, and the signing of new rental contracts.

1.14. Having deteriorated in 2015, total central government income grew by 2.4% in the first quarter of 2016, compared to the year-earlier period. Revenue from direct taxes grew by 2.3% while indirect tax receipts expanded by 1.1%. Tax revenues collected as of 31 March 2016 totalled Q 12,517.4 million, representing 96.7% of the target for that period. Public expenditure fell back by 8.9% in the first quarter of 2016 compared to the same period a year earlier, owing, among other things, to the increasing decline of tax revenue and limited access to financing from international financial organizations, which forced the Government to maintain its expenditure containment policy. As a result, a small fiscal surplus was generated of Q 241.4 million, compared to the deficit of Q 1,360.8 million (0.3% of GDP) recorded a year earlier.

1.15. The Organic Budget Law contains provisions governing the management of the public debt within the framework of the Constitution, which are approved annually by the Congress of the Republic in the State Income and Expenditure Budget, for the corresponding fiscal year. These provisions set a global debt ceiling for each fiscal year. The global external public debt limit for 2015 was Q 8,153,168,372.[10] Guatemala's public debt represented 24.4% of GDP in 2015, of which 11.7% was external and 12.6% domestic (Table 1.2). On 31 March 2016, the domestic public debt stock stood at Q 64,492.5 million (US$8,486 million), while the balance of the external public debt was US$7,410.9 million, down from the 31 December 2015 figure (US$7,489.9 million).

1.16. During its Article IV Consultation in 2016, the International Monetary Fund (IMF) stated that, although Guatemala's public debt was among the lowest of the region, it is moderately high in relation to tax revenues. It also indicated that a broadly neutral fiscal stance was appropriate from a cyclical perspective but structural needs could justify a temporarily higher deficit, if revenue shortfalls were to persist. In this regard, reform of the tax administration is considered a priority, both to raise revenue levels and to help combat corruption.[11]

1.3 Monetary and exchange rate policy

1.17. According to the Organic Law of the Bank of Guatemala (Decree No. 16-2002), the central bank's fundamental objective is to promote stability in the general price level. Since 2005, the

[8] Bank of Guatemala (2016), *Informe de Política Monetaria, a marzo de 2016*. Viewed at: http://www.banguat.gob.gt/Publica/Comunica/informe_pol_mon_mar2016.pdf.
[9] Bank of Guatemala (2016), *Informe de Política Monetaria, a marzo de 2016*. Viewed at: http://www.banguat.gob.gt/Publica/Comunica/informe_pol_mon_mar2016.pdf.
[10] Decree No. 22-2014, General State Income and Expenditure Budget for Fiscal 2015.
[11] IMF (2016), Guatemala: Concluding Statement of the 2016 Article IV Mission. Viewed at: http://www.imf.org/external/spanish/np/ms/2016/052916s.htm.

Bank of Guatemala has been implementing an explicit inflation targeting scheme, which consists in setting an explicit target for the variation in the consumer price index (CPI), over one or several time horizons, together with a flexible exchange-rate regime. Under this framework, monetary policy is implemented through indirect monetary control instruments (monetary stabilization operations) and the use of indicative variables. In June 2011, a change was made to the explicit inflation targeting scheme, by setting the interest rate on overnight deposits as the leading monetary policy interest rate, instead of the seven-day interest rate in force at that time. The authorities believe this has enabled more efficient liquidity management by the banks in the financial system.

1.18. Since 2013, the Monetary Board has been setting a medium-term inflation target of 4.0% +/-1 percentage point. The monetary policy interest rate in March 2016 was 3.0%. At its meeting in that month, the Monetary Board noted that inflation forecasts and expectations for 2016 and 2017 both saw inflation remaining around the central value of the target range (4.0% +/-1 percentage point).[12]

1.19. Since 2012, the average rise in the CPI has remained comfortably within the established fluctuation band, varying between 3% and 4.5% (Table 1.3). Inflation has stayed low in both 2014 and 2015, at a rate of 3%, which initially reflected the fall in the price of imported non-oil products and then, since mid-2014, in oil imports. Inflation picked up in the early months of 2016, with the CPI rising by 4.26% up to March, mainly owing to higher food prices, which at that time were rising at an annual rate of about 11.0%.

Table 1.3 Monetary and financial indicators, 2009-2015

	2009	2010	2011	2012	2013	2014[a]	2015[a]
Liquidity							
Currency in circulation, M1 (Q million)	48,490	53,076	57,341	61,172	63,031	67,531	75,048
M1 (percentage change on previous year)	5.7	9.5	8.0	6.7	3.0	7.1	11.1
Means of payment, M2 (Q million)	96,614	106,203	116,742	127,794	137,478	149,911	165,582
M2 (percentage change on previous year)	7.5	9.9	9.9	9.5	7.6	9.0	10.4
Bank credit to the private sector (Q million)	88,189	93,250	106,392	125,176	140,159	152,455	172,036
Bank credit to the private sector (percentage change on previous year)	1.1	5.7	14.1	17.7	12.0	8.8	12.8
Exchange rate							
Exchange rate (quetzal per US$, period average)	8.16	8.06	7.79	7.83	7.86	7.73	7.66
Interest rates							
Interest rate in domestic currency (%)[b]							
Lending[c]	13.6	13.3	13.5	13.5	13.7	13.6	13.1
Deposit[d]	5.6	5.3	5.2	5.4	5.5	5.5	5.4
Interest rate in foreign currency (%)[b]							
Lending[c]	8.1	7.1	6.3	6.2	6.1	6.0	5.9
Deposit[d]	3.9	3.1	2.7	2.8	2.9	2.9	3.0
Inflation							
Consumer price index (end-period, Dec. 2010=100)	94.88	100.0	106.2	109.9	114.7	118.1	121.7[e]
Variation in the consumer price index (end-period, Dec. 2010=100)	-0.3	5.4	6.2	3.5	4.4	3.0	3.0

a Preliminary figures.
b Weighted average of the banking system.
c Revised figures, not including credit card loans.
d Not including demand deposits.
e December 2015.

Source: Central Bank and National Institute of Statistics of Guatemala.

[12] Bank of Guatemala (2016), *Informe de Política Monetaria, a marzo de 2016*. Viewed at: http://www.banguat.gob.gt/Publica/Comunica/informe_pol_mon_mar2016.pdf.

1.20. During the period under review, the main monetary and credit aggregates trended in line with the economic growth forecast and the inflation target. The year-on-year growth rate of currency in circulation, M1, fluctuated between 6.7% and 11%, except in 2013, whereas the means of payment, M2, ran slightly ahead of nominal GDP with year-on-year growth of between 7.5% and 10.4%. Bank lending fluctuated more widely during the period under review, with growth ranging between 1.1% and 17.7%.

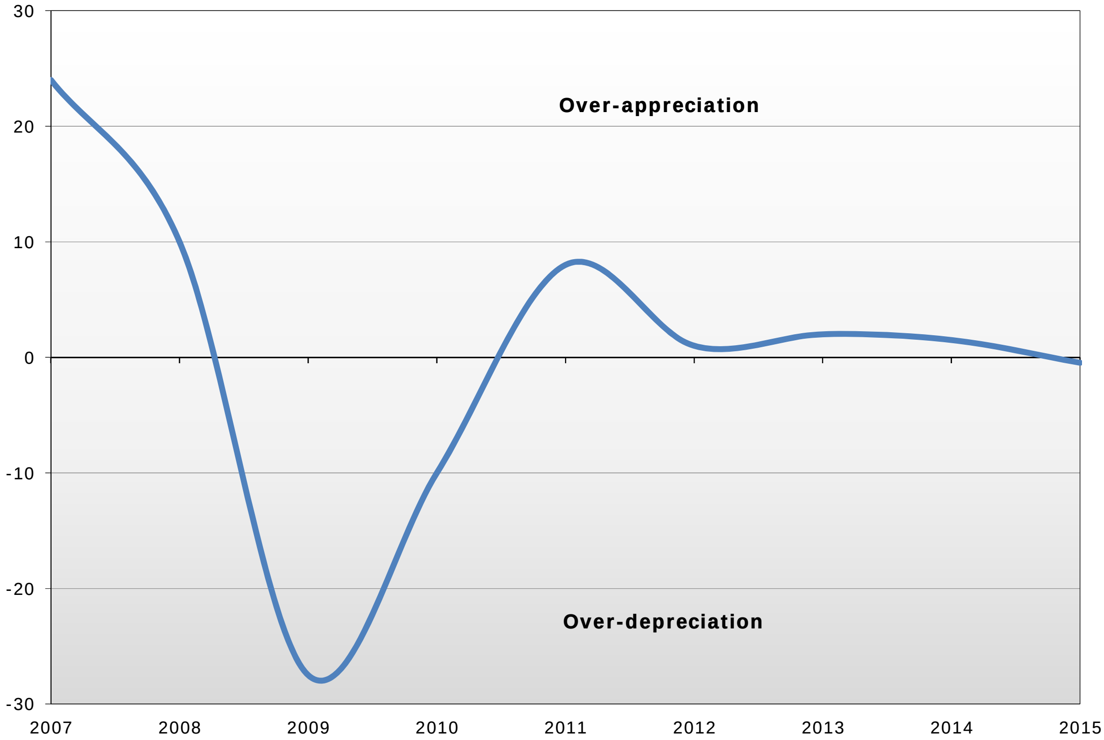
1.21. In the first quarter of 2016, credit to the private sector grew by 10.5%, associated with an increase in demand. Indicators of financial depth have continued to grow on a sustained basis, with means of payment outpacing nominal GDP growth: the ratio M2/GDP, which was 31.4% in 2009, reached a level of 33.9% of GDP in 2015. Market interest rates in domestic currency remained stable throughout the review period, but at a level of 13.1% in 2015. The spread between lending and deposit rates in domestic currency, of about eight percentage points, remains large and reflects the high costs of financial intermediation, and the large share of total lending accounted for by consumer credit, which is generally subject to higher interest rates.

1.22. Guatemala continues to apply a flexible exchange-rate policy, with the central bank making occasional forays into the market, consonant with its basic goal of price stability. During the review period, the nominal exchange rate displayed limited volatility, and the real effective exchange rate appreciated by 6% between 2009 and 2015. The Bank of Guatemala participates in the Institutional Foreign Exchange Market with the sole aim of moderating the volatility of the nominal quetzal/dollar exchange rate, but without influencing its trend. The authorities consider that the recent behaviour of the real exchange rate is consistent with the trend of its fundamentals, and that estimates of the equilibrium real exchange rate (ERER) show no significant misalignments (Chart 1.1).

1.23. In the context of the 2016 Article IV Consultation the IMF indicated that monetary policy was broadly appropriate but the authorities should remain vigilant if price pressures intensified. Although estimates of the neutral policy interest rate indicate an accommodating monetary stance, underlying inflation is below the target range, and inflation expectations have been anchored within that range since 2012. Consequently, the Fund does not recommend an immediate tightening of monetary policy; but it suggests that the Bank of Guatemala should stand ready to raise the policy rate if inflationary pressures intensify. It also recommends completing the transition to full-fledged inflation targeting, together with additional efforts to further strengthen the monetary transmission mechanism. On this point, it recommends, among other things: continuing to gradually increase exchange-rate flexibility; consider taking additional measures to discourage credit dollarization; develop the private debt and securities market, including the passing of a securities market law; and further refine the framework for monetary operations, including liquidity management.[13]

[13] IMF (2016), Guatemala: Concluding Statement of the 2016 Article IV Mission. Viewed at: http://www.imf.org/external/spanish/np/ms/2016/052916s.htm.

Chart 1.1 Trend of the equilibrium real exchange rate (ERER), 2007-2015



Source: Bank of Guatemala.

1.4 Balance of payments

1.24. The current account of Guatemala's balance of payments is traditionally in deficit, mainly owing to a large trade gap. In 2011, the current account deficit peaked at close to US$1.6 billion, or 3.4% of GDP; but it has been falling since 2013. Improvements in that year and in 2014 reflected an increase in goods exports. In 2015, a sharp contraction in imports, on the order of 4%, led to a smaller trade deficit, which further reduced the current account deficit — to US$202 million, equivalent to 0.3% of GDP.

Table 1.4 Balance of payments 2009-2015[a]

(US$ million)

	2009	2010	2011	2012	2013[b]	2014[b]	2015[b]
Current account	**273**	**-563**	**-1,599**	**-1,310**	**-1,351**	**-1,230**	**-202**
As a percentage of GDP	0,7	-1,4	-3,4	-2,6	-2,5	-2,1	-0,3
Goods	**-3,348**	**-4,271**	**-4,963**	**-5,735**	**-6,176**	**-6,064**	**-5,549**
Exports f.o.b.	7,295	8,536	10,519	10,103	10,183	10,992	10,831
General merchandise	7,295	8,536	10,519	10,103	10,183	10,992	10,831
Of which procured in ports by carriers	73	74	118	124	158	188	151
Of which produced in free zones or under Decree No. 29/89	2,293	2,653	3,352	3,040	3,069	3,481	3,593
Imports f.o.b.	10,643	12,807	15,482	15,838	16,359	17,056	16,380
General merchandise	10,643	12,807	15,482	15,838	16,359	17,056	16,380
Of which procured in ports by carriers	2	2	3	6	7	9	7
Of which produced under Decree No. 29/89	1,344	1,670	1,940	1,965	2,338	2,375	2,213
Services	**-43**	**-140**	**-278**	**-104**	**-223**	**-203**	**-310**
Transport	-709	-861	-882	-928	-919	-941	-960
Credit	259	289	342	323	353	401	423
Debit	968	1,150	1,225	1,251	1,272	1,342	1,382
Travel	644	594	642	713	755	776	823
Credit	1,359	1,378	1,350	1,419	1,479	1,564	1,580
Debit	715	784	708	706	725	788	756
Financial services	-100	-110	-136	-127	-163	-191	-155

	2009	2010	2011	2012	2013[b]	2014[b]	2015[b]
Credit	10	12	11	13	11	17	15
Debit	110	122	146	140	174	207	169
Insurance and pension services	-136	-92	-181	-203	-272	-285	-294
Credit	2	18	3	-4	7	3	7
Reinsurance	2	18	3	-4	7	3	7
Debit	139	110	185	199	278	288	301
Direct insurance	48	42	51	72	101	106	106
Reinsurance	91	68	134	127	178	182	195
Other	259	330	279	441	376	438	275
Credit	459	571	533	683	684	845	741
Debit	200	241	253	243	307	408	466
Primary income	**-962**	**-1,099**	**-1,491**	**-1,115**	**-1,064**	**-1,408**	**-1,423**
Compensation of employees	46	64	101	87	106	112	103
Credit	53	69	112	97	115	120	107
Debit	7	5	11	10	9	7	4
Income from direct investment	-893	-952	-1,389	-1,013	-899	-1,172	-1,211
Credit	58	49	64	99	87	151	144
Debit	951	1,001	1,454	1,112	986	1,324	1,355
Income from portfolio investment	-86	-95	-98	-109	-149	-237	-247
Credit	12	1	4	5	2	7	2
Debit	97	96	102	114	152	244	249
Other investment	-157	-199	-175	-151	-195	-181	-150
Credit	158	159	170	175	185	206	211
Debit	315	358	345	326	380	387	361
Reserve assets	127	83	70	70	73	70	82
Credit	127	83	70	70	73	70	82
Secondary income (net)	**4,626**	**4,946**	**5,134**	**5,645**	**6,113**	**6,445**	**7,079**
Personal transfers between resident and non-resident households (net remittances)	3,951	4,147	4,396	4,916	5,246	5,699	6,461
Other (net)	674	799	738	729	867	746	618
Capital account (net)	**1**	**3**	**3**	**0**	**0**	**0**	**0**
Financial account	**-205**	**-1,584**	**-2,027**	**-2,262**	**-2,620**	**-1,797**	**-1,062**
Direct investment	**-574**	**-782**	**-1,009**	**-1,205**	**-1,262**	**-1,282**	**-1,116**
Abroad	26	24	17	39	34	106	93
In Guatemala	600	806	1,026	1,244	1,295	1,389	1,209
Equity and investment fund shares	581	908	969	1,025	880	957	1,706
Of which reinvested earnings	488	643	770	580	672	820	1,004
Debt instruments	19	-102	58	219	416	431	-497
Portfolio investment	**125**	**12**	**392**	**-722**	**-933**	**-794**	**52**
Assets	-23	46	143	9	-6	38	-6
Liabilities	-148	34	-249	731	926	833	-57
Other investment	**244**	**-814**	**-1,410**	**-334**	**-426**	**280**	**2**
Assets	**261**	**-132**	**649**	**-78**	**406**	**572**	**378**
Money and deposits	146	-226	122	-84	233	419	-149
Loans	-78	33	338	86	133	109	589
Other accounts receivable and payable	-2	0	2	2	-1	42	29
Liabilities	**16**	**682**	**2,059**	**256**	**831**	**293**	**376**
Money and deposits	70	-74	-13	16	-1	-51	-48
Loans	-176	658	1,988	266	796	333	434
Commercial credits and advances	-150	98	83	-26	17	43	-30
Other accounts receivable and payable	271	0	0	0	19	-33	19
Errors and omissions (net)	**-6**	**-346**	**-225**	**-454**	**-567**	**-495**	**-384**
Overall balance	**473**	**677**	**206**	**499**	**702**	**72**	**475**
Financing	**473**	**677**	**206**	**499**	**702**	**72**	**475**
Reserve assets	473	677	206	499	702	72	475

a According to the sixth edition of the Balance of Payments Manual, increases in assets (liabilities) abroad are shown with a positive sign, and decreases with a negative sign.
b Preliminary figures.

Source: Bank of Guatemala.

1.25. The traditionally large trade deficit has been largely offset by high levels of transfers, which mainly consist of family remittances; and in 2015 these reached a level of US$6,285 million, or 9.8% of GDP. On 31 March 2016, the level of net international reserves (NIR) stood at US$7,586.1 million, down by US$165.1 million on the December 2015 figure, and equivalent to 5 months of goods imports.[14] The country's external public debt stood at US$7,410.9 million on 31 May 2016, equivalent to 11.6% of GDP.

1.5 Merchandise trade

1.26. Guatemala's merchandise trade continued to grow during the review period. Exports totalled US$10,726 million in 2015, compared to US$7,214 million in 2009, a 49% increase. Maquila exports grew at above-average rates, rising by 56% from US$2,293 million in 2009 to US$3,582 million in 2015. Free-zone exports increased by 150% from US$293 million in 2009 to US$734 million in 2015. It is too soon to judge the extent to which the legal amendments introduced in 2016, eliminating benefits for exports from the maquila and free zones will affect total exports.

1.27. During the review period, imports (including those associated with maquila activities and the free zones) grew from US$11,531 million in 2009 to US$17,639 million in 2015, for an average annual growth rate of 7.3%. Imports heavily outweighed exports by value throughout the period reviewed, giving rise to a merchandise trade deficit of US$5,549 million in 2015, if maquila activity and the free zones are included.

1.5.1 Composition of merchandise trade

1.28. Manufactures generated about two thirds of total exports in 2015, mainly products of the food industry, clothing and clothing accessories and textile products, chemicals, base metals and plastics (Chart 1.2 and Table A1.1). Exports of primary products accounted for one third of the total in 2015. Key exports included coffee, fruit (particularly bananas), vegetables and seeds. The main maquila exports are clothing (one third of the total), metallic minerals, processed fruit products and rubber. Exports from the free zones include fats and oils, pharmaceuticals, mineral fuels (refined products) and clothing (Chart 1.4).

1.29. The overall composition of imports underwent a number of changes during the review period, mainly owing to the lower value of imports of mineral products, mostly fuels, which dropped from 19.7% of the total in 2009 to 14.6% in 2015. In the latter year, the manufacturing sector accounted for about three quarters of total imports, the main categories being machinery and transport equipment and chemicals. Imported primary products included fuels, cereals and dairy products, among others (Table A1.2). The lower levels of fuel imports chiefly reflected the lower oil prices. The main maquila imports are knitted and other fabrics for use as inputs in the clothing industry, cotton, man-made fibres, plastics, machinery, and paper and paperboard (mainly for packaging). In the free zones, the main imports are gasoline, diesel fuel and pharmaceutical products.

1.5.2 Geographic distribution of trade

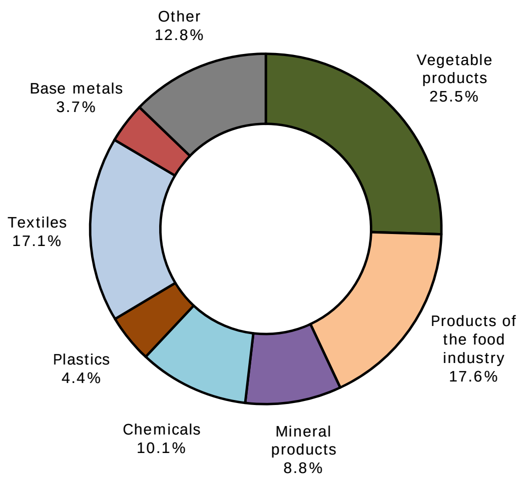
1.30. Despite a degree of diversification in the review period, Guatemala's trade remains concentrated in a few destination markets, chiefly the United States and the rest of Central America, which jointly absorb almost two thirds of the country's exports. The United States is still Guatemala's leading market, taking 35.3% of its exports in 2015 (Chart 1.3 and Table A1.3), although its share of the total has retreated from 41% in 2009. The second most important export market is Central America, which as a whole accounted for 29.1% of Guatemala's total exports in 2015. Among the individual Central American countries, the leading market is El Salvador, which absorbed 11.6% in 2015, followed by Honduras, with 8.4%. The European Union took 8% of Guatemala's total exports in 2015.

[14] Bank of Guatemala (2016), *Informe de Política Monetaria, a marzo de 2016*. Viewed at: http://www.banguat.gob.gt/Publica/Comunica/informe_pol_mon_mar2016.pdf.

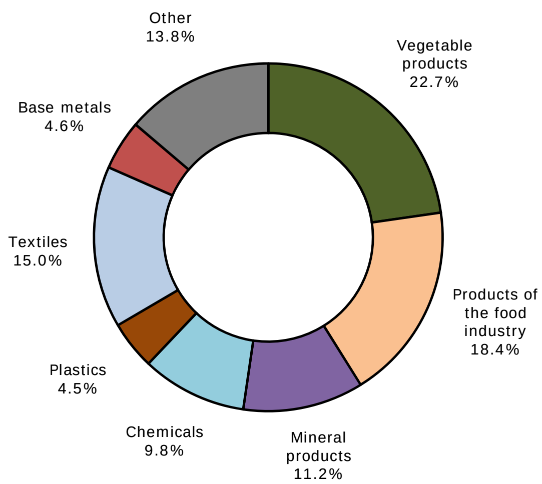
Chart 1.2 Merchandise trade by main products, 2009 and 2015

2009 | 2015

(a) Exports

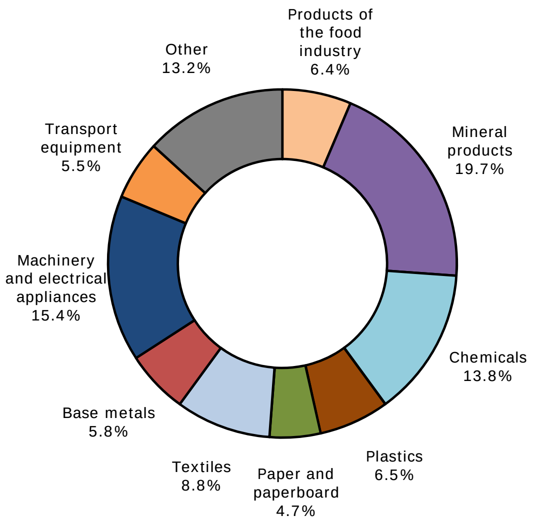


Total: US$7,214 million

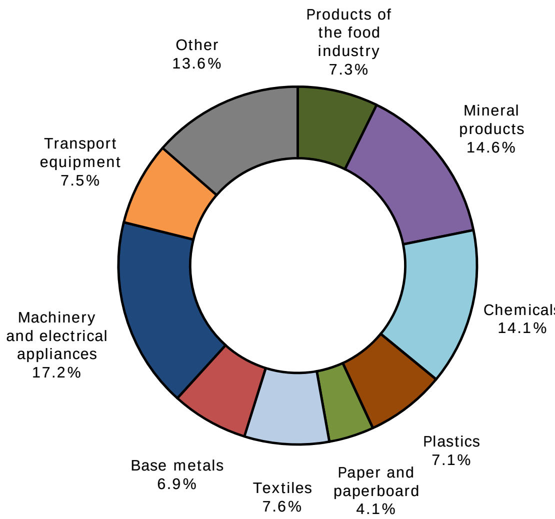


Total: US$10,726 million

(b) Imports



Total: US$11,531 million



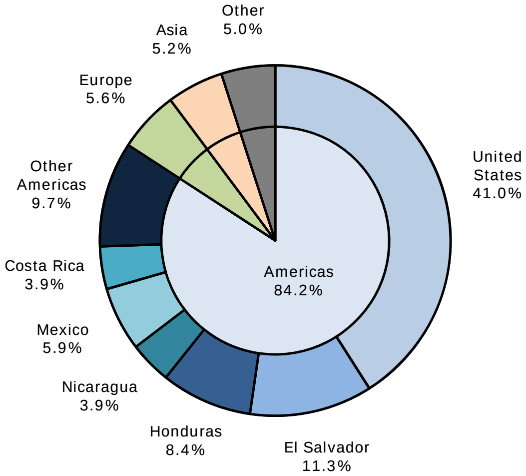
Total: US$17,639 million

Source: WTO Secretariat estimates, based on data from the Bank of Guatemala.

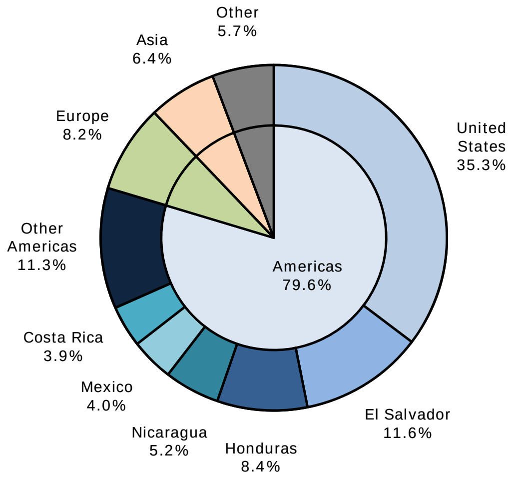
Chart 1.3 Merchandise trade by trading partner, 2009 and 2015

2009 | **2015**

(a) Exports

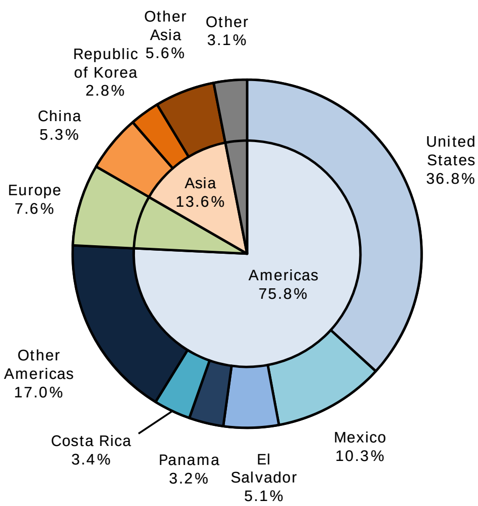


Total: US$7,214 million

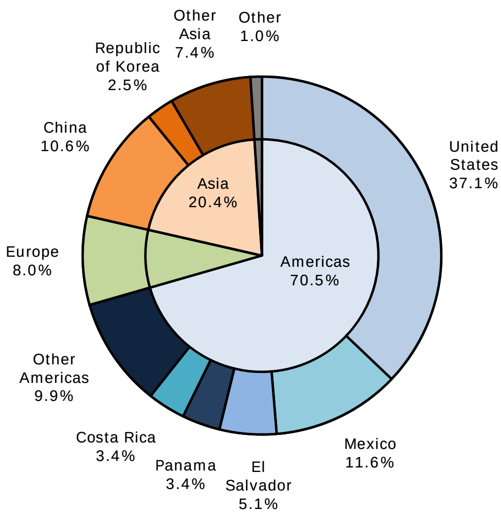


Total: US$10,726 million

(b) Imports



Total: US$11,531 million



Total: US$17,639 million

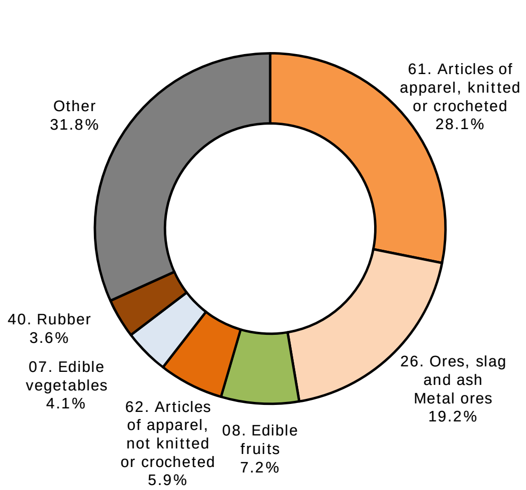
Source: WTO Secretariat estimates, based on data from the Bank of Guatemala.

1.31. The United States remain Guatemala's main supplier, contributing 37.1% of its total imports in 2015, followed by Mexico with 11.6% in the European Union with 7.6% (Chart 1.3 and Table A1.4).

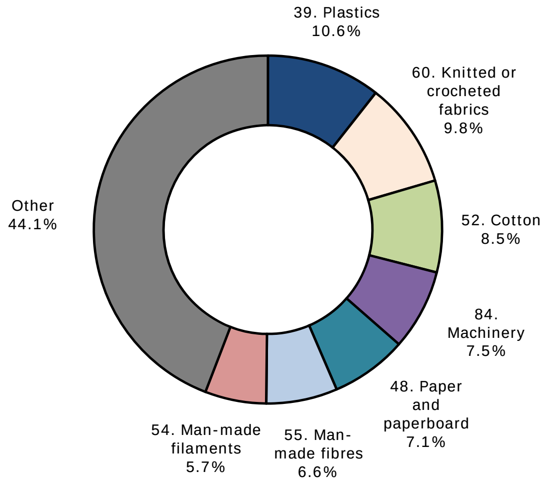
Chart 1.4 Maquila and free-zone merchandise trade by main products (HS chapter), 2015

Exports **Imports**

(a) Maquila

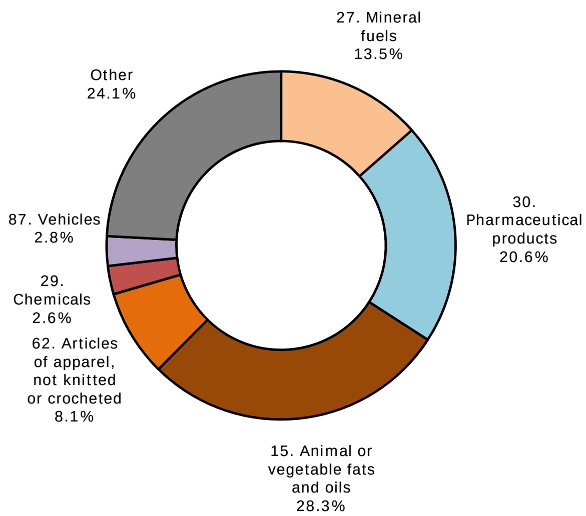


Total: US$3,582 million

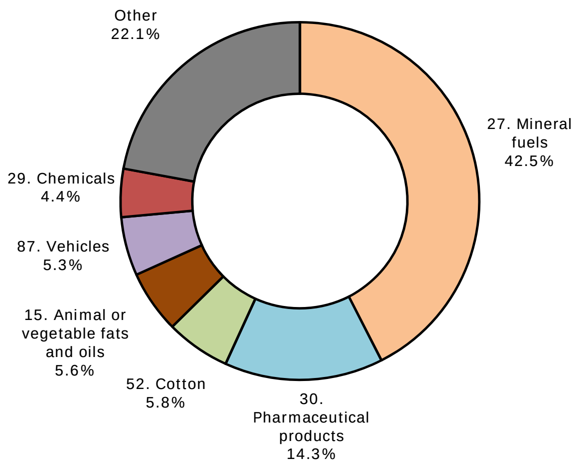


Total: US$2,166 million

(b) Free zones



Total: US$734 million



Total: US$1,380 million

Source: WTO Secretariat estimates, based on data from the Bank of Guatemala.

1.6 Trade in services

1.32. Guatemala's services trade was in deficit throughout the review period, and the gap has been widening since 2012 to reach US$310 million in 2015, equivalent to 0.5% of GDP. The deficits are largely the result of ever-larger shortfalls in the "transport" category (Table 1.5). Apart from transport, the largest deficits are in insurance and pensions and in financial services.

Table 1.5 Balance of trade in services, 2009-2015

(US$ million)

	2009	2010	2011	2012	2013	2014	2015
Balance of trade in services	**-43**	**-140**	**-278**	**-104**	**-223**	**-203**	**-310**
Transport	-709	-861	-882	-928	-919	-941	-960
Credit	259	289	342	323	353	401	423
Debit	968	1,150	1,225	1,251	1,272	1,342	1,382
Travel	644	594	642	713	755	776	823
Credit	1,359	1,378	1,350	1,419	1,479	1,564	1,580
Debit	715	784	708	706	725	788	756
Financial services	-100	-110	-136	-127	-163	-191	-155
Credit	10	12	11	13	11	17	15
Debit	110	122	146	140	174	207	169
Insurance and pension services	-136	-92	-181	-203	-272	-285	-294
Credit	2	18	3	-4	7	3	7
Reinsurance	2	18	3	-4	7	3	7
Debit	139	110	185	199	278	288	301
Direct insurance	48	42	51	72	101	106	106
Reinsurance	91	68	134	127	178	182	195
Other	259	330	279	441	376	438	275
Credit	459	571	533	683	684	845	741
Debit	200	241	253	243	307	408	466

Source: Bank of Guatemala.

1.7 Foreign investment

1.33. Guatemala is a net recipient of foreign direct investment (FDI), for which flows in 2009-2015 totalled US$7,606.2 million (Table 1.6). The leading investor countries in 2015 were: the United States (32% of the total); Colombia (12.9%); Mexico (9.4%); Spain (5.3%); Luxembourg (4.6%); and Canada and the Republic of Korea (4.2% each).

Table 1.6 Foreign direct investment, 2009-2015

(US$ million)

2009	2010	2011	2012	2013	2014	2015
600	805.8	1,026.1	1,244.5	1,307.7	1,411.2	1,210.9

Source: Bank of Guatemala.

1.8 Outlook

1.34. The Bank of Guatemala is forecasting GDP growth of 3.5% in 2016. The inflation target is set at 4%, with a fluctuation band of one percentage point; and the actual rates are expected to be 4.15% in late 2016 and 4.18% in late 2017.[15] The balance of payments current-account deficit is projected at US$285.9 million in 2016 (0.4% of GDP), and the fiscal deficit at 1.6% of GDP.

1.35. During the 2016 Article IV Consultation, the IMF noted that the country's fiscal and monetary policies had helped maintain macroeconomic stability. It also predicted that growth would return to its trend rate of 3.75% in 2016, and rise gradually to 4% in the medium term. Inflation is expected to remain within the central bank's target range (around 4%); and the current-account deficit is set to widen to 1.5% of GDP in the medium term, fuelled by a gradual rise in oil prices and robust domestic demand. The fiscal deficit is expected to remain stable, at around 1.5% of GDP in 2016, and to hover around that level in the medium term.[16]

[15] Bank of Guatemala (2016), *Informe de Política Monetaria, a marzo de 2016*. Viewed at: http://www.banguat.gob.gt/Publica/Comunica/informe_pol_mon_mar2016.pdf.

[16] IMF (2016), Guatemala: Concluding Statement of the 2016 Article IV Mission. Viewed at: http://www.imf.org/external/spanish/np/ms/2016/052916s.htm.

2 TRADE AND INVESTMENT REGIME

2.1 General legal and institutional framework

2.1. Guatemala is a presidential republic; it is a unitary State with a decentralized administration. Its territory is divided into 22 departments, which are subdivided into 340 municipalities. The Constitution of 1985 (amended in 1993) establishes personal rights, the functional organization of the State, the separation of powers and the independent functioning of the executive, legislative and judicial branches.

2.2. The President of the Republic is the head of State and is elected by direct, universal suffrage for a non-renewable four-year term. The President heads the executive branch and exercises his functions with the support of the Ministers of State.[1] There are 14 Ministries, including the Ministry of Social Development established in 2012.

2.3. The President is responsible for conducting foreign policy and international relations, including the conclusion, ratification and denunciation of treaties. The President has to submit all international treaties to Congress for approval where they: (i) affect current laws; (ii) affect national sovereignty; (iii) establish full or partial Central American economic or political union; (iv) assign or transfer competencies to agencies or institutions to pursue common objectives of the Central American region; (v) commit the State financially; (vi) constitute a commitment to submit any matter to international judicial decision or arbitration; or (vii) contain a general clause on arbitration or submission to international jurisdiction. Other international agreements (with the exception of those relating to matters of war) can be ratified by the President without the need for congressional approval.

2.4. Legislative power is vested in the single-chamber Congress of the Republic, comprising deputies elected by direct universal suffrage for renewable four-year terms.[2] Congress discusses and adopts laws, certain treaties and the annual budget of the nation. The number of deputies per department is determined by law according to the size of its population.[3] The entire membership of Congress was renewed in the September 2015 elections.

2.5. The judicial branch consists of the Supreme Court of Justice, the Court of Appeals and the ordinary courts, including some of special jurisdiction such as the Administrative Disputes Tribunal.[4] The Supreme Court is responsible for administering judicial power and consists of 13 judges appointed by Congress for five-year terms. There is also a Constitutional Court, with exclusive jurisdiction for ensuring that laws and treaties are consistent with and subordinate to the Constitution.[5]

2.6. The Office of the Comptroller-General is a specialized decentralized institution that is responsible for oversight of the use of public funds and contracts for public concessions.[6] Other major institutions established by the Constitution are the Public Prosecutor's Office, the Human Rights Ombudsman, and the Attorney General's Office, which is responsible for the legal representation of the State of Guatemala in all legal proceedings to which it is a party.

2.7. Legislation may be initiated by members of Congress, the Executive, the Supreme Court of Justice, the University of San Carlos[7] and the Electoral Supreme Court.[8] Congress has exclusive powers to initiate legislation relating to taxation.[9] The Constitution is the highest-ranking law,

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[1] The President appoints and dismisses the ministers, deputy ministers and ambassadors. Article 183 of the Political Constitution of the Republic of Guatemala (PCRG).

[2] Organic Law of the Legislative Branch, Decree No. 63-94 of 1 December 1994.

[3] PCRG Article 157.

[4] Article 58 of the Law on the Judicial Branch, Decree No. 2-89 of 28 March 1989, and amendments thereto.

[5] PCRG Article 268 ff.

[6] PCRG Article 232 and Organic Law of the Office of the Comptroller-General, Decree No. 31-2002 of 5 June 2002.

[7] The University of San Carlos, founded in 1676, is a public State institution. Its independence and budget are guaranteed by the Constitution.

[8] PCRG Article 174.

[9] PCRG Article 239.

followed in order of importance by international treaties, ordinary laws and regulations.[10] Draft legislation must be adopted by Congress in order to become law.[11] Once it has been adopted, it must be sent to the Executive to be signed, promulgated and published.

2.8. International treaties, including those dealing with trade matters, rank above domestic law but below the Constitution.[12]

2.9. In 2007, the International Commission against Impunity in Guatemala (CICIG) was established by agreement between the Guatemalan Government and the United Nations. Its purpose is the investigation and effective criminal prosecution of illicit associations in the country which are engaged in illegal activities and whose links with State officials have hindered the full consolidation of the rule of law in Guatemala. To this end, the CICIG acts as a special public prosecutor operating under Guatemalan law and has legal standing to file complaints as a co-complainant together with the Public Prosecutor's Office.[13] A CICIG report on fraudulent customs operations published in April 2015 led to the resignation of the incumbent President and Vice-President in September 2015. Following four months of interim presidency, a new elected President took office in January 2016.

2.10. The Constitution includes among the principles relating to economic matters social justice and the subordinate role of the State.[14] The Constitution establishes a prohibition on "monopolies and privileges" and the obligation for the State to protect "the market economy and prevent those associations which tend to restrict market freedom or to cause prejudice to consumers".[15] The Constitution recognizes the freedom of freedom of industry, commerce and labour[16] and proclaims the strengthening of Central American economic integration to be a duty of the authorities[17].

2.11. Guatemala does not have a specific law on foreign trade. Various laws, government decisions, decrees and other regulations govern the different aspects of foreign trade and other trade-related measures. The sections of this report will refer to these normative instruments and their amendment during the period under review.[18]

2.12. The Ministry of the Economy (MINECO) is the lead agency in foreign trade policy formulation and implementation, in coordination with other government agencies. The Ministry is responsible for negotiating and administering international trade agreements, as well as for representing Guatemala in the WTO and other international forums. The Law on the Executive Branch empowers MINECO to enforce the legal regime relating to the conduct of domestic and foreign trade, consumer protection, promotion of competition, legal repression of unfair competition, limitation of monopolistic enterprises, domestic and foreign investment and the promotion of competitiveness, among other matters. MINECO is also responsible for formulating and implementing tariff policy and coordinating, analysing and following up the Central American integration processes.[19]

[10] Law on the Judicial Branch, Article 9.

[11] Adoption of a law requires an absolute majority, save in the express cases of the Constitution or the Organic Law of the Legislative Branch requiring a qualified two-thirds majority.

[12] Guatemala entered a reservation to Article 27 of the 1969 Vienna Convention on the Law of Treaties, under which a signatory country "may not invoke the provisions of its internal law as justification for its failure to perform a treaty". By virtue of this reservation, Guatemala interprets Article 27 as applying to its ordinary legislation but not to its Constitution, which in its opinion prevail over any other law or international treaty. Online United Nations Treaty Series. Viewed at: https://treaties.un.org.

[13] The CICIG's mandate was renewed by the United Nations at the request of Guatemala until September 2017. Online information from the CICIG. Viewed at: http://www.cicig.org/index.php?page=mandato.

[14] PCRG Article 118.

[15] PCRG Article 130.

[16] PCRG Article 43.

[17] PCRG Article 150.

[18] Some of the main laws relating to foreign trade are available on the website of the Ministry of the Economy at: http://www.mineco.gob.gt/leyes-acuerdos-y-decretos.

[19] Article 32 of the Law on the Executive Branch, Decree No. 114-97 of 10 December 1997.

2.13. Other government institutions involved in the framing of Guatemala's trade policy include the Ministry of Foreign Affairs, the Ministry of Agriculture, Livestock and Food (MAGA), the Ministry of Finance, the Tax Administration Supervisory Authority (SAT), the Bank of Guatemala and the Planning and Programming Secretariat in the Office of the President of the Republic (SEGEPLAN).

2.14. The private sector participates in the national consultations carried out in connection with the negotiation and administration of trade agreements through the trade committees which MINECO establishes for the purpose.[20] The Business Commission for International Trade Negotiations (CENCIT) coordinates and develops the business community's position in the negotiation and implementation of trade agreements.

2.15. The National Export Promotion Council (CONAPEX) is a forum in which the public and private sectors participate with a view to making recommendations on the country's foreign trade policy and in particular coordinating and implementing export promotion policy through its technical body, the National Export Coordination Commission (CONACOEX).[21] CONAPEX is chaired by the Minister for the Economy and its membership includes the Ministers for Agriculture, Livestock and Food, Foreign Affairs and Finance, the head of SEGEPLAN, the President of the Bank of Guatemala and representatives of the private-sector chambers and associations.[22]

2.2 Trade policy objectives

2.16. During the review period, Guatemala updated its trade policy instruments. The general framework is set by the Integrated Policy on Foreign Trade, Competitiveness and Investment adopted in 2012. The objectives of this policy are: to improve the country's competitiveness in order to attract investment and expand trade; broaden and diversify the range of exportable products by raising quality and value added; consolidate openness and access to international markets; and promote foreign trade and investment opportunities.[23] The implementation strategies established to achieve these objectives include: promoting a stable macroeconomic environment, improving the production infrastructure and business climate, promoting the development of sectors with potential (agriculture, livestock, forestry, hydro-biological, agro-industry, manufacturing, extractive industry and services), strengthening the sanitary and phytosanitary systems, promoting SMEs and developing chains; optimizing the use of trade agreements; consolidating the Central American Customs Union and strengthening trade and investment promotion (Table 2.1). Trade policy is evaluated monthly by CONACOEX at the technical level and by CONAPEX at high level.

2.17. The National Competitiveness Agenda (2012-2021), adopted in 2012, is another of the instruments governing trade policy. The Agenda sets out various strategic guidelines, including in particular institutional modernization and strengthening, development of infrastructure (primarily in transport, energy and telecommunications) and the sustainable management of natural resources.[24] Decree No. 16-2010 of 13 April 2010 established the National Agency for Partnerships for Economic Infrastructure Development (ANADIE), a decentralized body whose purpose is to conclude and implement contracts for public-private partnerships in order to carry out infrastructure investment projects and improve competitiveness.

2.18. The National Development Plan K'atun establishes national development policy for the period 2016-2032, taking account of its sociocultural, economic, territorial, environmental and political dimensions, and thus complements the general framework for the formulation of Guatemala's foreign trade policy.

[20] Private-sector participation in the consultations is governed by the provisions of the Law on the Executive Branch and Ministerial Decision No. 483-2009 of 26 June 2009.

[21] Government Decision No. 367-86 of 19 June 1986.

[22] The private sector is represented in CONAPEX by the Business Chamber of Guatemala, Chamber of Agriculture, Guatemalan Sugar Producers Association, Chamber of Commerce of Guatemala, Chamber of Finance, Chamber of Industry, Guatemalan Exporters Association and Guatemalan Confederation of Cooperative Federations.

[23] CONAPEX (2012), *Política Integrada de Comercio Exterior, Competitividad e Inversiones*. Viewed at: http://www.mineco.gob.gt/sites/default/files/politica_integrada_de_comercio_exterior.pdf.

[24] National Competitiveness Programme (PRONACOM) (2012), *Agenda Nacional de Competitividad 2012-2021.* Viewed at: http://www.segeplan.gob.gt/downloads/clearinghouse/politicas_publicas/varias/Agenda_Nacional_de_Competitividad.pdf.

Table 2.1 Action lines of the Integrated Policy on Foreign Trade, Competitiveness and Investment

Improving competitiveness	Broadening and diversifying exports	Consolidating market access	Promoting foreign trade and FDI
Updating the National Competitiveness Agenda	Developing an incentive strategy to promote production, productivity and investment	Optimizing the use of existing instruments	Designing, developing and promoting the country's image
Improving competitiveness indices	Promoting the development of sectors with potential	Promoting progress with and consolidation of the Central American Customs Union	Identifying priority markets for exports and investment
Promoting a macroeconomic environment that boosts investment certainty	Developing, implementing and strengthening the sanitary, phytosanitary and food safety systems	Developing a strategy for Guatemala's participation in the WTO multilateral framework	Strengthening trade and investment promotion
Improving production infrastructure (highways, ports, airports)	Strengthening the micro, small and medium-sized enterprise sector	Implementing a trade agreement negotiating strategy	Developing a trade promotion strategy
Facilitating access to logistics and transport, energy and telecommunications services			Developing an FDI promotion strategy
Improving the general framework for investment and foreign trade			
Promoting the development and productivity of national products			

Source: National Export Promotion Council (CONAPEX), *Política Integrada de Comercio Exterior, Competitividad e Inversiones de Guatemala*, Guatemala, February 2012. Viewed at: http://www.mineco.gob.gt/sites/default/files/politica_integrada_de_comercio_exterior.pdf.

2.3 Trade agreements and arrangements

2.3.1 WTO

2.19. Guatemala has been a Member of the WTO since 21 July 1995, having been a Contracting Party to the GATT since 10 October 1991. This is its third Trade Policy Review (the previous one was held in April 2009). Guatemala grants most favoured nation (MFN) treatment to all its trading partners.

2.20. In the framework of the General Agreement on Trade in Services (GATS), Guatemala participated in the extended negotiations on telecommunications and revised its Schedule of Concessions.[25] However, it did not ratify the Fourth Protocol in connection with the negotiations on Basic Telecommunications and did not accede to the Reference Paper on Basic Telecommunications. Nor did it sign the Fifth Protocol on Financial Services.

2.21. Guatemala is neither a member nor an observer in the Committee on Government Procurement and has not acceded to the Plurilateral Agreement on Government Procurement. The authorities have said that they are continuing to evaluate the desirability of joining that Agreement. Guatemala is party to the Information Technology Agreement. In 2015, it took part in the negotiations on the extension of that Agreement[26]; the deposit of its instrument of acceptance was still pending in June 2016. Guatemala is not party to the Plurilateral Agreement on Trade in Civil Aircraft. With respect to intellectual property, Guatemala has not yet accepted the Protocol amending the TRIPS Agreement.

2.22. Guatemala participates in the following WTO groups: Group of Small, Vulnerable Economies (SVEs); Cairns Group; Tropical Products Group; the G-20 and the G-33. Guatemala is one of

[25] WTO document GATS/SC/36/Suppl.1/Rev.1 of 29 November 1999.
[26] WTO document OMC G/IT/1/Rev.54 of 5 October 2015.

the 20 Members that in 2011 submitted a joint proposal for the establishment of a voluntary register of geographical indications for wine and spirits.[27]

2.23. At the 10th Ministerial Conference of the WTO held in Nairobi in December 2015, Guatemala presented on behalf of the Small, Vulnerable Economies a proposal calling for "the priorities of SVEs to be duly addressed in all areas of the negotiations and regular work" of the WTO.[28] On the same occasion, Guatemala stated that it was committed to an early conclusion to the outstanding negotiations, improving transparency and strengthening the dispute settlement system, and called for the development of disciplines to achieve better access to agricultural and non-agricultural markets, the removal of all forms of export subsidy and the elimination of all production support programmes that distort international markets.[29]

2.24. Guatemala made a number of notifications to the WTO during the review period (Table A2.1). These include the notification of Category A commitments that it will adopt when the Trade Facilitation Agreement (TFA) enters into force.[30] At the time of writing of this report, Guatemala had not yet ratified the TFA; the authorities said that they expected Congress to ratify it by the end of 2016.[31]

2.25. Between 2009 and 2015, Guatemala took part in six dispute settlement proceedings as a complainant and in 25 cases as a third party. Table 2.2 indicates Guatemala's participation as a complainant in dispute settlement proceedings during the review period.

Table 2.2 Dispute settlement proceedings in which Guatemala acted as a complainant, 2009-2015

Defendant	Complainant(s)	Case	Status (at February 2016)	WTO document series
European Communities	Guatemala, Mexico, Honduras, United States, Ecuador (only in DS27)	Regime for the importation, sale and distribution of bananas	Settled or terminated (withdrawn, mutually agreed solution), 8 November 2012	WT/DS16 WT/DS27 WT/DS158
China	Guatemala	Grants, loans and other incentives	In consultations, 19 January 2009	WT/DS390
Dominican Republic	Guatemala	Safeguard measures on imports of polypropylene bags and tubular fabric	Report(s) adopted, with recommendation to bring measure(s) into conformity, 22 February 2012	WT/DS416
Peru	Guatemala	Additional duty on imports of certain agricultural products	Report(s) adopted, with recommendation to bring measure(s) into conformity, 31 July 2015	WT/DS457

Source: WTO Secretariat.

2.3.2 Regional and preferential agreements

2.3.2.1 Regional trade agreements

2.26. Guatemala participates actively in the Central American integration process in the framework of the Central American Common Market (CACM) and together with its Central American partners has concluded various regional trade agreements (RTAs) with third countries or groups of countries. The following RTAs entered into force during the period under review: Free Trade Agreement between Central America and Panama; Free Trade Agreement between the Republic of Colombia and the Republics of El Salvador, Guatemala and Honduras; Free Trade

[27] WTO document TN/IP/W/10/Rev.4 of 31 March 2011.
[28] WTO document WT/MIN(15)/W/3/Rev.1 of 24 November 2015.
[29] Statement by H.E. María Luisa Flores Villagrán, Vice-Minister for Integration and Foreign Trade, WTO document WT/MIN(15)/ST/125 of 27 January 2016.
[30] WTO document WT/PCTF/N/GTM/1 of 12 August 2014.
[31] The draft of Law No. 5049 providing for the adoption of the WTO Trade Facilitation Agreement was submitted to Congress on 4 April 2016.

Agreement between Chile and Central America; Free Trade Agreement between Mexico and Central America; and the Association Agreement between Central America and the European Union. This section deals only with the agreements that entered into force during the review period.[32]

2.27. Some RTAs concluded during this period had not entered into force for Guatemala at the time of writing of this report. In June 2015, Guatemala signed the Protocol of Accession to the RTA between Central America and the European Free Trade Association (EFTA), but the agreement is still pending submission to Congress for approval.[33] The agreement will offer Guatemala duty-free access for 77% of agricultural products and 100% of manufactures.[34] Guatemala signed an RTA with Peru in 2011, whose entry into force is also pending.

2.28. In 2009, Guatemala notified to the WTO the RTA between Central America and the Dominican Republic, which has been in force since 2004. In addition, in 2011 Guatemala notified to the WTO a trade agreement with Chinese Taipei, which has been in force since 2006.

2.29. The RTAs in force for Guatemala as at June 2016 are shown in Table 2.3.

Table 2.3 Regional trade agreements in force, 2016

Title of agreement	Coverage	Entry into force for Guatemala	WTO notification
Free Trade Agreement between the Dominican Republic, Central America and the United States (CAFTA-DR)	Goods and services	1 July 2006	S/C/N/372; WT/REG211/N/3
Free Trade Agreement between Central America and Panama	Goods and services	20 June 2009	S/C/N/692/Rev.1; WT/REG336/N/1/Rev.1
Free Trade Agreement between Central America and the Dominican Republic	Goods and services	15 October 2001	S/C/N/471; WT/REG211/N/5
Agreement establishing an Association between the European Union and its member States, on the one hand, and Central America, on the other	Goods and services	Part 4 on trade entered into force on 1 December 2013	S/C/N/680; WT/REG332/N/1
Central American Common Market	Goods	15 June 1961	L/1425 (GATT)
Free Trade Agreement between the Republic of Guatemala and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei)	Goods and services	1 July 2006	S/C/N/595; WT/REG297/N/1
Free Trade Agreement between Chile and Central America	Goods and services	23 March 2010	S/C/N/622; WT/REG312/N/1
Free Trade Agreement between the Republic of Colombia and the Republics of El Salvador, Guatemala and Honduras	Goods and services	12 November 2009	S/C/N/646; WT/REG316/N/1
Free Trade Agreement between the United Mexican States and the Republics of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua	Goods and services	1 September 2013	S/C/N/717/Rev.1; WT/REG349/N/1/Rev.1

Source: WTO Secretariat.

[32] Information on the agreements concluded prior to the 2009-2016 period is to be found in WTO (2009), Trade Policy Review of Guatemala, 2009, Geneva.
[33] The Agreement has been in force since 2014 between the members of EFTA (Iceland, Liechtenstein, Norway and Switzerland), Costa Rica and Panama. Honduras is currently negotiating accession to the agreement.
[34] Online information from the European Free Trade Association (EFTA). Viewed at: http://www.efta.int/free-trade/free-trade-agreements/central-american-states.

2.30. Guatemala's trade with partners with which the country had RTAs in force at end-2015 represented 83.4% of its total exports and 75.3% of its total imports.

2.31. Guatemala also has Partial Scope Agreements with: the Bolivarian Republic of Venezuela, Cuba, Belize and Ecuador; the latter two entered into force during the review period, on 4 April 2010 and 19 February 2013, respectively. Guatemala has also signed a Partial Scope Agreement with Trinidad and Tobago, whose ratification is still pending.

2.3.2.1.1 Central American economic integration and trade relations with Panama

2.32. The process of regional economic integration began in the 1960s with the signing of the General Treaty on Central American Economic Integration (TGIEC), which created the Central American Common Market (CACM) between Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. With the creation of the CACM the member countries adopted a common tariff and undertook to set up a customs union. In the CACM framework all originating products are covered by a free trade regime with the exception of unroasted coffee and cane sugar. There are also bilateral exceptions to free trade. Trade in roasted coffee between Guatemala and Costa Rica is subject to tariffs.[35]

2.33. In 2007, the CACM members signed the Framework Agreement Establishing the Central American Customs Union, which entered into force in 2011. In February 2015, Guatemala and Honduras signed a customs union agreement providing for the elimination of internal border posts and a common external tariff.[36] The two governments signed an enabling protocol formalizing the customs union in April 2015.[37] As part of the initial stage, in June 2015 a pilot programme of joint customs was set up in the border post at Agua Caliente (Guatemala). Once completed, the customs union will allow free transit of 80% of goods between the two countries and facilitate the movement of persons and vehicles. The exceptions provided for in Annex A to the General Treaty on Central American Economic Integration (TGIEC) were maintained in the Enabling Protocol, with a total of 38 products such as sugar, coffee and fuels being excluded.[38]

2.34. The CACM members signed a second Protocol to the Treaty on Investment and Trade in Services in 2011, in which in addition to establishing a legal framework for the liberalization of trade in services and foreign investment among the parties, they included provisions on electronic commerce. The Protocol was still pending ratification at the time of writing of this report.[39]

2.35. Panama adopted the TGIEC in 2013 with a view to deepening its integration with Central America.[40] When the TGIEC entered into force for Panama, all duties on Panamanian goods were eliminated immediately, with a few agreed exceptions. For some products, trade between Guatemala and Panama continues to be governed by the bilateral protocol to the Free Trade Agreement between Central America and Panama of 2002.[41]

[35] Annex A to the TGIEC contained in Resolution No. 06-2010 of the Executive Committee for Economic Integration of 3 September 2010.

[36] Secretariat for Central American Integration/SIECA (2015), *Estado de Situación de la Integración Económica Centroamericana*. Viewed at: http://www.sieca.int/Documentos/DocumentosMostrar.aspx?SegmentoId=2&DocumentoId=3325.

[37] The Enabling Protocol was adopted by the Honduran Congress on 15 December 2015 and by the Guatemalan Congress on 21 January 2016, and published in the Official Journal of Guatemala as Legislative Decree No. 03-2016 on 18 February 2016. It will enter into force eight days following the deposit of the instrument of ratification at the Secretariat of the Central American Integration System (SICA). The deposit by the two countries is pending.

[38] For further information on the operation of the customs union, see the Enabling Protocol, available at: http://www.mineco.gob.gt/paginaUA/documents/protocolo-habilitante.pdf.

[39] SIECA (2015), *Estado de Situación de la Integración Económica Centroamericana*. Viewed at: http://www.sieca.int/Documentos/DocumentosMostrar.aspx?SegmentoId=2&DocumentoId=3325.

[40] Protocol Incorporating the Republic of Panama into the Economic Integration Subsystem of the Central American Integration System, signed at Tegucigalpa on 29 June 2012.

[41] This Agreement has a bilateral tariff-cutting protocol for each of the countries. The protocol between Guatemala and Panama entered into force in 2009.

2.3.2.1.2 Association Agreement between Central America and the European Union

2.36. In June 2012, six Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama) signed an Association Agreement with the European Union.[42] The Agreement is divided into three pillars: (i) trade agreement, (ii) political dialogue and (iii) cooperation. It covers both goods and services, and also includes provisions on the protection of competition, intellectual property and technical barriers to trade, among many others. The trade pillar (Part 4) of the agreement has been in force for the parties since 1 December 2013. In Guatemala, the Association Agreement was adopted in its entirety through Decree of the Congress of the Republic No. 2-2013, and was notified to the WTO in 2013.[43]

2.37. The European Union bound duty-free access for Guatemala for all products that previously benefited from the Generalized Scheme of Preferences (GSP+). All in all, the EU granted Guatemala zero-duty entry for 91% of tariff lines immediately following the entry into force of the agreement. Guatemala granted the EU immediate liberalization of 48% of tariff lines. Both parties will free 96% of tariff lines for agricultural products and 100% of lines for manufactures over a tariff-cutting period of 15 years.

2.3.2.1.3 Free Trade Agreement between the Northern Triangle and Colombia

2.38. The Free Trade Agreement between the Northern Triangle (El Salvador, Guatemala and Honduras) and Colombia was signed in 2007 and entered into force between Guatemala and Colombia in November 2009. It consolidates and improves the Partial Scope Agreement previously signed between the two countries. Colombia liberalized 63.9% of its tariff lines for Guatemalan exports as from 2010 and will carry out gradual liberalization until reaching 76,4% of tariff lines when the tariff-cutting period ends in 2025. Guatemala undertook to free 54.3% of its tariff lines for Colombian exports upon entry into force of the agreement until reaching 73.7% of tariff lines at the end of the tariff-cutting period in 2029. The agreement has been notified to the WTO.[44]

2.3.2.1.4 Free Trade Agreement between Central America and Mexico

2.39. The Free Trade Agreement between Central America (Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua) and Mexico was signed in 2011 and entered into force between Guatemala and Mexico in September 2013. It replaced three former RTAs - between Mexico and the Northern Triangle, between Mexico and Costa Rica, and between Mexico and Nicaragua - which were terminated.[45] The agreement confirms, consolidates and deepens the commitments of the earlier agreements, and is therefore known as a "homologation agreement". It was notified to the WTO in 2014.[46]

2.40. Mexico raised the number of duty-free tariff lines for imports from Guatemala to 98% upon entry into force of the agreement (previously 58.7% of tariff lines had zero duty). Under the agreement, by the end of 2015 only 216 tariff lines for Mexico (1.8% of the Tariff) were to remain subject to duties. Guatemala liberalized 96.7% of its tariff lines for Mexico upon entry into force of the agreement (49.5% previously), with only 3.2% of Guatemala's tariff lines subject to duties at the end of 2015.

2.3.2.2 Other bilateral agreements and arrangements

2.41. The Free Trade Agreement between Chile and Guatemala, which is part of the RTA between Chile and Central America signed in 1999, entered into force in March 2010. While the agreement was signed plurilaterally, it is implemented bilaterally between Chile and each Central American party, after the corresponding bilateral protocol has been ratified. It covers both goods and services and was notified to the WTO in 2012.[47] Following entry into force of the agreement, Chile

[42] Agreement establishing an Association between the European Union and its member States, on the one hand, and Central America, on the other.
[43] WTO document WT/REG332/N/1 and S/C/N/680 of 27 February 2013.
[44] WTO document WT/REG316/N/1 and S/C/N/646 of 3 September 2012.
[45] The termination of the earlier agreements was notified to the WTO. WTO document WT/REG/GEN/N/7 of 29 January 2014.
[46] WTO document WT/REG349/N/1/Rev.1 and S/C/N/717/Rev.1 of 28 January 2014.
[47] WTO document WT/REG312/N/1 and S/C/N/622 of 4 April 2012.

freed 70% of its tariff lines for Guatemalan imports, a percentage which will rise to 92.5% at the end of the tariff-cutting period in 2024. Guatemala granted duty-free access for 53% of its tariff lines for imports from Chile at the time of entry into force of the agreement (previously 47.2% had MFN duty-free status) and at the end of the implementation period in 2029 duty-free lines will represent 92.6% of the total.[48]

2.42. Guatemala signed a Partial Scope Agreement with Ecuador in 2011, which entered into force in February 2013.[49] In terms of market access, the agreement covers 614 products. It also has provisions on the facilitation of customs procedures, elimination of technical barriers to trade, rules of origin and settlement of trade disputes, among others. In 2006, Guatemala also concluded a Partial Scope Agreement with Belize, which entered into force in April 2010. The agreement has limited coverage, with tariff preferences for about 72 products and the opening of two import quotas; it also has provisions on rules of origin and investment protection, among others.[50]

2.43. In June 2016, Guatemala was negotiating the following trade agreements: Free Trade Agreement with Canada (bilateral), Free Trade Agreement with the Republic of Korea (jointly with Costa Rica, El Salvador, Honduras, Nicaragua and Panama), the broadening of the Free Trade Agreement between the Northern Triangle and Colombia, and the broadening of the Partial Scope Agreements with Ecuador and Belize.

2.4 Investment regime

2.44. The Constitution establishes that it is the State's duty to create suitable conditions for promoting domestic and foreign investment in Guatemala.[51] Participation by foreign investors in the economy is governed primarily by the Foreign Investment Law (LIE) (Decree No. 9-98 of 20 February 1998), the text of which was not amended during the period under review. The LIE prohibits discrimination and guarantees national treatment for foreign investors, regardless of their country of origin.[52]

2.45. The LIE authorizes foreign investors to engage in any lawful economic activity in Guatemala, and hold any proportion of the equity of companies set up under Guatemalan law, save where there is a specific requirement concerning the share capital that must be contributed by Guatemalan individuals or legal persons by virtue of a specific law governing a particular economic activity.[53]

2.46. The LIE guarantees the right to private property, and recognizes for foreign investors full rights to own, use and enjoy their investment. The State may not directly or indirectly expropriate a foreign investor, or adopt measures equivalent to expropriation except on duly proven grounds of collective utility, social benefit or public interest. Expropriation must be carried out on a non-discriminatory basis in compliance with the principle of legality and by means of prior and effective compensation, except in the cases provided for in the Constitution.

2.47. Other foreign investment guarantees established by the LIE are: freedom of trade, including free importation and exportation of goods and services intended for the investment; free purchase or sale of foreign exchange; free transfer of remittances of profits generated in Guatemala; and international arbitration or an alternative dispute settlement mechanism. The LIE bars the State from imposing investment-related measures that may have trade-restrictive or -distorting effects, and the imposition of any performance requirement as a condition for the installation or maintenance of a foreign investment, such as transfer of technology or the creation of a specified number of jobs.[54]

[48] WTO document WT/REG312/1/Rev.1 of 22 July 2013.

[49] Database of the Foreign Trade Information System of the Organization of American States (OAS). Viewed at: http://www.sice.oas.org/Trade/ECU_GTM/Index_s.asp.

[50] Ibid. Viewed at: http://www.sice.oas.org/Trade/BLZ_GTM/Index_s.asp.

[51] PCRG Article 119(n).

[52] With the exception of the treatment that may be granted to certain types of investment stemming from Guatemala's obligations under trade treaties or agreements.

[53] LIE Article 4.

[54] An exception is the obligation to hire Guatemalan employees who are not part of the senior management of a company, in accordance with the country's labour law.

2.48. The Guatemalan investment regime contains few exceptions to the free exercise of economic activities. The Constitution establishes that the exploitation of forestry resources is reserved to Guatemalan nationals or companies.[55] However, this restriction does not apply to foreign capital enterprises constituted as public limited companies under Guatemalan law. Foreigners may not acquire real estate situated less than 15 km from the national frontiers, except in the case of property intended for residential use.[56] The Constitution also requires government authorization for the setting up and operation of national or international transport services, a requirement which applies to both domestic and foreign enterprises.[57] Under the Commercial Code, foreign enterprises may not provide professional services for which a legally recognized university degree is required. Guatemalan labour law requires that at least 90% of the employees of a company must be Guatemalan nationals. This requirement does not apply to managerial positions.

2.49. Incorporation as a commercial enterprise is not compulsory in Guatemala. However, Guatemalan law requires that any domestic or foreign enterprise be registered in the MINECO Business Register and with the tax collection authority. In order to carry on their commercial activities, foreign investors may create a local company under Guatemalan law (as a public limited company or a private limited liability company) or open a branch of a foreign company.[58] Under the trade legislation, the only criterion for determining a company's nationality is the place of its incorporation. Accordingly, any enterprise set up under Guatemalan domestic law is considered Guatemalan, regardless of the origin of its capital.

2.50. Investment policy is designed jointly with trade policy (Section 2.2). The Government thus aims to position Guatemala as an investment destination and a platform for the export of products such as electronic goods, refrigerators, auto parts, plastics, cosmetics, pharmaceutical equipment, medical appliances as well as software development. The National Competitiveness Programme (PRONACOM) and the National Foreign Investment Promotion Agency (*Invest in Guatemala*), which are both joint public-private bodies supervised by the Ministry of the Economy, are the agencies responsible for promoting and facilitating foreign direct investment.

2.51. During the period under review, PRONACOM developed two digital platforms for the purpose of simplifying the procedures for setting up and registering commercial companies. The *e-registrations Guatemala* platform (http://www.minegocio.gt) allows users to make in a single operation the registrations for commercial activities for the MINECO Business Register, the Tax Administration Supervisory Authority and the Ministry of Labour, and also to apply for the accounting books and pay registration fees online.[59] The second programme, *e-regulations Guatemala* (http://www.asisehace.gt) provides a unified database on all administrative procedures connected with the start-up of activities as well as the regimes for payment of taxes and the procedures for importing goods and services associated with the commercial activity. The two projects seek to improve transparency and efficiency in the sector.

2.52. The Invest in Guatemala Agency provides help and support for foreign investors in identifying investment opportunities in the country. This includes supplying reliable information on the Guatemalan economy and legislation, in particular with respect to investment incentives and conditions; arranging contacts with service providers and raw material suppliers; organizing visit schedules in the country; and providing support for investments during and following their establishment.

2.53. Guatemala is a member of the International Centre for Settlement of Investment Disputes (ICSID) and the Multilateral Investment Guarantee Agency (MICA). It is also party to the Convention on the Recognition and Enforcement of Foreign Judgments (New York Convention). It is also party to 17 agreements on reciprocal promotion and protection of investments (ARPPIs) and has also recently negotiated agreements with the Russian Federation, Trinidad and Tobago, and Turkey, which are not yet in force (Table 2.4). In addition, in the framework of

[55] PCRG Article 126.
[56] PCRG Article 123.
[57] PCRG Article 131.
[58] The conditions for each type of registration, the equity commitments and procedures to be followed in each case are available at: http://guatemala.eregulations.org/menu/253?l=es.
[59] In order to carry out this procedure online it is first necessary to have the required documents legalized by Notary Public. Online information from the Ministry of the Economy. Viewed at: http://www.mineco.gob.gt/minegociogt.

Central American integration Guatemala is a signatory to the Treaty on Investment and Trade in Services between the Republics of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua of 7 December 2005.

Table 2.4 Agreements on reciprocal promotion and protection of investments, 2016

Counterpart	Entry into force	Counterpart	Entry into force
Chile	13 October 2001	Sweden	1 July 2005
France	20 October 2001	Germany	29 October 2006
China	1 December 2001	Finland	6 January 2007
Republic of Korea	17 August 2002	Belgium-Luxembourg Economic Union	1 September 2007
Cuba	23 August 2002	Italy	3 March 2018
Netherlands	1 September 2002	Israel	15 January 2009
Argentina	7 December 2002	Austria	1 April 2002
Spain	21 May 2004	Russian Federation	pending
Czech Republic	29 April 2005	Trinidad and Tobago	pending
Switzerland	3 May 2005	Turkey	pending

Source: UNCTAD, *Investment Policy Hub*, viewed at: http://unctad.org/en/Docs/diaepcb201009_en.pdf; and information supplied by the Guatemalan authorities.

2.54. Guatemala has had to participate three times as a defendant in dispute settlement proceedings before the ICSID. Two of the complaints were brought under Chapter 10 of the CAFTA-DR. The first was settled partially in favour of the complaining investor in 2012.[60] The decision in the second case is still pending.[61] The third case consisted of a complaint for indirect expropriation brought under the Guatemala-Spain BIT of 2002. The case was settled in favour of Guatemala in 2015.[62]

2.55. In March 2015, Guatemala signed with Mexico an Agreement for the Elimination of Double Taxation with regard to Income Tax and the Prevention of Tax Evasion and Avoidance. The Government will shortly send the agreement to Congress for information and approval. This is the only double taxation agreement signed by Guatemala at the time of writing of this report.

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[60] *Railroad Development Corporation* (United States) *v. Republic of Guatemala,* ICSID case No. ARB/07/23. Viewed at: http://www.italaw.com/cases/887.

[61] *TECO Guatemala Holdings, LLC* (United States*) v. Republic of Guatemala,* ICSID case No. ARB/10/23. Viewed at: http://www.italaw.com/cases/1629.

[62] *Iberdrola Energía, S.A.* (Spain) *v. Republic of Guatemala*, ICSID case No. ARB/09/5. Viewed at: https://icsid.worldbank.org/ICSID/FrontServlet?requestType=CasesRH&actionVal=showDoc&docId=DC5374_Sp&caseId=C582.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures directly affecting imports

3.1.1 Customs procedures and requirements

3.1. The Tax Administration Supervisory Authority (SAT) is responsible for customs administration, through the Customs Directorate. Customs legislation includes the National Customs Law (Decree No. 14-2013); the Central American Uniform Customs Code (CAUCA IV, COMIECO Resolution No. 223-2008) and its implementing Regulations (RECAUCA IV, COMRIEDRE Resolution No. 224-2008), together with the implementing Regulations for the International Land Transport Customs Regime (Annex to COMRIEDRE Resolution No. 65-2001). Guatemala's customs regime has followed CAUCA IV and its implementing Regulations since August 2008.

3.2. The 2013 National Customs Law introduced changes to the formulation and standardization of customs regulations on administrative violations in order to facilitate their application. It also introduced additional customs procedures and provisions in respect of undeclared goods[1], tariff classification criteria, auction and donation of goods, sale of duty-free vehicles, and procedures for challenging action by the Customs Service. The authorities have indicated that the purpose of all the changes introduced by the National Customs Law was to implement the provisions in CAUCA IV and its implementing Regulations, which state that these aspects are to be governed by domestic legislation. The Tax Update Law (Decree No. 10-2012) also contains changes regarding penalties and the implementation of CAUCA IV and its implementing Regulations.

3.3. The SAT has also introduced a number of customs procedures based on CAUCA and RECAUCA and these may be viewed on its website at http://www.sat.gob.gt. SAT procedures can be divided into five categories: management of customs clearance (26 procedures); special procedures and authorizations (12); authorization and registration (9); freight management (5); and post-clearance management (18). Import and export requirements are specified in the respective procedures.

3.4. The import documents required vary according to the origin of the goods. For goods coming from other Central American Common Market (CACM) countries, the Central American single customs form (FAUCA) is used and serves as both the commercial invoice and the certificate of origin. Imports from other origins must be accompanied by the single customs declaration (DUA-GT), which is forwarded electronically to the SAT's website and has to be accompanied by the commercial invoice, the bill of lading or other transport document, a declaration of the value of the goods and other necessary documents, for example, a certificate of origin, a phytosanitary or animal health certificate or an import licence.[2] A DUA-GT has to be submitted for each commercial invoice, unless the invoices are issued by the same supplier, relate to the same transaction and the goods are covered by a single transport document.

3.5. Goods may be cleared under the following customs procedures: (a) definitive import; temporary or suspensive import; customs transit; temporary import and re-export in the same state; temporary admission for inward processing; customs or in-bond warehousing; and (b) import exempt from duty: free zones; re-import and re-export.

3.6. A customs broker must be employed for imports whose f.o.b. value exceeds US$500, but is not required for imports originating from CACM countries.[3] Authorization to act as a customs broker is given on an *ad personam* basis and may not be assigned. There is no charge for customs services. The SAT keeps a register of importers in which regular importers have to be registered.

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[1] Article 41 of the National Customs Law governs the treatment to be accorded to goods when undeclared goods are found in the course of the physical inspection.

[2] A DUA-GT does not have to be submitted for imports by the State, municipal authorities, international organizations or bodies that are exempt from payment of duties and taxes, or for goods not imported for commercial purposes or of little value. Information on procedures for importing goods into Guatemala may be obtained at: http://portal.sat.gob.gt/sitio/index.php/descargas/doc_download/6074-pr-iad-dno-de-01procedimientoparaelingresodemercanciasalterritorionacional05-2015.html.

[3] The services of a customs agent are optional in the following cases: (a) definitive export; (b) temporary export and re-import in the same state; (c) free zones; (d) customs warehousing; (e) temporary export for outward processing; and (f) temporary admission for processing.

3.7. The SAT has a risk analysis system with two channels: immediate inspection (red channel) and release of goods (green channel). On the basis of the system, the information provided in the customs declaration is verified at random, and this also applies to physical inspection of goods. Some of the products subject to stricter checks include: chicken, fish, grapes, coffee, rice, seeds, preparations of mixtures of fats with added flavouring, malt extract, preparations for soups, preparations for use on the hair, resins, pneumatic tyres, suitcases, trade advertising material, cotton yarn and woven fabric, impregnated fabrics, clothing, footwear, headgear, statuettes and other ornamental articles, articles of jewellery, imitation jewellery, articles of base metal, cutlery, mountings and fittings, nuclear reactors, boilers, machinery and mechanical appliances, electro-mechanical appliances, lamps, electric heaters, telephones, microphones, radio-broadcasting or television apparatus, monitors, vehicles, furniture, toys and miscellaneous manufactures. The authorities have indicated that the risk analysis system led to immediate verification in around 22.3% of the cases in 2015. The average time taken for clearance from submission of the customs declaration for imports is 3.5 days for products going through the red channel and 1.3 days for those going through the green channel.

3.8. In accordance with the RECAUCA, a request for review of decisions taken by the Customs Directorate may be made within a period of ten days following their notification. A decision on the request has to be taken within 20 days following receipt of the administrative file. An appeal against a decision by the customs authority may also be made to the higher authority in the Customs Service within 10 days following notification of the decision, and the Customs Tribunal must issue a ruling within 30 days. Table 3.1 provides statistics on the number of requests for review and appeals submitted over the period 2009-2015.

Table 3.1 Requests for review and appeals submitted to the customs authority, 2009-2015

	2009	2010	2011	2012	2013	2014	2015
Requests for review							
Total	**186**	**279**	**268**	**258**	**397**	**332**	**327**
Upheld	24	32	15	74	182	106	81
Dismissed	58	86	119	91	154	64	98
Nullity and amendments	104	161	134	93	61	162	148
Total	**71**	**67**	**34**	**29**	**125**	**173**	**42**

Source: Information provided by the Guatemalan authorities.

3.9. The customs reform process continued during the review period, the main aim being to standardize customs clearance procedures and action taken in customs warehouses, in-bond storage facilities and free zones.

3.10. The SAT uses a computer system called SAQB'E for digital management of documents, workflows and a tax current account for domestic and foreign trade taxes. Registration and a password are required in order to use the system.[4] The SAQB'E system permits operations to be traced, uses electronic documents and is managed by means of workflows, which can interact with applications (specialized systems).

3.11. Guatemala has a one-stop window for exports (VUPE) and since 2014 has also had a streamlined window for imports and transit (VAI). At the practical level, together these form a single window for foreign trade (VUCE), but this does not apply at the legal level as the windows are not legally integrated. Considerable progress has been made with the VUPE and a large number of institutions have already been integrated into the system. For the time being, relatively fewer institutions are participating in the VAI and as of June 2016 they consisted solely of the Ministry of Public Health and the Ministry of Agriculture (MAGA). Other institutions are in the process of joining.

3.12. The Central American regional regulations contain provisions on authorized economic operators (AEO). These have been incorporated into Guatemalan legislation by means of SAT Board Decision No. 017-2013.[5] Manufacturers, suppliers, exporters, carriers, logistics operators,

[4] The system may be viewed at: https://farm3.sat.gob.gt/menu/inicio.jsp.

[5] Online information. Viewed at: http://portal.sat.gob.gt/sitio/index.php/descargas/doc_download/4344-ad17-2013.html.

customs brokers, customs warehouses, shipping lines, ports and importers may all be approved as AEOs. The Customs Service is the only authority empowered to approve an AEO. By March 2016, there were five AEOs: one customs warehouse (Central Almacenadora S.A. (CEALSA)), one port: Compañía Bananera Independiente de Guatemala (COBIGUA); two importers (J.I. Cohen, S.A. and Productos Avon de Guatemala, S.A.) and one exporter (Productos Avon de Guatemala, S.A.).

3.13. Guatemala has signed several agreements with other countries in the region to facilitate land transport and customs clearance. For example, in 2001, together with other CACM member countries and Panama, it signed a resolution establishing a reciprocal treatment and non-discriminatory mechanism for international freight transportation by road.[6] In 2004, Guatemala and El Salvador introduced a system to eliminate border posts between the two countries at the Pedro de Alvarado/La Hachadura customs and signed bilateral agreements to reduce bureaucracy at the border. In 2008, formalities at customs exit posts were abolished and those at entry posts were streamlined at all the borders between the two countries. In 2009, Guatemala and El Salvador signed the protocol amending the framework agreement for the establishment of a customs union between their countries, instituting a transitional regime which will conclude with the elimination of customs posts on all the borders between the two countries. This protocol has not yet come into force. Guatemala, together with Honduras and El Salvador, is focusing on boosting the Northern Triangle Customs Union, which would involve the establishment of border posts for the free movement of goods and persons among these countries.

3.14. On 10 April 2015, Guatemala and Honduras signed the Enabling Protocol for the process of deep integration towards the free movement of goods and natural persons between the Republics of Guatemala and Honduras, which has been approved by both Congresses. The two countries deposited this instrument with the SICA and it has been in force since 13 June 2016. The two countries have been working bilaterally under this Protocol to move towards the free transit of goods and natural persons between them. This is being done in technical bodies that have looked at customs procedures, the criteria for free transit of goods, sanitary procedures, harmonization of tariffs in respect of third countries, and exceptions to free transit. It has also been decided to set up a working group to examine matters relating to convergence of the various preferential trade agreements to which Guatemala and Honduras belong. With the entry into force of the Enabling Protocol, the rules needed for the operation of the customs union will have to be adopted. It is also hoped to establish a structural fund, for which the two countries will have to earmark US$5 million. The customs union between Honduras and Guatemala does not exclude the possibility of extending it to other Central American countries, which have been invited to join since the outset.

3.15. Despite these efforts, the passage of goods through some of Guatemala's major land customs posts still faces problems of congestion and delays, partly owing to the opening hours and the limited physical infrastructure at the customs. This problem in fact became worse in early 2016, with long queues at the borders. The authorities consider that there are three aspects to this problem: infrastructure, procedures and personnel. In connection with this Review, they have indicated that, under the Central American Trade Facilitation and Competitiveness Strategy, five short-term measures are being promoted to help resolve the problem and establish a cross-cutting axis between country pairs/border pairs. They have also indicated that a study is being prepared on the establishment of an integrated control centre at Pedro de Alvarado/La Hachadura.

3.16. Guatemala is a member of the World Customs Organization and signed the Convention establishing a Customs Co-operation Council in 1985, but is not a contracting party to the Customs Convention on the A.T.A Carnet for the temporary admission of goods, the International Convention on the Simplification and Harmonization of Customs Procedures, or any other subsidiary agreement of the World Customs Organization. The authorities have indicated that, although it is not party to the Revised Kyoto Convention, Guatemala applies many of the good practices therein designed to facilitate customs procedures.

3.17. Guatemala played an active role in the negotiations on the WTO Agreement on Trade Facilitation and chaired the Council's Preparatory Committee on Trade Facilitation. In July 2014, Guatemala submitted its notification of Category A commitments under the Agreement.[7] In October 2015, the Central American Trade Facilitation and Competitiveness Strategy was approved by the Council of Ministers for Economic Integration (COMIECO), as proclaimed by the SICA

[6] Resolution No. 65-2001 (COMRIEDRE).
[7] WTO document WT/PCTF/N/GTM/1 of 12 August 2014.

Presidents in the Declaration of Punta Cana in June 2014. By June 2016, Guatemala had not yet ratified the Agreement, which was in the process of being approved by the Congress of the Republic.

3.1.2 Customs valuation

3.18. Guatemala has not yet replied to the WTO checklist of issues on customs valuation. It has signed the Central American Regulations on Customs Valuation of Goods, Annexes 2, 3 and 4 of June 2004, which came into force one month later.[8] In its notification of the Regulations to the WTO in 2005, Guatemala stated that, with their entry into force, it had complied with its commitment to implement the WTO Agreement on Customs Valuation.[9] In June 2016, the authorities were preparing a further notification.

3.19. The transaction value is the principal method of valuation. The following are taken into account in calculating the customs value in addition to those elements indicated in Article 8.1 of the Customs Valuation Agreement: (a) the cost of transport of the imported goods to the port or place of importation; (b) loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation; and (c) the cost of insurance.

3.20. The question of review is regulated in the RECAUCA, which provides that a request for review of decisions by the customs administration may be submitted within ten days following their notification. The request must be submitted to the same customs administration or to a higher authority, which has to take a decision within 20 days following receipt of the administrative file. An appeal may also be submitted against rulings partly or wholly resolving the review procedure or against decisions by the higher authority. Such appeals must be made to the higher authority of the Customs Service within ten days following notification of the decision and the Customs Tribunal or the competent body must issue a ruling within 30 days of the day following receipt of the appeal.

3.21. In accordance with the RECAUCA, if it is not possible to determine the value using the transaction value, the Customs Directorate and the importer must hold consultations in order to determine the value. The transaction value applies to some 80% of import declarations. If it does not prove possible to determine the customs value through these consultations, it is determined following the other procedures listed in the Customs Valuation Agreement.

3.22. The SAT has a database of values, providing updated information on prices, in order to facilitate determination of the value and the conduct of investigations into the values declared for the imported goods. In May 2015, fixed rules for verifying the declared values for some tariff headings classified as sensitive for valuation purposes started to be implemented. These rules set values to be used as a reference by the goods inspector. As of April 2016, there were over 180 fixed rules. An evaluation carried out in August 2015 found that the processes and procedures for analysing prices needed improving, as did the tools used for the purpose. The need to modernize the systems available to goods inspectors during immediate verification was identified in order to provide more help in determining the correct customs value of the goods.

3.23. If there is any delay in determining the customs value, the importer may request that the goods be cleared subject to provision of security to cover the amount of the tariffs and other duties ultimately payable on the goods.

3.1.3 Rules of origin

3.24. In 1998, Guatemala notified the WTO that it did not apply any non-preferential rules of origin.[10] It applies preferential rules of origin under the various trade agreements it has signed. Specific rules of origin apply to trade among CACM members, and these are detailed in the Central American Regulations on the Origin of Goods. Furthermore, there are preferential rules of origin in the free trade agreements with the Dominican Republic, Mexico, Panama, the United States and Chinese Taipei, all signed prior to 2010. Since then, Guatemala has signed trade agreements with Mexico (new agreement) and the European Union and applies the preferential

[8] COMIECO Resolution No. 115-2004.
[9] WTO document G/VAL/N/1/GTM/1 of 30 September 2005.
[10] WTO document G/RO/N/21 of 20 July 1998.

rules of origin contained therein. It has also started to apply the Central American Regulations on the Origin of Goods to products originating in Panama.

3.25. Guatemala has notified the Committee on Rules of Origin of the preferential rules of origin in the free trade agreements (FTAs) it has signed since 2010, that is, in the FTA between Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama, the European Union and its member States, the FTA between Guatemala and Panama and the FTA between Mexico and Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua.

3.26. The preferential rules of origin vary according to each agreement and also depend on the type of goods, but are in general based on the overriding principle of a change in tariff classification, sometimes with the addition of regional content value requirements. If a heading, subheading or item is subject to optional specific rules of origin, it suffices to comply with one of them.

3.27. The Central American regulations on origin apply in Guatemala pursuant to Ministerial Decision No. 0385-2006 of 29 June 2006 and Ministerial Decision No. 0657-2006 of 7 December 2006. The change in tariff classification criterion applies only to non-originating materials. Guatemala uses the FAUCA to certify the Central American origin of goods coming from CACM member countries.

3.28. For the agreement with the European Union, diagonal cumulation of origin is allowed for any product coming from the Plurilateral State of Bolivia; Colombia; Ecuador; Peru; and the Bolivarian Republic of Venezuela. This type of cumulation is not permitted in the agreement with Panama and only applies to textiles (HS Chapter 62) from the United States in the agreement with Mexico.

3.29. Table 3.2 shows the main changes in relation to origin in the various preferential agreements from 2009 to 2016. These have all been implemented in order to provide legal certainty for businesses importing goods into Guatemala.

Table 3.2 Changes in relation to origin, 2009-2015

Regulatory aspects amended	Articles/clauses affected	Changes/improvements in the measures compared to previously	Action taken for their implementation
General Treaty on Central American Economic Integration	Annex on Specific Rules of Origin	Adaptation of the specific rules of origin as a result of amendments to the Harmonized System (HS)	COMIECO Resolution No. 268-2011
Central America - Chile	Annex on Specific Rules of Origin	Adaptation of the specific rules of origin as a result of amendments to the Harmonized System (HS)	Decision No. 30 of October 2013
Northern Triangle - Colombia	Annex on Specific Rules of Origin	Adaptation of the specific rules of origin as a result of amendments to the Harmonized System (HS)	Decision No. 14 of 26 August 2015
Common Guidelines with the United States (CAFTA-DR)	Interpretation, implementation and administration of Chapter 4 of the Agreement	Compliance with the provisions in Article 4-24 of the CAFTA-DR	Decision of 27 October 2011
Uniform Regulations under the Northern Triangle – Colombia FTA	Interpretation, implementation and administration of Chapter 4 of the Agreement	Interpretation, implementation and administration of Chapters 4 and 5 of the Agreement	Decision No. 4 of 23 July 2010

Source: Information provided by the authorities.

3.1.4 Tariffs

3.1.4.1 Structure and levels

3.30. Guatemala applies the Central American import tariff, which uses the Central American Tariff System (SAC), based on the Harmonized Commodity Description and Coding System (HS), for the official classification of goods. Tariff policy is defined within the framework and according to the guidelines of the CACM. The fifth revision of the HS in 2012 was incorporated into the SAC on 1 January 2012. The CACM's tariff structure consists of four levels: 0% for raw materials, semi-finished goods and capital goods not produced in the region; 5% for raw materials produced in the region; 10% for semi-finished goods and capital goods produced in the region; and 15% for finished products. The authorities have indicated that 93.3% of the total number of lines in the Central American import tariff have been harmonized.

3.31. In 2015, Guatemala's customs tariff contained 6,974 eight-digit lines of the 2012 HS (Table 3.3) and all tariffs are *ad valorem*. Guatemala does not make use of specific or seasonal tariffs. Import duty is calculated according to the c.i.f. value of the goods plus other costs.

Table 3.3 MFN tariff structure, 2008 and 2015

(%)

		2008 (HS07)	2015 (HS12)
1.	**Total number of tariff lines**	**6,561**	**6,974**
2.	Non-*ad valorem* tariffs (% of all tariff lines)	0.0	0.0
3.	Non-*ad valorem* tariffs with no AVEs (% of all tariff lines)	0.0	0.0
4.	Tariff quotas (% of all tariff lines)	0.1	0.0
5.	Duty-free tariff lines (% of all tariff lines)	47.1	49.5
6.	Average of lines exceeding zero (%)	11.2	11.2
7.	Arithmetic average	5.9	5.7
8.	Agricultural products	9.9	9.6
9.	Non-agricultural products (including petroleum)	5.3	5.0
10.	Agriculture, hunting, forestry and fishing (ISIC 1)	8.1	8.1
11.	Mining (ISIC 2)	1.8	1.7
12.	Manufacturing (ISIC 3)	5.8	5.6
13.	Raw materials	6.4	6.8
14.	Semi-finished goods	3.9	3.7
15.	Finished goods	7.1	6.6
16.	Domestic tariff "peaks" (% of all tariff lines)[a]	1.2	0.6
17.	International tariff "peaks" (% of all tariff lines)[b]	1.2	0.6
18.	Overall standard deviation of applied rates	6.4	6.4
19.	"Nuisance" applied rates (% of all tariff lines)[c]	0.0	0.0
20.	Bound tariff lines (% of all tariff lines)	100.0	100.0

a Domestic tariff peaks are defined as rates exceeding three times the overall simple average applied rate.
b International tariff peaks are defined as rates exceeding 15%.
c Nuisance rates are those greater than zero, but less than or equal to 2%.

Source: WTO Secretariat estimates, based on data provided by the Guatemalan authorities.

3.32. In 2015, the average MFN applied rate was 5.7%, slightly below the 5.9% recorded in 2008 (Table 3.3). A zero rate applies to 49.5% of all tariff lines, compared to 47.1% in 2008. The rates for the other lines are 5%, 10%, and 15%, which is the most common. The rates range from zero to 40%.

3.33. An average tariff of 9.6% applies to agricultural products (WTO definition), while the average tariff on non-agricultural products, excluding petroleum, is 5%. The highest average duty by WTO category applies to alcoholic beverages, spirits and tobacco, at 15.8%. The maximum rate is 40% and applies, for example, to imports of beer made from malt, vermouth and ethyl alcohol. The next highest rate is 30%, which applies to some vegetables and garden produce. The tariff continues to show escalation from semi-processed to fully processed products, while imports of raw materials are subject to an average tariff above that on semi-processed products (Table 3.4).

Table 3.4 Brief analysis of MFN rates, 2015

Description of products	MFN				Bound tariff[a]
	Number of lines	Average (%)	Range (%)	Coefficient of variation (CV)	Range (%)
Total	**6,974**	**5.7**	**0 - 40**	**1.1**	**0 – 257**
HS 01-24	1,221	10.6	0 - 40	0.6	10 – 257
HS 25-97	5,753	4.6	0 - 20	1.3	0 – 75
By WTO category					
Agricultural products	1,026	9.5	0 - 40	0.8	10 – 257
- Animals and animal products	154	12.0	0 - 15	0.4	10 – 257
- Dairy produce	34	13.4	0 - 15	0.3	20 – 103
- Fruit, vegetables and garden produce	283	11.6	0 - 30	0.5	10 – 138
- Coffee and tea	28	13.2	0 - 15	0.3	40 – 40
- Cereals and preparations	133	8.6	0 - 23.7	0.9	10 – 135
- Oilseeds, fats and oils and their products	98	5.4	0 - 15	1.1	10 – 241
- Sugar and confectionery	21	10.2	0 - 20	0.8	40 – 160
- Beverages, spirits and tobacco	74	15.8	0 - 40	0.7	15 – 90
- Cotton	5	0.0	0 - 0	0.0	40 – 40
- Other agricultural products	196	4.1	0 - 15	1.3	15 – 45
Non-agricultural products (including petroleum)	5,948	5.0	0 - 20	1.2	0 – 75
- Non-agricultural products (excluding petroleum)	5,920	5.0	0 - 20	1.2	0 – 75
-- Fish and fish products	288	11.6	0 - 15	0.4	20 – 45
-- Metals and minerals	1,093	3.6	0 - 15	1.5	10 – 50
-- Chemicals and photographic products	1,275	2.3	0 - 15	1.9	0 – 50
-- Wood, wood pulp, paper and furniture	459	6.5	0 - 15	0.9	10 – 55
-- Textiles	698	8.1	0 - 15	0.6	20 – 50
-- Clothing	236	14.8	0 - 15	0.1	45 – 45
-- Leather, rubber, footwear and travel articles	211	7.6	0 - 15	0.7	20 – 50
-- Non-electrical machinery	595	1.4	0 - 15	2.8	0 – 45
-- Electrical machinery	339	2.6	0 - 15	2.0	0 – 50
-- Transport equipment	221	2.6	0 - 20	1.8	10 – 75
-- Non-agricultural products n.e.s.	505	7.0	0 - 15	1.0	0 – 45
-Petroleum	28	3.9	0 - 15	1.1	45 – 45
By ISIC sector[b]					
Agriculture and fishing	497	8.1	0 - 23.7	0.8	10 – 138
Mining	112	1.7	0 - 15	1.9	10 – 45
Manufacturing	6,364	5.6	0 - 40	1.1	0 – 257
By HS section					
01 Live animals and animal products	449	11.3	0 - 15	0.4	10 – 257
02 Vegetable products	419	8.8	0 - 30	0.8	10 – 138
03 Fats and oils	57	7.5	0 - 15	0.9	10 – 241
04 Prepared foodstuffs, etc.	296	12.5	0 - 40	0.6	15 – 160
05 Mineral products	187	2.6	0 - 15	1.5	10 – 45
06 Products of the chemical or allied industries	1,128	1.9	0 - 15	2.2	0 – 50
07 Plastics and rubber	336	4.4	0 - 15	1.1	15 – 45
08 Raw hides and skins	108	8.3	0 - 15	0.7	40 – 45
09 Wood and articles of wood	139	8.5	0 - 15	0.6	10 – 45
10 Pulp of wood, paper, etc.	292	5.1	0 - 15	1.1	15 – 55
11 Textiles and textile articles	918	9.6	0 - 15	0.5	40 – 50
12 Footwear and headgear	64	12.8	0 - 15	0.3	35 - 50
13 Articles of stone	176	6.3	0 - 15	1.1	20 - 45
14 Precious stones, etc.	54	6.9	0 - 15	0.8	20 - 45
15 Base metals and articles thereof	702	3.1	0 - 15	1.6	15 - 50
16 Machinery and appliances	980	2.1	0 - 15	2.3	0 - 50
17 Transport equipment	234	2.6	0 - 20	1.8	10 - 75
18 Precision instruments	234	3.8	0 - 15	1.5	0 - 45
19 Arms and ammunition	21	15.0	15 - 15	0.0	45 - 45
20 Miscellaneous manufactured articles	171	10.7	0 - 15	0.5	35 - 45
21 Works of art, etc.	9	7.8	5 - 10	0.3	45 - 45

Description of products	MFN				Bound tariff[a]
	Number of lines	Average (%)	Range (%)	Coefficient of variation (CV)	Range (%)
By stage of processing					
First stage of processing	913	6.8	0 - 30	1.0	10 - 138
Semi-processed products	2,358	3.7	0 - 20	1.3	0 - 160
Fully processed products	3,703	6.6	0 - 40	1.0	0 - 257

a The bindings are shown according to the HS 2007 classification and the rates applied in HS 2012; there may, therefore, be differences between the number of lines included in this analysis.
b ISIC (Rev.2), excluding electricity (one line).

Source: WTO Secretariat estimates, based on data provided by the authorities.

3.34. The percentage of import tariffs in total imports continued to fall sharply during the review period, declining to barely 1.5% of the value of imports in 2014. The percentage of VAT on imports was 10% in 2014, showing that the average indirect tax burden on imports was 11.5% (Table 3.5). In 2015, the average tariff was 2.1%, taking into account the c.i.f. value of imports, whereas the average effective rate, i.e. the average tariff applicable to imports subject to tariffs exceeding zero, was 13.6%.[11]

Table 3.5 Foreign trade-related tax revenue, 2009-2015

(Q million (current) and % of imports)

	VAT on imports	Tariffs	% of imports		
			VAT on imports	Tariffs	Tariffs and VAT on imports
2009	9,708.6	2,138.8	10.3	2.0	12.3
2010	11,127.3	2,367.7	10.0	2.1	12.1
2011	12,909.6	2,532.6	10.0	2.0	12.0
2012	13,587.1	2,310.9	10.2	1.5	11.7
2013	13.619.0	1,965.0	9.9	1.5	11.4
2014	14,094.4	2,043.6	10.0	1.5	11.5
2015	13,629.8	2,527.2	11.5	2.1	13.6

Source: Ministry of Finance, Tax Administration Supervisory Authority, Tax Statistics. Viewed at: http://portal.sat.gob.gt/sitio/index.php/estadisticas/47-estadicas-tributarias/254-estadisticas-tributarias.html.

3.1.4.2 Tariff bindings

3.35. Guatemala bound all its tariff lines during the Uruguay Round. 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%. The bound rates exceeding 200% apply to meat and edible offal of poultry and to sunflower seed, maize, palm and soyabean oil.

3.36. Guatemala is party to the Information Technology Agreement (ITA) and circulated a revised timetable for its commitments in 2006.[12] Tariff bindings on these products, originally set at 45%, were gradually reduced to zero over the period 2006-2010.

3.37. The Secretariat did not identify any tariff line on which the applied rate exceeded the corresponding bound rate.[13]

[11] Online information from the SAT. Viewed at: http://portal.sat.gob.gt/sitio/index.php/estadisticas/47-estadicas-tributarias/334-indicadores-tributarios.html.
[12] WTO document G/MA/TAR/RS/105 of 21 February 2006.
[13] In undertaking this analysis, the Secretariat only took into account those tariff lines appearing in the list in Schedule LXXXVIII (HS 2007) that are strictly comparable to those in the HS 2012.

3.1.4.3 Tariff preferences

3.38. Guatemala grants preferential tariff treatment to imports from other CACM members. Almost all products originating in the CACM enter duty free; in the case of Guatemala, the exceptions are roasted or unroasted coffee and cane sugar.

3.39. Guatemala also accords preferential treatment to imports from countries with which it has signed an FTA or with which it has a partial scope agreement (Table 3.6). The coverage in these free trade and partial scope agreements is dealt with in Section 2.

3.40. The United States, Mexico and Panama enjoy the highest level of trade openness. The average preferential tariff applicable to imports from the United States, under the CAFTA-DR, is 0.2%. The average protection for agricultural products (WTO definition) is 1.1%, while non-agricultural products are mostly duty free. The average tariff on imports from Mexico is 0.4%: 2.2% on agricultural products (WTO definition) and 0.1% on non-agricultural products. The average preferential tariff accorded to imports from Panama is 0.6%, while that on imports from the Dominican Republic is 1.0%. For the European Union, the average tariff is 3.9%. The percentage of duty-free lines varies considerably depending on the agreement, from 50.2% in the case of Belize to 97.9% in that of the United States (Table 3.6).

Table 3.6 Analysis of tariffs applied to countries with which trade agreements have been negotiated, 2015, HS 2012

	No. of lines	Total		WTO category			
				Agricultural products		Non-agricultural products (excluding petroleum)	
		Average (%)	Duty-free lines (%)	Average (%)	Duty-free lines (%)	Average (%)	Duty-free lines (%)
MFN	6,974	5.7	49.5	9.5	27.9	5.0	53.3
United States	6,974	0.2	97.9	1.1	85.5	0.0	100.0
Chinese Taipei	6,974	3.2	68.1	4.7	58.8	2.9	69.6
Mexico	6,974	0.4	96.8	2.2	84.1	0.1	99.2
Dominican Republic	6,974	1.0	93.0	1.7	90.6	0.9	93.6
Colombia	6,974	3.3	64.5	5.5	49.4	2.9	67.0
Chile	6,974	2.3	69.9	5.2	51.6	1.8	73.1
European Union (AA)	6,974	3.9	51.5	6.9	38.9	3.4	53.6
Panama	6,974	0.6	90.1	2.4	75.6	0.3	92.6
Cuba	6,974	5.2	53.1	8.4	34.8	4.7	56.3
Belize	6,974	5.6	50.2	9.1	29.9	5.0	53.6
Ecuador	6,974	4.7	56.9	8.0	38.7	4.2	60.2

Note: For this analysis, in cases where the preferential tariff exceeds the MFN tariff, the latter has been used to calculate the average.

Source: WTO Secretariat estimates, based on data provided by the Guatemalan authorities.

3.1.4.4 Tariff concessions

3.41. Generally speaking, all goods imported into Guatemala are subject to import duty, except for those specifically declared as exempt by law or those subject to a zero rate. These exemptions apply to imports to be used by government and non-profit-making bodies. The Ministry of Finance is also empowered to grant concessions under other circumstances.

3.42. Imports under export processing or drawback procedures determined in the Free Zones Law and the Law on the promotion and development of exporting and maquila activities also enjoy tariff concessions.

3.1.4.5 Tariff quotas

3.43. In 2015, Guatemala applied tariff quotas within the WTO framework to imports under three tariff lines corresponding to yellow maize; white maize; and rough rice (Table 3.7). The authorities have indicated that in 2016 quotas still applied to these same goods.

Table 3.7 WTO tariff quotas, 2015

Product	Tariff code	Volume fixed (MT)	Volume imported (MT)	Used (%)	In-quota tariff	Out-of-quota tariff
Yellow maize	1005.90.20	200,000	95,200	47.0	0%	15%
White maize	1005.90.30	50,000	44,630	89.0	0%	20%
Rough rice	1006.10.90	17,500	15,940	91.0	0%	23.7%

Source: Information provided by the authorities.

3.44. The tariff quota fill rate varies 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 42 other quotas under various preferential agreements it has signed (Table 3.8).

Table 3.8 Tariff quotas under preferential agreements

Trade agreement	Number of tariff quotas
CAFTA-DR	10
Association Agreement between the European Union and Central America	4
Central America – Chile FTA	9
Northern Triangle – Colombia FTA	1
Central America – Mexico FTA	3
Central America – Panama FTA	12
Guatemala – Ecuador PSA	1
Guatemala – Belize PSA	2
Total	**42**

Source: Information provided by the authorities.

3.45. Table A3.1 shows the 2016 quotas for the main products under the various preferential agreements.

3.1.5 Other charges affecting imports

3.46. Guatemala applies 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 c.i.f. value plus import duty. In 2015, VAT as a whole accounted for 49.2% of all tax revenue; of this overall percentage, 53% consisted of VAT on imports (26.1% of total tax revenue) and 47% was VAT on domestic products (23.1% of total tax revenue). Decree No. 10-2012 introduced amendments to the Law on value-added tax (Decree No. 27-92) as regards tax credits, especially the requirements, verification and streamlining of procedures.[14]

3.47. Guatemala imposes a number of internal taxes on countrywide distribution of a particular group of products, whether imported or locally produced. These are: alcoholic and non-alcoholic beverages, cement, cigarettes and petroleum-based fuels. The Law on the special tax on the distribution of cement (Decree No. 79-2000) fixed a tax of Q 1.50 per 42.5 kg. bag of cement or its equivalent if it is in bulk or "clinker", or in bags of different weights.[15] The Law on the tax on the distribution of unrefined petroleum and petroleum-based fuels (Decree No. 38-92) and amendments thereto, with its implementing Regulations (Government Decision No. 663-2005), govern the taxes applicable to such fuels. The following rates apply per gallon: premium gasoline Q 4.70; regular gasoline Q 4.60; aviation fuel Q 4.70; diesel fuel Q 1.30; kerosene, liquefied petroleum gas and the like Q 0.50.[16] The Law on tobacco and tobacco products (Decree No. 61-77)

[14] The updated text of Decree No. 10-2012 may be viewed at: http://portal.sat.gob.gt/sitio/index.php/descargas/doc_download/3723-ley-del-impuesto-al-valor-agregado.html.

[15] The text of the Decree may be viewed on the SAT website at: http://portal.sat.gob.gt/sitio/index.php/descargas/doc_download/609-decreto-79-2000.html.

[16] Both the Decree and its implementing Regulations may be viewed on the SAT website at: http://portal.sat.gob.gt/sitio/index.php/component/docman/doc_download/642-decreto-38-92-del-congreso-de-la-republica.html, and http://portal.sat.gob.gt/sitio/index.php/component/docman/doc_download/643-acuerdo-gubernativo-663-2005-.html, respectively.

set a rate of 75% on the ex-factory price of cigarettes and a tax based on application of this criterion is imposed.[17] There is also an *ad valorem* tax on the first registration of automobiles, which ranges from 5% to 20% depending on the vehicle. In the case of imported automobiles, the tax is calculated on the basis of the c.i.f. value (Article 113 of Decree No. 10-2012).

3.48. The Law on the tax on the distribution of distilled alcoholic beverages, beer and other fermented beverages (Decree No. 21-2004) regulates taxes on these products, whether imported or locally produced.[18] Table 3.9 shows the tax rates applied in April 2016, calculated on the basis of the selling price to the end consumer suggested by the manufacturer or importer, excluding VAT and the corresponding distribution tax. The Law on the special tax on the distribution of aerated beverages, isotonic or sports drinks, juices and nectars, yoghurt, concentrated preparations or powder for preparing beverages and bottled natural water (Decree No. 09-2002) governs the tax applicable to both imported and locally produced non-alcoholic beverages.[19]

Table 3.9 Taxes on locally produced and imported beverages, 2016

Product	HS Code	Rate (%)
Alcoholic beverages		
Beer and other beverages made from fermented cereals	2203.00.00	6.0
Wine	2204	7.5
Sparkling wine	2204.10.00	7.5
Vermouth	2205	7.5
Cider	2206.00.00	7.5
Distilled alcoholic beverages	2208	8.5
Alcoholic beverages mixed with water, whether or not carbonated, and bottled in any type of container	2208.90.90	7.5
Other fermented beverages	2206.00.00	7.5
Non-alcoholic beverages	**HS Code**	**Rate (Q/litre)**
Natural or sweetened aerated beverages, whether or not carbonated	2201, 2202	0.18
Syrups and/or concentrates which, when mixed, create aerated beverages	2106.90.30	0.18
Isotonic or sports drinks	2204.10.00	0.12
Natural juices and nectars or of natural fruit and artificial and other juices	2009, 2202.90.90	0.10
Any type of yoghurt drink	0403.10.00	0.10
Bottled natural water, in containers not exceeding four litres, except for bottled natural water in containers exceeding four litres for domestic use	2201	0.08

Source: Decree No. 21-2004 and Decree No. 09-2002.

3.1.6 Import prohibitions, restrictions and licensing

3.49. Guatemala imposes certain prohibitions on imports for reasons of health, security or public order. In 2004, Guatemala replied to the questionnaire on import licensing procedures and updated its notification concerning its import licensing regime.[20] In this notification Guatemala indicated that there are no differences in procedures for particular trading partners and there are no exceptions to licensing requirements under bilateral or regional agreements. By April 2016, the authorities had not forwarded any new notification to the WTO. During the course of this Review, the authorities indicated that they were in the process of updating replies to the questionnaire on import licensing procedures.

3.50. Guatemala has notified the WTO that import licences are not required 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.[21] The list of products requiring

[17] Online information from the Ministry of Public Health. Viewed at: http://www.mspas.gob.gt /menu/marco_legal/Decreto Nº 61-77.pdf.

[18] Both the Decree and its implementing Regulations may be viewed on the SAT website at:: http://portal.sat.gob.gt/sitio/index.php/component/docman/doc_download/651-decreto-21-04-del-congreso-de-la-republica.html, and http://portal.sat.gob.gt/sitio/index.php/component/docman/doc_download/654-acuerdo-gubernativo-205-2004-.html, respectively.

[19] Viewed at: http://portal.sat.gob.gt/sitio/index.php/component/docman/doc_download/646-decreto-09-2002-del-congreso-de-la-republica-.html

[20] WTO document G/LIC/N/3/GTM/2 of 8 September 2004.

[21] WTO document G/LIC/N/3/GTM/4 of 9 November 2007.

prior import permits and the legal basis therefor are set out in Table 3.10. In order to import these products, the importer must first register with the competent administrative unit. In addition, sanitary or phytosanitary permits are required for a certain number of products.

Table 3.10 Imports for which a prior permit is required and legal basis, 2016

Administrative authority	Product or sector	Legal basis
National Council for Protected Areas (CONAP)	Plants, animals and seafood products included in CITES and other products of the wild	Decree No. 4-89, Law on protected areas, Amendments Decrees No. 110-96 to No. 4-89, Law on protected areas
Ministry of Energy and Mining	Mineral fuels, mineral oils and products of their distillation; bituminous materials; mineral waxes	Decree No. 48-97, Mining Law Decree No. 109-97, Hydrocarbons Marketing Law and its implementing Regulations, Government Decision No. 522-99 Ministerial Decision No. 0453-2006, COMIECO Resolution No. 167-2006
Ministry of Energy and Mining	Inorganic chemicals; inorganic or organic compounds of precious metals, radioactive elements, rare-earth metals or isotopes	Decree Law No. 11-86, Law on the control, use and application of radioisotopes and ionizing radiation, Decree No. 48-97, Mining Law Government Decision No. 55-2001, Regulations on safety and radiological protection implementing the Law on the control, use and application of radioisotopes and ionizing radiation
Ministry of the Environment	Organic chemicals	Decree-Law No. 68-86, Law on the protection and improvement of the environment
Ministry of the Environment	Rubber and rubber articles	Decree-Law No. 68-86, Law on the protection and improvement of the environment
Ministry of the Environment	Plastics and articles thereof	Decree-Law No. 68-86, Law on the protection and improvement of the environment
Ministry of the Environment	Machinery and electrical equipment, and sound or image recording apparatus	Decree-Law No. 68-86, Law on the protection and improvement of the environment Government Decision No. 20-2016, Regulations on evaluation, control and monitoring of the environment
Ministry of Defence	Powder and explosives; pyrotechnical articles; matches; pyrophoric alloys; inflammable materials	Congress Decree No. 15-2009, Law on arms and munitions Government Decision No. 28-2004, Regulations on pyrotechnical activities
Ministry of Defence	Import of offensive weapons and their ammunition	Decree-Law No. 123-85, Law on regulated materials Decree No. 82-2005, Addition to the Law on regulated materials Congress Decree No. 73-2007, Amendments to the Law on regulated materials

Source: Information provided by the authorities.

3.1.7 Contingency measures

3.1.7.1 Anti-dumping and countervailing measures

3.51. There were no changes to the legal framework for anti-dumping and countervailing measures during the review period and it remains based on the WTO provisions and the Central American Regulations on Unfair Business Practices, applied by Guatemala since 1996 and updated in 2007 to bring the rules previously applied into line with the relevant WTO Agreements. There have, however, been two changes as regards administrative practices, namely: (a) the issue of a decision by the Ministry of the Economy (MINECO), in Ministerial Decision No. 592-2013, giving the Vice-Ministry of Integration and Foreign Trade, through the Directorate for the Administration of Foreign Trade, responsibility for conducting investigations into unfair trade practices; and (b) the issue of MINECO's new Basic Internal Regulations, in Ministerial Decision No. 170-2015, now in force, which confirms and regulates the powers of the Directorate for the Administration of Foreign Trade as the investigating authority for investigations relating to unfair trade practices.

3.52. Guatemala did not apply any anti-dumping or countervailing measures during the period under review and has regularly notified the WTO Committee on Anti-Dumping Practices that it did not adopt any anti-dumping measure during the relevant period. The most recent notification at the time of writing of this report was in October 2015.[22]

3.53. Although it did not apply any measures during the period under review, Guatemala did initiate an anti-dumping investigation into imports of hot-dipped galvanized non-alloy steel sheet, plate, coil, hoop and strip from China, irrespective of the source country. The investigation concluded by deciding that there was no evidence of a positive determination of injury or a causal link so no anti-dumping measures were imposed.

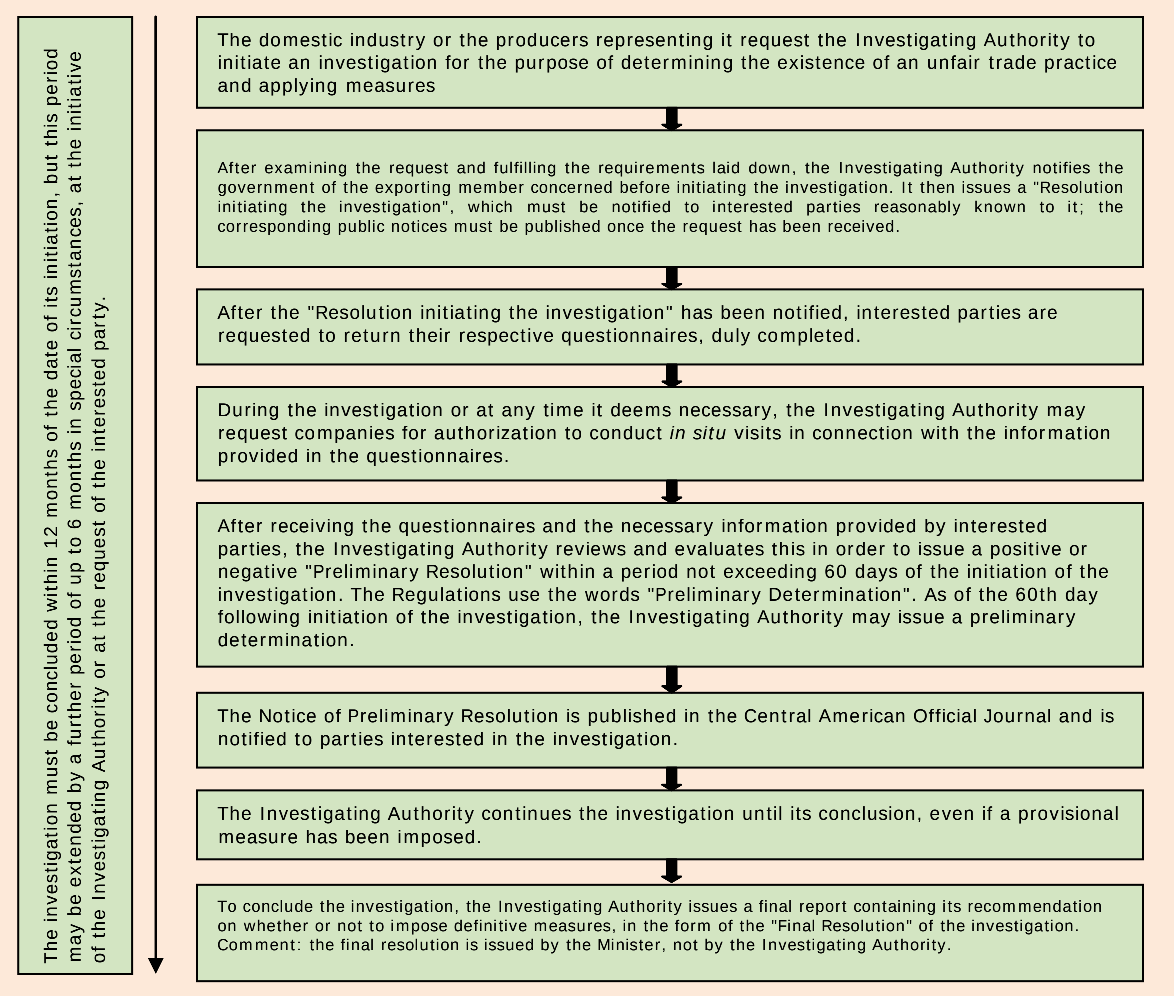
3.54. Any cases of unfair trade practices that may arise in relation to goods from CACM member countries have to be submitted to the Executive Committee of the CACM Secretariat (SIECA) so that it may examine them and make relevant recommendations. If an industry in a State party other than that of the importer is involved, a regional procedure will be initiated at the request of the government concerned and this will be conducted through SIECA.

3.55. The free trade agreements signed by Guatemala (either separately or jointly with all or some other CACM countries) with Belize, Chile, Chinese Taipei, Colombia, Cuba, the Dominican Republic, Ecuador, Mexico, the United States and the European Union all contain legal provisions on anti-dumping. In order to initiate an investigation under these agreements, the domestic industry affected has to forward a request to MINECO's Directorate for the Administration of Foreign Trade. This request must contain a description of the facts relating to the case and other necessary elements. MINECO has to evaluate the request within a maximum of 30 days. If it is accepted, the Ministry may initiate the procedure provided in the clauses in the relevant agreement.

3.56. The general procedures for initiating and conducting dumping or subsidy investigations are described in Chart 3.1.

[22] WTO document G/ADP/N/272/GTM of 7 October 2015.

Chart 3.1 Procedures for dumping and subsidy investigations[a]



a For subsidies investigations, there is provision for holding consultations before initiating an investigation.

Source: Information provided by the authorities.

3.1.7.2 Safeguard measures

3.57. Guatemala did not apply any safeguards during the review period. The legal framework for their application remained unchanged and continues to be based on the WTO provisions and the Central American Regulations on Safeguard Measures, which Guatemala has been applying since 1996. These were updated in 2007 to bring the rules previously applied into line with the relevant WTO Agreements.[23]

3.58. In March 2016, Guatemala notified the WTO Committee on Agriculture that it did not take either volume-based or price-based special safeguard actions provided in the Agreement on Agriculture in 2012, 2013, 2014 or 2015.[24]

3.59. Guatemala applies the Central American Regulations on Safeguard Measures to imports from third countries. Provisional safeguard measures may be imposed for a maximum of 200 days and only in the form of tariffs. The Regulations do not specify precisely the form in which definitive safeguard measures should be adopted. Definitive measures may be imposed for a maximum period of four years, unless they are extended in conformity with the provisions in the WTO Agreement on Safeguards. As of June 2016, no such cases had occurred.

[23] WTO document G/ADP/N/1/GTM/2 - G/SCM/N/1/GTM/2 of 2 October 1996.
[24] WTO document G/AG/N/GTM/54 of 8 April 2016.

3.60. The free trade agreements signed by Guatemala (either separately or jointly with all or some other CACM countries) with Belize, Chile, Chinese Taipei, Colombia, Cuba, the Dominican Republic, Ecuador, Mexico, the United States and the European Union contain legal provisions on safeguards.

3.61. As in the case of anti-dumping investigations, in order to initiate a safeguards investigation under these agreements the domestic industry affected has to submit a request to MINECO's Directorate for the Administration of Foreign Trade, describing the facts relating to the case and calculating the injury suffered. MINECO evaluates the request within a maximum of 30 days. If its evaluation is affirmative, the Ministry may start the process provided in the relevant agreement.

3.1.8 Standards and technical regulations

3.62. The National Quality System, created by Decree No. 78-2005 (Law on the National Quality System) is responsible for promoting and coordinating standardization, metrology, accreditation, conformity assessment and technical regulation activities. By June 2016, no regulations to implement the Law on the National Quality System had been issued, although the authorities have indicated that a preliminary draft text is under preparation and is expected to be published shortly in the Official Journal.

3.63. The National Quality System is administered by the Directorate for the National Quality System. In 2004, Guatemala notified the WTO that it had accepted the Code of Good Practice for the Preparation, Adoption and Application of Standards, through the Foreign Trade Policy Directorate in the Vice-Ministry of Integration and Foreign Trade, which is the Directorate responsible for notifying documents deemed relevant to Guatemala's WTO commitments.[25] In addition, the Directorate for the National Quality System participates in the Advisory Commission of the National Science and Technology Council (CONCYT) as an adviser on matters relating to quality, technology and competitiveness.

3.64. Pursuant to the relevant Law, Guatemala's National Quality System is composed of: the Guatemalan Standards Commission (COGUANOR), the National Metrology Centre (CENAME), the National Commission for Technical Regulations (CRETEC), the Guatemalan Accreditation Bureau (OGA), and the Information Centre (CEINFORMA). Guatemala belongs to the International Organization for Standardization (ISO), within which COGUANOR participates in the Committee on Developing Country Matters. Guatemala is also a full member of the Pan American Standards Commission (COPANT); CENAME is a member of the Inter-American Metrology System (SIM); and the OGA is a member of Inter-American Accreditation Cooperation (IAAC).

3.65. COGUANOR is part of MINECO and is the national standardization body. It was created by Decree No. 1.523 of 1962 and its responsibilities were ratified by the Law on the National Quality System. It is the standardization body for all economic sectors and its goal is to boost products and services of quality.[26] It is responsible for drafting, publishing and disseminating Guatemalan technical standards (NTG), compliance with which is voluntary, as are their use and application, pursuant to the Law on the National Quality System. NTGs are prepared with support from all the sectors concerned (regulators, consumers and academia), which have a role in their examination and approval though technical committees. Although COGUANOR standards are voluntary, they can serve as the basis for preparation of a mandatory technical regulation on the part of a government authority.

3.66. Until 2005, COGUANOR was the body entrusted with drafting and adopting technical regulations and monitoring compliance. Since the Law on the National Quality System was published in 2005, responsibility for drawing up technical regulations has fallen on the government entity concerned, with assistance from CRETEC. Pursuant to the Law on the National Quality System, CRETEC is a consultative and advisory body for matters relating to technical regulations. The principal government authorities which draw up technical regulations are the Ministries of Public Health, Agriculture and Livestock, the Environment and Natural Resources, and Energy and Mining, *inter alia*. Technical regulations must be drawn up by Ministries and government institutions with the knowledge of CRETEC's Technical Secretariat so as to make it easier to inform production sectors and meet the notification requirements laid down in the trade agreements

[25] WTO document G/TBT/CS/N/156 of 31 August 2004.
[26] Online information from COGUANOR. Viewed at: http://www.coguanor.org/ quienes_somos.html.

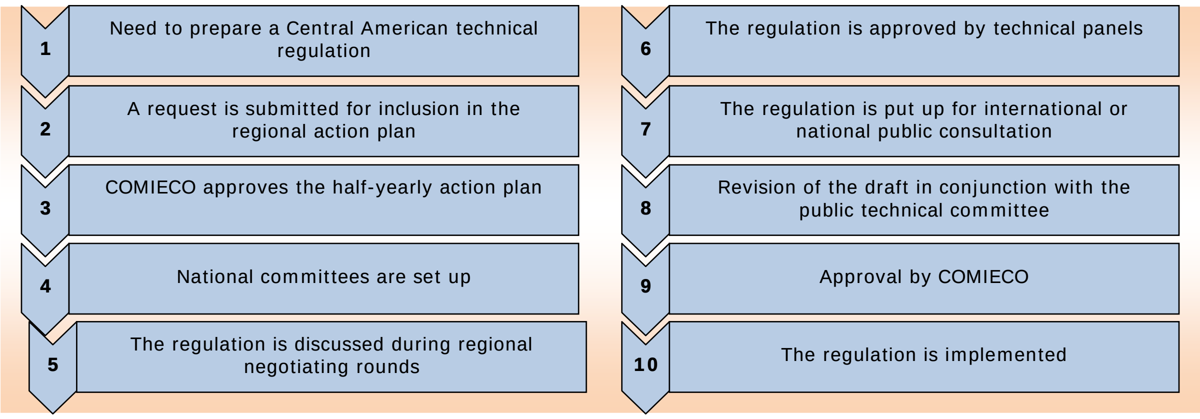
ratified by the Republic of Guatemala. In May 2016, preliminary draft regulations for CRETEC were under preparation, although CRETEC has been operating since June 2009 and its tasks include: ensuring that various government authorities, institutions, organizations and units comply with the WTO Agreements on Technical Barriers to Trade and on the Application of Sanitary and Phytosanitary Measures; ensuring that technical regulations are prepared on the basis of the provisions in a national, regional or international technical standard; recommending the amendment of technical regulations or draft technical regulations to bring them into line with the provisions of international organizations specializing in this sector; preventing the issue of technical regulations which unnecessarily duplicate provisions relating to the same product; keeping up to date the register of technical regulations in effect and the list of draft regulations; and ensuring that the bodies composing the National Quality System take action to ensure observance of technical regulations.[27]

3.67. The Regulations for the integration and performance of the functions of the National Standardization Council, the National Accreditation Council, the National Metrology Council and CRETEC were enacted by means of Government Decision No. 149-2009. By April 2016, however, the regulations to implement the Law on the National Quality System had not yet been issued, although preliminary draft regulations were under preparation. Also pending is the decision by the Attorney General's Office on the draft regulations for COGUANOR certification, the draft list of fees for COGUANOR's services and the draft text updating the fees for CENAME's services, while the preliminary draft of the CRETEC Regulations and Handbook also awaits preparation.

3.68. Since 2005, responsibility for drafting national technical regulations has lain with the Ministry responsible for the sector to which the measure refers and both public and private bodies with an interest in the matter take part in the process. Central American technical regulations are agreed with the other Central American countries with a view to their approval and notification. Before being forwarded for approval, national and Central American technical regulations and draft technical regulations must be notified to the WTO by MINECO so that WTO Members may submit their remarks and comments within a period of 60 days. The special technical committee which prepared the draft technical regulation in question examines any comments received. National and Central American technical regulations must be published in the Official Journal within 30 days following approval and then enter into force eight days later.

3.69. Chart 3.2 outlines the procedures for the preparation of technical regulations at the Central American level.

Chart 3.2 Procedures for the preparation of technical regulations at the Central American level



Source: Information provided by the authorities.

3.70. There is no automatic mechanism for eliminating technical regulations that form part of mandatory Guatemalan standards (NGOs). Those that have become obsolete are abolished by means of a government decision repealing out-of-date regulations and replacing them, where appropriate, by updated regulations. Revision of technical regulations has to be requested by the interested party and they can only be eliminated by means of a government decision at the

[27] Online information from CRETEC. Viewed at: http://cretec.org.gt/funciones-de-la-cretec.

request of the interested party after COGUANOR has examined them, through its Executive Secretary.

3.71. The OGA, established by Government Decision No. 145-2002, published on 6 May 2002, as amended by Decree No. 78-2005, is the entity responsible for accreditation and its administration in Guatemala for the purpose of formally recognizing the technical competence of conformity assessment bodies, based on the international or national standards in effect.[28] The bodies subject to assessment by the OGA are: testing and calibration laboratories (COGUANOR standard NTG ISO/IEC 17.025); clinical analysis laboratories (COGUANOR standard NGT ISO 15.189); and inspection bodies (COGUANOR standard ISO/IEC 17.020). It may also assess management system certification bodies (ISO/IEC standard 17.021), as well as product certification bodies (ISO/IEC standard 17.065) and personnel certification bodies (ISO standard 17.024). By March 2016, the OGA had accredited 35 organizations broken down as follows: 25 testing laboratories, three calibration laboratories, five clinical laboratories and two inspection bodies. By May 2016, no certification body had been accredited, although the accreditation of two product certification bodies accredited by a European organization that had signed mutual recognition agreements has been recognized.

3.72. CENAME is composed of the National Metrology Laboratory and the Legal Metrology Inspection and Verification Unit. The National Metrology Laboratory provides calibration services in relation to mass, temperature, volume, dimension, electricity and pressure; the Legal Metrology Inspection and Verification Unit is involved in the inspection of fossil fuel dispensers nationwide in cooperation with the Ministry of Energy and Mining (MEM) and the Directorate of Consumer Affairs (DIACO). There are also the Laboratory for the Inspection of Drinking Water Meters and the Laboratory for the Inspection of Electricity Meters. CENAME takes part in: COGUANOR's technical standardization committee in relation to the updating and national approval of metrology standards; the OGA's technical accreditation committee in relation to the definition of assessment criteria for calibration and testing laboratories in order to obtain international recognition for their conformity assessment activities; and CONCYT's quality commission to develop metrological quality in science and technology projects in order to raise the level of Guatemala's competitiveness.

3.73. During the period under review, CRETEC compiled an inventory of national and regional technical regulations: as of April 2016, this included 463 national technical regulations, together with 62 Central American technical regulations. CRETEC has also prepared a Handbook of Good Technical Regulation Practices. Between 2009 and April 2016, Guatemala made 35 notifications to the WTO Committee on Technical Barriers to Trade, most of which concerned draft regulations prepared by the Ministries of the Economy, Agriculture and Public Health. These 35 technical regulations were approved.

3.74. During the review period, 40 Central American technical regulations were approved. As of March 2016, 863 standards and technical regulations were in effect concerning areas such as: standardization, metrology and social sciences; general science; medicine; materials testing; pipes and flanges, valves and accessories and various means for distributing fluids and irrigation; motor vehicle materials; sanitary engineering; chemical industries; powders and explosives; fermentation industries; agricultural and food industries; fishing industries; iron and steel industry; building industries; architecture; agriculture and agricultural machinery; various industries; packaging; documentation; petroleum products; plastics and rubber; leather, footwear and related industries; quality management; secure storage units; exploitation of electric power lines; information technology; the environment; refrigeration; ethics; leisure, recreational and active tourism services; geographical information; glass industry; household electrical appliances; climate change and energy efficiency.[29] Over the review period, from 2009 to March 2016, COGUANOR published 253 technical standards. No detailed information is available on the technical regulations prepared by other bodies.

3.75. All the free trade agreements signed by Guatemala contain a chapter on technical barriers to trade which include provisions on technical regulations and conformity assessment procedures, while the partial scope agreements, although they do not include a TBT chapter, do contain articles on technical regulations and conformity assessment procedures. The CAFTA-DR contains provisions

[28] Online information from the OGA. Viewed at: http://oga.org.gt/acerca_de_la_oga.html.
[29] Information provided by the authorities.

on standards, technical regulations and conformity assessment procedures. Article 7.6 thereof provides for acceptance of trading partners' regulations as equivalent. At the Central American level, the registration and approval of a large number of technical regulations are recognized. During the review period, three mutual recognition agreements were signed, through the Guatemalan Accreditation Bureau of the MINECO National Quality System, in the IAAC and International Laboratory Accreditation Cooperation (ILAC) context: in 2008, to accredit testing laboratories, including those carrying out clinical analyses; in 2012, the agreement on recognition was extended to calibration laboratories; and in 2013, the accreditation of inspection bodies was added. Under these agreements, reviews, reports or certificates issued by the laboratories and inspection bodies accredited by the OGA in Guatemala are recognized at the international level.

3.76. Guatemala has a number of labelling regulations for certain products. According to Government Decision No. 969-99 on food safety, all processed or packaged foods for public consumption must be labelled in accordance with Guatemala's technical regulations. The main regulation in this respect is the COGUANOR technical regulation on the labelling of packaged food products for human consumption (NGO 34039). If there are no relevant national regulations, the Codex Alimentarius and other international standards apply. Producers and importers of processed foods are responsible for ensuring that the labelling is correct. Pursuant to Article 135 of the Health Code (Decree No. 90-97) of 2 October 1997, the content and composition of all food products, as well as special health indications, must appear on the labels in Spanish. According to Article 36 of the Food Safety Regulations (Government Decision No. 969-99), however, unprocessed natural foods, raw materials and food additives are exempt from the labelling requirement. Guatemala currently has Central American technical regulations on labelling for: food and beverages; medicines; distilled alcoholic beverages; fermented alcoholic beverages; footwear; textiles and clothing; pesticides for domestic use; formulated synthetic pesticides; fertilizers and soil improvers for agricultural use; cosmetics; and cleaning products.

3.1.9 Sanitary and phytosanitary measures

3.77. The Health Code (Decree No. 90-97) and the Plant and Animal Health Law (Decree No. 36-1998) of 6 May 1998, together with its implementing Regulations (Government Decision No. 745-99), make up Guatemala's main legislation on sanitary and phytosanitary measures and were not amended during the review period.[30] Both the Plant and Animal Health Law and its implementing Regulations provide that sanitary and phytosanitary (SPS) measures are established on the basis of an assessment of the actual risks involved.

3.78. The principal rules at the regional level can be found in the Central American Regulations on Sanitary and Phytosanitary Measures and Procedures of 17 September 1999, which apply to imports from other CACM countries. Guatemala recognizes the SPS measures of other countries as equivalent provided that they meet the necessary requirements, pursuant to Article 7 of Decree No. 36-98. Furthermore, the MAGA may accept as equivalent the SPS measures applied in accordance with bilateral, regional or multilateral agreements signed by Guatemala, provided that they are based on technical and scientific evidence that can be proved; the necessary administrative procedure is defined in each case. The equivalence of SPS measures is not automatic but is recognized through a procedure designed to achieve the level of protection deemed satisfactory by Guatemala even though the SPS measures may be different.

3.79. The MAGA and the Ministry of Public Health and Social Welfare (MSPAS) have responsibility for applying the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. The MSPAS is entrusted with: enforcing sanitary technical regulations for processed food products, medicines and related products; granting import and export authorizations; certifying the quality and safety of products; and assessing compliance with the relevant regulations. It also has the task of conducting sanitary inspections. The MAGA is responsible for: the regulations on the safety of unprocessed natural foods; compliance with the regulations on animal and plant health; inspection and certification of plants and related products intended for export or

[30] Other important legal texts in this respect are: Ministerial Decision No. 617-2004 and amendments thereto in Ministerial Decision No. 1185-2004 establishing the regulations applicable to the import of plants, and products and by-products of plant origin; Government Decision No. 969-99 establishing the food safety regulations; and Decree No. 6-55 of 7 May 1955 ratifying the International Plant Protection Convention.

domestic consumption; and verifying whether imported products comply with the sanitary and phytosanitary regulations.[31]

3.80. In the previous Review it was indicated that all animal or plant products, irrespective of their origin, required an import permit. For the purposes of this Review, the authorities have stated that the situation has changed and that at present not all plant products require an import permit; this does not apply to those which present no risk for plant health or, because they have been processed, do not carry any disease for any country. Seeds do, however, need an import permit and, in addition, the importer must obtain a seed dealer's licence. The procedure takes place in the MAGA's Vice-Ministry of Plant and Animal Health and Regulations (VISAR). For products of animal origin, COMIECO Resolution No. 338-2014 determines three categories of risk: high (live animals and their products), medium (processed products such as cheese), and low (processed products such as yoghurt, sardines, etc.)

3.81. An import permit is not required for low-risk products coming from other Central American countries, which are simply inspected at random when entering Guatemala. For products from countries outside Central America, Article 24 of the Regulations implementing the Plant and Animal Health Law (Government Decision No. 745-99)[32] applies in general terms. This means that, in principle, an import permit may be required for all animal or plant products, irrespective of their origin, although in practice this is often not the case. According to this Article, the import of plants, animals, their products and by-products and inputs for agricultural and animal use must have a phytosanitary or animal health permit, as appropriate, as well as a permit for pesticides or a licence for fertilizers. This has to be requested from the competent division in the MAGA and must show the origin of the product. VISAR examines the requests submitted and has the authority to lay down requirements, restrictions or prohibitions on the total or partial import indicated in the request, in accordance with the analysis of the risk of pests and diseases and scientific evidence.

3.82. If it is sought to import plants, animals, their products or by-products or inputs for agricultural or animal use coming from an area or country where there are diseases subject to quarantine or there is reasonable doubt concerning their plant or animal health status, the product is inspected in the country of origin or source, the cost being covered by the interested party and, if deemed necessary, a study analysing the risk of pests or disease will be required. Nevertheless, if the import or export of a product is in the national interest, the MAGA bears the cost of the risk analysis study.

3.83. The MAGA is Guatemala's national enquiry point for the purposes of the Agreement on the Application of Sanitary and Phytosanitary Measures. VISAR, within the MAGA, is responsible for forwarding all notifications to the sectors affected by sanitary and phytosanitary measures adopted by WTO Members. The notifications sent in by other WTO Members are circulated for information to all the organized groups concerned.

3.84. Guatemala is a member of the Codex Alimentarius Commission; its contact point for this body is VISAR's Food Safety Directorate, which also represents Guatemala at the World Organisation for Animal Health (OIE). Guatemala ratified the International Plant Protection Convention (IPPC) in 1955; its contact point is also VISAR's Food Safety Directorate.

3.85. The rules applicable to the safety of food imports are found in the Health Code (Decree No. 90-97), Government Decision No. 969-99, Government Decision No. 72-2003, Ministerial Decision No. 14-2013, Ministerial Decision No. 382-2014, and COMIECO Resolution No. 271-2011. The MAGA and the MSPAS are the competent authorities in this field. Pursuant to these Decisions, products which do not comply with the required standards are rejected or, if they present a risk for public health, are destroyed at the cost of the importer. Moreover, the MSPAS requires a valid registration certificate and, where applicable, a sanitary or phytosanitary permit issued by VISAR, showing that the products imported do not represent a risk for animal or plant health. The MAGA's decision must be based on scientific evidence. Government Decision No. 249-2002 of the MSPAS

[31] Online information from the MAGA. Viewed at: http://web.maga.gob.gt.

[32] Amended during the period under review by Government Decision No. 343-2010, Government Decision No. 342-2010 and Government Decision No. 87-2011.

contains the regulations on authorization and sanitary control of facilities providing prepared foods and non-alcoholic beverages at markets, fairs and on the public highway.[33]

3.86. The rules on recognition of testing procedures by the MAGA are contained in Ministerial Decision No. 1128-2001. This Decision is currently been evaluated internally in the light of the MAGA's new operational structure. The Guatemalan authorities recognize the tests carried out and the certificates issued by other countries.

3.87. As already indicated, before marketing any food product with a trade name, an authorization has to be obtained from the Ministry of Public Health, together with sanitary reference registration or sanitary certification. The MSPAS keeps the Sanitary Reference Register, which is based on Central American regional regulations.[34] The requirements for sanitary reference registration are based on risk criteria. It guarantees the safety and quality of the food and constitutes the basic benchmark for regular control of the product on the market. The time needed for registration and the subsequent issue of a Sanitary Reference Register number to the user and the corresponding certification depends on the risk presented by the product: 30 days for products deemed to be high risk ("A") and seven days for low-risk ("B") products. The cost of the sanitary registration procedure is Q 1,650 per product. Sanitary registration remains valid for five years. Unprocessed products, raw materials and food additives are exempt from registration.

3.88. The Food Regulation and Control Department (DRCA) in the MSPAS Directorate-General of Health Regulation, Monitoring and Control also keeps a mandatory register of products for packaged foods entering Guatemala. The importer has to submit a certificate of free sale issued by the country of origin. The DRCA gives a sanitary registration number after conducting laboratory tests on the product. This registration number is valid for five years and the time taken to issue it also depends on the level of risk and the type of product. For products deemed to be of high risk such as beef or poultry meat, the time required for registration may be up to six weeks. For products that are deemed not to present any risk, the procedure takes around 72 hours. The formalities for authorizing food imports of may be completed through the MSPAS services window.[35]

3.89. Pursuant to the Plant and Animal Health Law and its implementing Regulations, imports are inspected at the point of entry into Guatemala. The authorities in charge of inspection have handbooks that define the criteria for inspection and, where necessary, the taking of samples.

3.90. For a country or area to be declared free of a pest or disease or one of low prevalence, a technical and scientific report issued by the competent authority in the country declared free has to be submitted. This report must be sent to the MAGA, which then examines and reviews the documents in order to check that the information provided corresponds to the requisite documentation, or, in its absence, conducts an *in situ* analysis. If there is compliance with the international guidelines on declaring areas free or of low prevalence, the MAGA accepts the report.

3.91. The import of genetically modified products is not prohibited. Guatemala has legislation on the testing and production of genetically modified seeds for export in the form of Ministerial Decision No. 386-2006, which lays down the requirements for their import, transport and handling within Guatemala, the conduct of field experiments and the production for export of live modified organisms for agricultural use.[36] Living modified organisms must also comply with the provisions in Decree No. 68-86 (Law on the protection and improvement of the environment). By means of Decree No. 44-2003, Guatemala has ratified the Cartagena Protocol on Biosafety to the Convention on Biological Diversity, which governs the cross-border movement of living modified organisms. During the review period, a national biosafety policy 2013-2023 for living modified organisms was introduced (Government Decision No. 207-2014), which provides the strategic framework to guide action for the development, use and safe application of living modified

[33] Online information from the MSPAS. Viewed at: http://web.maga.gob.gt.

[34] The Sanitary Reference Register is based both on Central American Technical Regulation 216-2007 and on the Health Code, Decree No. 90-97.

[35] The window's website is: http://www.mspas.gob.gt/index.php/en/servicios/ventanilla-de-servicios.html.

[36] This Decision only governs the question of genetically modified agricultural seeds for research and production for export, but not their sowing or consumption in Guatemala. Seeds that are not genetically modified for agricultural use are dealt with by the competent national authorities.

organisms. Its aim is to help ensure the protection of human health, the environment, biological diversity and sustainable use. In June 2016, a proposal on national biosafety regulations for living modified organisms was under consideration.

3.92. SPS drafts are drawn up by various authorities with competence for the different aspects of the regulations. Before being put up for approval and unless there is an emergency, the MAGA notifies the WTO of SPS drafts so that WTO Members can send in their remarks and comments within a period of 60 days. The most important SPS measures adopted by Guatemala between 2009 and 2015 are shown in Table A3.2. Over the same period and up to February 2016, Guatemala notified 18 sanitary and phytosanitary measures to the WTO.[37] The inventory or register of SPS measures and the legislation in force may be viewed on the MAGA's website at: http://www.maga.gob.gt.

3.93. Guatemala has two bilateral agreements on sanitary and phytosanitary measures, one with the United States and another with the Central American countries. The agreement with the United States is regulated by Ministerial Decision No. 340-2006 (provisions on recognition of United States food safety measures for inspection schemes for unprocessed products of bovine, pig and poultry meat as equivalent). The agreement with Central America is regulated by COMIECO Resolution No. 80-2001 (recognition of sanitary registration for processed foods produced in the Central American region).

3.2 Measures directly affecting exports

3.2.1 Export procedures and requirements

3.94. Guatemala made improvements to its export procedures during the period under review. Since March 2014, the SAT has gradually been putting in place online submission of forms and exchange of information with customs authorities through a web portal. A first step taken at the Puerto Barrios customs post has enabled users voluntarily to submit export forms online.[38]

3.95. In 2014, the SAT started to implement the "Paperless Customs" programme with the aim of lessening the time needed for customs clearance and improving cooperation among the government authorities involved in the procedure. By mid-2015, this programme was fully under way for imports at all the country's customs posts and submitting forms online became compulsory.[39] By June 2016, however, the programme had not yet been fully implemented. It is estimated that, once implemented, this programme will lessen the waiting time for export procedures.[40]

3.96. Most of the documents required for export can be obtained directly online through VUPE's SEADEX web portal. The common requirement for any export, irrespective of its destination, is to obtain an exporter's code. The procedure for obtaining the code must be carried out through VUPE. SEADEX allows the issue, completion and forwarding of the electronic documents required in order to obtain an exporter's code.[41]

3.97. For products whose country of origin and destination are members of the CACM, exporters have to complete the FAUCA. During the period under review, online transmission of FAUCA forms was extended to the customs dealing with imports in all the CACM's founder members, thereby speeding up export procedures within the bloc.

[37] WTO documents G/SPS/N/GTM/45-62 of 5 January 2009 to 29 February 2016.

[38] Online information from the SAT. Viewed at: http://portal.sat.gob.gt/sitio/index.php/tramites-o-gestiones/aduanas/28-documentaci-asistencia-aduanera/8451-aduanas-sin-papeles.html.

[39] World Bank (2015), *Doing Business 2016*. Viewed at: http://www.doingbusiness.org/~/media/GIAWB/Doing%20Business/Documents/Annual-Reports/English/DB16-Full-Report.pdf.

[40] An explanatory guide to registration and consultation of online documents is available at: http://portal.sat.gob.gt/sitio/index.php/descargas/doc_download/5010-in-iad-dno-de-15-guia-de-usuario-para-el-registro-y-consulta-de-doctos-digitalizados.html.

[41] The following electronic documents are required in order to obtain an exporter's code: an invoice in the name of the exporter, a copy of the exporter's unified tax registration, a duly completed form giving details of the legal representative and a duly completed form with the signature and stamp of the legal representative. Once the procedure has been endorsed, Q 80.00 has to be paid, also electronically. Both forms can be found on VUPE's website at: http://www.export.vupe.com.gt.

3.98. In order to export products whose origin or destination is not one of the CACM member countries, a declaration for the registration and control of exports (DEPREX) has to be issued. A DUA has to be attached to the completed forms according to origin and destination (FAUCA or DEPREX) declaring the goods for export. There are several types of DUA according to the destination of the goods, means of transport or export procedure followed. For exports covered by some preferential arrangements or agreements (such as the GSP+ and CAFTA-DR), a certificate of origin must be issued and this is available free of charge on VUPE's website.

3.99. The export of some products is subject to special controls in the form of permits, licences or certificates issued by various government or private institutions (Table 3.11).

Table 3.11 Products subject to special export authorization, 2015

Type of product to be exported	Institution responsible	Requirements/documents required
Coffee	National Coffee Association (ANACAFÉ)	Export and shipping permit
Wood and wood products	National Forestry Institute (INAB)	(1) Registration in the timber exporters' register (2) Certificate of legal origin
Medicines, chemical or pharmaceutical products for human consumption	Ministry of Public Health and Social Welfare (MSPAS)	Certificate of free sale
Minerals	Ministry of Energy and Mining (MEM)	Operating licence
Products of animal origin	Ministry of Agriculture, Livestock and Food (MAGA)	Phytosanitary certificate
Forest products	National Council for Protected Areas (CONAP)	CITES export permit and an export permit for flora and fauna not regulated by CITES
Fishery products covered by CITES	CONAP	CITES export permit
Fishery products not covered by CITES	MAGA	Animal health certificate
Products of plant origin	MAGA	Phytosanitary certificate
Textiles	Textiles and Clothing Commission	EXTEX document

Source: Information provided by the authorities.

3.2.2 Export taxes, charges and levies

3.100. Pursuant to the 1969 Coffee Law (Legislative Decree No. 19-69 of 30 April 1969, as amended in 1985), coffee growers have to pay 1% of the f.o.b. value for each quintal of coffee exported. The tax is collected by the National Coffee Association (ANACAFÉ), a non-profit-making public law body composed of Guatemala's coffee growers. The revenue received by ANACAFÉ fluctuates according to the volume of exports and coffee's market value. Some of this revenue is set aside for the Municipal Development Institute (INFOM) to support technical assistance, financial and administrative programmes for municipal authorities. The income accruing to the municipal authorities is determined solely on the basis of export volume. In 2015, ANACAFÉ received Q 50 million and transferred Q 1 million to the INFOM. No levies on the export of other products were introduced over the period 2009-2016.

3.2.3 Export prohibitions, restrictions and licensing

3.101. Guatemala does not allow the export of certain goods for reasons of security, protection of the environment and conservation of the cultural heritage.

3.102. It is not permitted to fell trees or export wood of protected species or those at risk of extinction. Protected species are those determined jointly by the National Forestry Institute (INAB) and CONAP, as well as those listed in the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), ratified by Guatemala in 1979. Timber in logs of more than 11 cm. in diameter may not be exported, unless as part of furniture or an item with value added or comes from sustainable plantations authorized by the INAB.[42] Violation of this ban is punishable by a fine and a term of imprisonment.

[42] Forestry Law, Legislative Decree No. 101-96 of 2 December 1996.

3.103. The General Law on fishing and aquaculture of 2002 bans the export of eggs, larvae, post-larvae, hatchlings, juvenile fish and breeding animals from the natural environment, except for those produced in laboratories or by artificial means duly authorized by law. The Constitution forbids the export of paleontological, archaeological, historical and artistic goods and assets that form part of Guatemala's national heritage.

3.104. Government Decision No. 1-2010 issued the provisions regulating the export of metal waste and scrap, setting maximum quotas in terms of tonnes for the export of such products.

3.2.4 Export support and promotion, including export processing zones

3.105. One of the most important changes introduced since the previous Review in terms of trade policy was the elimination of export performance requirements for production under the free zone and maquila regimes in 2016. Prior to March 2016, Guatemala had three export subsidy programmes: (1) special customs regimes (maquila); (2) free zones; and (3) the industrial and trade free zone (ZOLIC). The programmes continued to be implemented throughout the major part of the review period pursuant to Article 27.4 of the Agreement on Subsidies and Countervailing Measures (SCM Agreement). The three regimes allowed exemption from payment of tariffs (DAI) and other import duties (including VAT) for imports of machinery, equipment, parts, components and accessories needed for the production process.

3.106. To be eligible for the exemptions granted under the maquila and free-zone regimes, an authorization from MINECO was needed. The requirements for obtaining an authorization to operate are defined in the laws relative to each regime. To be eligible for the ZOLIC regime, it was necessary to be established and to operate within the Santo Tomás de Castilla industrial and trade free zone in the department of Izabal.

3.2.4.1 Special customs regime (maquila) programme

3.107. The Law on the promotion and development of exporting and maquila activities (Maquila Law) of 1989 granted export subsidies through tax exemptions to duly authorized companies.[43] The regime gave total exemption from income tax (ISR) on income earned from the export of goods produced or assembled in Guatemala and subsequently exported. Exemption from payment of ISR was granted for a period of ten years. In addition, the regime also allowed exemption from tariffs and import duty (including VAT) on imports of machinery, equipment, parts or components and accessories needed for the production process.

3.108. In order to be eligible for the subsidies, the goods had to be exported or re-exported within a maximum period of one year as of the import of the inputs used to produce them.[44] Exports had to be destined for any CACM country. Sale of goods entering under the maquila regime within Guatemala was only authorized if the corresponding tariffs and other income taxes were paid. Article 2 of the Maquila Law excluded the export of certain traditional products from the tax regime, for example: coffee in any form, cattle and bovine meat, some types of cardamom, crude petroleum, cane sugar and wood in various forms.

3.109. The number of companies benefiting from the maquila regime rose during the review period. In October 2014, 757 companies were operating under the programme (455 in 2006).[45] According to the authorities, the benefits accorded under this programme were abolished as of 31 December 2015.

3.2.4.2 Free zones

3.110. The 1989 Free Zones Law regulated subsidies for the export or re-export of goods produced or assembled in free zones.[46] The regime gave the following benefits to users established in free zones: (a) permanent exemption from tariffs (DAI) and VAT on imports; (b) temporary exemption from the ISR for five years for businesses and ten years for industries and service

[43] Legislative Decree No. 29-89 of 13 June 1989.
[44] The time limit runs from acceptance of the respective import document.
[45] Online information from MINECO. Viewed at: http://www.mineco.gob.gt/actividad-exportadora-y-de-maquila (figures for 2014) and WTO document G/SCM/Q4/GTM/5 of 11 October 2006 (figures for 2006).
[46] Legislative Decree No. 65-89 of 14 November 1989 and amendments thereto.

companies; (c) permanent exemption from VAT on sales within the free zone or between free zones; and (d) permanent exemption from import duty for exports from free zones to free zones in other CACM countries. Although the programme was export-oriented, it allowed companies to sell up to 20% of their output on the domestic market, subject to payment of the corresponding taxes. These benefits were modified by Decree No. 19-2016 (see below).

3.111. During the review period, five new free zones were approved. The 12 free zones existing in 2009 thus became 17 in 2015. The number of companies operating in free zones rose from 204 in 2006 to 282 in April 2015.[47] In 2015, two of the free zones approved (Zeta La Unión and Zofracro) accounted for over two thirds of the total users of free zones and two (Terminal LC and Ozofra) showed no activity. Commercial users account for approximately three quarters of the total users of free zones (Table 3.12).

Table 3.12 Authorized users established in free zones, 2015

Free zone	Commercial users	Industrial users	Service users	Total
Amatitlán	5	0	0	5
Buenos Aires	1	1	1	3
Ciplesa	12	2	2	16
Consigna	2	0	0	2
El Cacao	2	0	0	2
Incoinsa	11	0	4	15
Inssa	3	0	1	4
Petapa	0	0	2	2
Sadinsa	21	1	4	26
Terminal LC	0	0	0	0
Zeta La Unión	39	20	15	74
Zofracro	106	10	4	120
Zofracsa	5	1	1	7
Zofrasur	1	0	0	1
Zofratusa	1	1	0	2
Zona Global	3	0	0	3
Ozofra	0	0	0	0
Total	**212**	**36**	**34**	**282**

Source: MINECO. Viewed at: http://www.mineco.gob.gt/reportes.

3.112. The share of exports under free zone and maquila regimes in Guatemala's total exports remained stable throughout the period 2009-2013 but started to increase in 2014 and reached its highest level (41.6%) in 2015. That year, 83% of exports under special regimes consisted of maquila exports and the remainder were free zone exports, lower than the ratio existing at the beginning of the review period when, in 2009, 88.7% of exports came from the maquila regime (Table 3.13). Overall, if compared with the situation prevailing prior to the global crisis, it is clear that the share of special regimes has been declining since its peak of 47.1% in 2004.

Table 3.13 Exports under the maquila and free-zone regimes, 2009-2015

	2009	2010	2011	2012	2013	2014	2015
Total exports	**7,295**	**8,536**	**10,519**	**10,103**	**10,183**	**10,992**	**10,831**
Maquila and free-zone regimes	2,586	2,989	3,776	3,463	3,603	4,168	4,316
Maquila	2,293	2,654	3,352	3,040	3,069	3,481	3,582
Free zone	293	335	424	423	534	687	734
% of total	35.4	35.0	35.9	34.3	35.4	37.9	41.6
Maquila and free zone exports of textiles and articles of apparel (Chaps. 50-63 of the HS)	2,256	2,076	2,201	2,245	2,142	2,090	2,079

Source: WTO Secretariat, based on information provided by the authorities.

3.2.4.3 Industrial and trade free zone (ZOLIC)

3.113. The purpose of the ZOLIC programme is to boost the economic and social development of the Department of Izabal, taking advantage of its strategic location as the only Guatemalan

[47] Online information from MINECO. Viewed at: http://www.mineco.gob.gt/reportes figures for 2014) and WTO document G/SCM/Q4/GTM/5 of 11 October 2006 (figures for 2006).

department with access to the Atlantic Ocean. It is regulated by the Organic Law of the Santo Tomás de Castilla industrial and trade free zone.[48]

3.114. The ZOLIC regime gives its users, among other benefits, total exemption from payment of the ISR (for ten years) and exemption from the DAI and VAT on imports of goods entering the free zone as raw materials, inputs, intermediate goods, packaging, containers, equipment, machinery, spare parts or accessories for the production activities carried out in the ZOLIC.

3.2.4.4 Amendment of the export support regime

3.115. Pursuant to a decision adopted by the WTO General Council on 31 July 2007[49], the Committee on Subsidies and Countervailing Measures (SCM Committee) was empowered to give Guatemala an extension of its export subsidy regime until 2013, with an additional gradual transition period of two years. Guatemala undertook to dismantle the so-called "prohibited subsidies" on exports by 31 December 2015 at the latest.

3.116. In 2010, in conformity with paragraph 1(f) of the General Council's decision, Guatemala presented the SCM Committee with an action plan for eliminating the subsidies. This document describes the three special subsidy regimes implemented by Guatemala and provides a detailed list of the tax exemptions granted according to the nature of the tax exempt, the duration of the exemptions granted, the beneficiaries of exemption and the type of transaction, goods or services to which they apply.[50]

3.117. From 2010 to 2014, Guatemala submitted notifications to the SCM Committee containing information on the progress made in implementing the timetable proposed in 2010. During this period, Guatemala notified that it had not increased the benefits under the programmes, in accordance with Article 27.4 of the SCM Agreement.

3.118. In 2012, Guatemala responded to the questions put by other WTO Members. In reply to those on the future elimination of the prohibited subsidies, Guatemala stated that it had notified users by letter that the benefits granted under the special regimes would end as of 31 December 2015. The authorities have indicated that they do not have any statistical information quantifying the amount of benefits under each programme or publicly available documents concerning the reform process. According to Guatemala, the authorizations issued by MINECO specify that export subsidies will not be granted after 31 December 2015. Guatemala also reaffirmed its objective of dismantling the prohibited subsidies before 31 December 2015.[51]

3.119. The latest notification on progress with the Action Plan was submitted to the SCM Committee on 11 November 2015, indicating that the proposed reform of the export subsidy regimes was under discussion in Parliament.

3.120. During the period under review, Guatemala submitted a number of legal initiatives with a view to complying with its WTO commitments and thus eliminating prohibited export subsidies. Draft proposals were drawn up and the following initiatives were put before the Congress of the Republic: (a) Initiative 4644, Law on the promotion of investment and employment, submitted on 14 January 2013; (b) Initiative 4894, Law on the promotion of employment, 14 September 2014; (c) Initiative 4948, Law on economic conditions for promoting employment, 9 March 2015; (d) Initiative 4997, Emergent Law on job protection: Initiative amending Decrees of the Congress of the Republic Nos. 29-89 and 65-89 of 5 November 2015; and Initiative 5007, Emergent Law on job protection: Initiative amending Decrees of the Congress of the Republic Nos. 29-89 and 65-89 of 26 November 2015.

3.121. Although the first four initiatives did not succeed, the last was approved by the Congress of the Republic by means of Decree No. 19-2016 of 25 February 2016, which was published in the Official Journal on 30 March 2016 and came into force on 31 March 2016. The Law introduces important amendments to Decree No. 29-89 (Law on the promotion and development of exporting and maquila activities), primarily aimed at eliminating export subsidies (Table 3.14).

[48] Legislative Decree No. 22-73 of 5 April 1973.
[49] WTO document WT/L/691 of 31 July 2007.
[50] WTO document G/SCM/N/211/GTM of 7 July 2010.
[51] WTO document G/SCM/Q3/GTM/16 of 19 October 2012.

Table 3.14 Amendments to the legal framework introduced by Decree No. 19-2016

Regulatory aspects amended	Articles/clauses covered	Changes	Aim of this change	Action taken for its implementation
Amendments to Decree No. 29-89 (Law on the promotion and development of exporting and maquila activities) through Decree No. 19-2016 (Emergent Law on job protection)	Amendment of Articles 1, 3, 6, 12, 13, 18, 19, 27, 33, 34, and 37. Repeal of Article 15. Addition of Articles 4*bis*, 8*bis*, 12*bis*, 36*bis*, 39*bis* and 43*bis*	Elimination of prohibited export benefits	To comply with WTO commitments on eliminating prohibited export subsidies	Implementation of the Action Plan for the elimination of prohibited subsidies. Modification of the legal framework
Amendments to Decree of the Congress of the Republic No. 65-89 (Free Zones Law)	Amendment of Articles 4, 22, 36, and 41. Repeal of Articles 23, 24 and 26. Addition of transitional Articles 5*bis*, 36*bis*, 28, 29 and 30.	Elimination of prohibited export incentives	To comply with WTO commitments on eliminating prohibited export subsidies	Implementation of the Action Plan for the elimination of prohibited subsidies. Modification of the legal framework

Source: Information provided by the authorities.

3.122. The authorities consider that the new legal framework complies with Guatemala's WTO commitments to eliminate the following prohibited export subsidies: (a) total exemption from the ISR, income earned or derived exclusively from the export of goods which have been manufactured or assembled in Guatemala and exported; (b) exemption from the DAI and VAT on imports of machinery, equipment, parts, components and accessories; (c) total exemption from regular and special export taxes; (d) total exemption from taxes, the DAI and other charges on imports and consumption of fuel oil, butane gas and bunker propane, strictly necessary for generating electric power; (e) suspension of the DAI and VAT on sample books, engineering samples, instructions, templates and models needed for the production process or for demonstration purposes for research and instruction for a period of up to one year; and (f) suspension of the DAI and VAT on machinery, equipment, parts, components and accessories, for a period of up to one year.

3.123. The only activities which will receive production subsidies under the new legal framework are the manufacture of textiles and clothing and information and communications technology-related service providers offering call centres, or contact centres. The requirements for businesses seeking to obtain the benefits laid down in the Emergent Law on job protection can be found online on MINECO's website.[52] The same applies to businesses seeking user status in order to set up in free zones and obtain the benefits accorded by the Law.

3.2.5 Export financing, insurance and guarantees

3.124. Guatemala did not have any official export financing, insurance or guarantee programme during the period under review.

3.125. In 2010, the Central American Bank for Economic Integration (CABEI) launched an international trade facilitation programme (I-FACIL) with the aim of giving support to Central American exporters and importers in production sectors with limited resources. The initiative comprises two action programmes: the "Anticipos I-FACIL" programme offers financing alternatives with terms of up to 12 months for pre-export, post-export and import transactions. The programme's resources are obtained through commercial banks. The "Garantías I-FACIL" programme consists of guarantees issued by the CABEI in favour of a foreign bank in order to cover the commercial risk of trade instruments (for example, letters of credit, stand-by letters of credit, promissory notes and bills of exchange) issued by commercial banks in the Central American region. The guarantees are given for terms of up to 12 months. The CABEI has signed export guarantee agreements, *inter alia*, with financial institutions in Argentina, the Russian Federation and Spain. The disbursements made to the financial sector under this programme from 2010 to date amount to US$58.5 million.

[52] This information may be viewed at: http://www.mineco.gob.gt/requisitos.

3.3 Measures affecting production and trade

3.3.1 Incentives

3.126. In addition to the incentives provided in Decree No. 006-2016, which amended the Free Zones Law and its implementing Regulations (Decree No. 65-89 and Government Decision No. 242-90), the Law on the promotion and development of exporting and maquila activities and its implementing Regulations (Decree No. 29-89 and Government Decision No. 533-89) and the Foreign Investment Law (Decree No. 9-98), Guatemala gives incentives to micro, small and medium-sized enterprises (MSMEs) and for research and development.

3.127. The authorities continue to attach considerable importance to the development of MSMEs. The general policy applicable to them is the responsibility of the National Council for the Promotion of Micro and Small Enterprises, created by Government Decision No. 253-94, which was amended by Government Decision No. 178-2001, introducing some changes concerning the functions of the National Council.[53] MINECO's Vice-Ministry for the Development of Micro, Small and Medium-Sized Enterprises is responsible for formulating strategies and coordinating policies in this sphere, and for implementing the National Programme for the Development of Micro, Small and Medium-Sized Enterprises.[54] The overriding principle is to facilitate access to financing sources and business development services in order to raise the productivity and competitiveness of MSMEs in the industrial, agro-industrial, crafts, trade, services and tourism sectors.

3.128. As regards financial services, the Programme seeks to facilitate access to credit through financial intermediaries, which provide resources to be used exclusively for loans to MSME-owned businesses.[55] This is achieved using the resources of the Fund for Micro, Small and Medium-Sized Enterprises, which are channelled to users through eligible financial services bodies, in accordance with the regulations on financial transactions under the National Programme for the Development of Micro, Small and Medium-Sized Enterprises.[56] Eligible financial services bodies may grant secured, trust or mortgage loans. Terms may be up to 36 months depending on the type of loan, which may be used for working capital, to buy machinery, equipment and/or tools, production infrastructure, extension and/or renovation of the company, the purchase of vehicles exclusively for use in production, or investment to give the company international stature. The maximum amounts that may be sought are up to: Q 150,000 for business persons, Q 250,000 for a microenterprise, Q 500,000 for a small enterprise and Q 1.5 million for a medium-sized enterprise.[57]

3.129. As regards the promotion of research and development, the National Science and Technology Council (CONCYT), created by the Law on the promotion of national scientific and technological development (Decree No. 63-91) of 18 July 1991, is the leading government institution in Guatemala for promoting and coordinating research and financing research and development projects carried out through the National Science and Technology Scheme (SINCYT).[58] CONCYT is composed of nine representatives of the government, private and academic sectors, and is responsible for preparing, implementing and following up the Scientific and Technological Development Plan and its corresponding programme of work. The most recent plan is for the period 2015-2032. Through the National Science and Technology Secretariat (SENACYT), CONCYT may enter into any type of financial or technical cooperation with any national or international body in order to implement its activities, projects and programmes, to be carried out by institutions belonging to the SINCYT, and to strengthen the National Science and Technology Fund (FONACYT). FONACYT was established by Decree No. 73-92 and is the financial mechanism

[53] The text of these Decisions may be viewed at: http://www.mineco.gob.gt/Presentacion/LeyesNormas.aspx.
[54] Further online information regarding business development policy in Guatemala is available at: http://www.mineco.gob.gt/desarrollo-de-la-mipyme-0#sthash.xcuW1Tpl.dpuf.
[55] Online information from MINECO. Viewed at: http://www.mineco.gob.gt/servicios-financieros#sthash.4koM1Jkt.dpuf.
[56] May be viewed online at: http://www.mineco.gob.gt/sites/default/files/reglamento_programa_mipyme.pdf.
[57] Online information from MINECO. Viewed at: http://www.mineco.gob.gt/servicios-financieros#sthash.VvsymdNS.dpuf.
[58] Online information from CONCYT. Viewed at: http://senacyt.concyt.gob.gt/portal/index.php/nosotros/planes-e-informes/plan-nacional-de-ciencia-tecnologia-e-innovacion-2005-2014.

enabling CONCYT to obtain resources for the effective guidance, coordination and financing of national scientific and technological development. FONACYT's funds come from the State's annual budget, loans and grants and from bilateral and multilateral cooperation programmes. In 2016, Q 16.5 million were earmarked for FONACYT, of which Q 3 million were for the Science and Technology Support Fund (FACYT) line; Q 9.3 for the Scientific and Technological Development Fund (FODECYT) line; Q 1.55 million for the National Science and Technology Plan Multiple Support Fund (MULTICYT) line; and Q 884,000 for the Technological Innovation Fund (FOINTEC) line.[59]

3.3.2 State-owned enterprises

3.130. In 2012, Guatemala notified the Working Party on State Trading Enterprises that it did not have any State trading enterprises within the meaning of the Understanding on the Interpretation of Article XVII.[60] The authorities have indicated that in 2016 the same situation as that prevailing in 2012 still applies to State trading enterprises.

3.131. As a result of the privatization programme launched in the 1990s, only a few State-owned enterprises remain in Guatemala. These include the mortgage bank Banco Crédito Hipotecario Nacional, the Santo Tomás de Castilla industrial and free trade zone, the two major ports (Puerto Quetzal and Puerto Santo Tomás de Castilla), and La Aurora International Airport in Guatemala City.

3.3.3 Competition policy and price controls

3.132. Guatemala still does not have any general competition law as such. The Constitution prohibits monopolies and calls on the State to intervene if abusive practices lead to the concentration of goods or means of production to the detriment of the population as a whole, or to associations that tend to restrict the free play of market forces or prejudice consumers. Articles 361 to 367 of the Commercial Code reaffirm the prohibition on monopolies and contain provisions to protect free competition which define various acts that constitute unfair competition and are prohibited. There is, however, no legislation on the imposition of remedial measures or sanctions.

3.133. MINECO is the authority responsible for this sector, delegating the corresponding functions to the Vice-Ministry of Investment and Competition and in turn the latter delegates them to the Competition Directorate, which has the task of monitoring competition policy in Guatemala. Moreover, currently, some of the regulatory bodies, in accordance with the ordinary law concerning them, monitor certain aspects of competition in their particular areas or sectors, for example, the National Electricity Commission (CNEE) and the Directorate-General of Hydrocarbons.

3.134. The party concerned, the competent professional association or the Public Prosecutor's Office may bring a case for unfair competition. During the period under review, no denunciation in this regard was investigated by the Public Prosecutor's Office. Legal proceedings must be brought before the competent court.

3.135. Because there is no specific legislation in this area, cartels of exporters, importers or producers are not prohibited under Guatemala's legislation. No authorization is required either for mergers. There are no marketing boards or similar institutions in the agricultural sector.

3.136. In order to fill this vacuum, in 2015 MINECO, using the services of a consultant and with financing from the Inter-American Development Bank (IDB), prepared a draft law on competition, which limits the discretionary powers of the authority responsible for implementing the law by defining the conduct and acts deemed to be violations, as well as the evaluation procedures and criteria, thus providing legal certainty for economic operators. The draft adopts a dual approach combining resort to the practice itself (for absolute practices, i.e. those prohibited because of their

[59] National Science and Technology Secretariat (SENACYT) (2015), *Plan Operativo Anual de la SENACYT 2016 y Multianual 2016-2018,* Guatemala, December 2015. Viewed at: http://senacyt.concyt.gob.gt/portal/attachments/article/131/Plan%20Operativo%20Anual%20de%20la%20SENACYT%202016.pdf.

[60] WTO document G/STR/N/9/GTM, G/STR/N/10/GTM, G/STR/N/11/GTM, G/STR/N/12/GTM, G/STR/N/13/GTM, G/STR/N/14/GTM, of 11 July 2012.

nature) and causation (for relative practices, only prohibited if they have negative effects). The following are the main elements of the draft law on competition[61]:

- Title I contains general provisions, principles, the purpose of the law, its territorial, material and personal scope, and definitions.

- Title II deals with substantive aspects concerning the defence of competition and is divided into three chapters: Chapter I concerns prohibition and punishment of absolute practices, Chapter II deals with prohibition and punishment of relative practices, while Chapter III concerns the mechanism for authorizing mergers.

- When examining, defining and penalizing **absolute practices**, the general rule is to examine them according to the rule of the practice as such (instead of prohibiting them only if they have negative effects). The authorities consider that, as a result, it is more effective for the competition authority to prove that the conduct is unlawful, which requires fewer resources and gives economic operators greater legal certainty.

- For the examination, definition and penalization of **relative practices**, the rule of causation is followed. For this, certain concepts have to be analysed such as the market concerned, the actual market power and essential input. The authorities have indicated that the causation-based analysis is used because this type of practice can in fact lead to efficiency and benefits which it is worth protecting in the market, or which in some cases are greater than the possible restrictive effect that might ensue.

- With regard to **authorization of mergers**, the goal is to implement a prior authorization mechanism to come into effect upon entry into force of the law, with economic thresholds that allow commercial traffic to remain fluid.

- Title III regulates the functions of the Supervisory Authority for Competition as regards the promotion of competition, giving an opinion, conducting studies, and coordination and cooperation with other government authorities, international organizations or foreign competition authorities.

- Title IV covers the institutional aspects of the Supervisory Authority for Competition, namely its creation, purpose, functions, responsibilities and the procedure for choosing and appointing its authorities (Governing Board and the Supervisor), internal audit, budget mechanism, assets, labour aspects, liabilities, and transparency and accountability. The Guatemalan authorities have indicated that the idea here is to adopt best international practices, which recommend that the competition authority should be financially, operationally and technically independent in carrying out its tasks. It should also have autonomy *vis-à-vis* the government and economic authorities. The Guatemalan authorities have indicated that in-depth consideration was given to the possibility of making the fines imposed for resort to practices restricting competition part of the Supervisory Authority's budget, but this was finally rejected in order to avoid any perverse incentive to prosecute so as to generate funds for the budget. With regard to resource management and performance, a system of transparency and regular accountability *vis-à-vis* government authorities is planned.

- Title V deals with procedural aspects. As regards practices restricting competition, the first step is an investigation procedure, following by legal proceedings. Provision is also made for a prior authorization procedure for mergers, together with special procedures for giving opinions and approving regulatory provisions, giving them maximum publicity. There is also provision for challenging decisions at the administrative stage, requests for review and re-examination. The draft law also provides for a special coercive economic procedure and an administrative litigation procedure, also specific to the competition sphere, to be the responsibility of a chamber in the Administrative Disputes Tribunal specializing in this field.

[61] The draft law has been put before the Congress of the Republic, which may agree to it or amend it in accordance with its legislative procedures.

- Title VI determines the offences, penalties, measures and related aspects. The authorities have stressed the importance of ensuring that the sanctioning mechanism should focus on discouraging conduct by economic operators that restricts competition. The fear of being punished by a large economic fine should suffice to convince economic operators to seek alternatives in order to boost their market share.

- Title VII defines the mechanism for obtaining exemptions or less severe penalties or the clemency programme. The latter provides that economic operators which have violated the law but which collaborate with the investigating authorities may benefit from a reduction of, or even exemption from, the applicable penalties. It also provides for the possibility of reducing fines if the economic operator concerned agrees to pay the fine without challenging it before the courts.

- Title VIII concerns the classification of information and documents which the competition authority has obtained directly when conducting an investigation and verification procedures. Depending on the circumstances, they may be considered confidential, restricted or public.

- Title IX sets out the final provisions. It is provided that, instead of an extended legal vacuum that might prevent the entry into force of all the provisions envisaged in the draft law, there should be a one-year grace period during which economic operators will not be liable for anti-competitive conduct. It is also provided that, during this period, the competition authority may not initiate investigation procedures or penalize economic operators which might resort to restrictive practices and there will be no obligation for them to seek prior authorization for mergers. The authorities' idea in this connection is that the competition authority will thus be able to organize itself and start to exercise its task of promoting competition during this year.

3.3.4 Government procurement

3.3.4.1 Overview

3.137. In 2015, the Guatemalan Government's current spending on goods and services amounted to 2.1% of GDP and rose to Q 7,995.8 million (some US$999.5 million), an amount considerably lower than that recorded in 2014 (Q 9,346 million). Total investment spending was Q 2,063.3 million in 2015, less than half the Q 4,280.3 million spent in 2014. This reduction is attributable to the general policy on reducing public spending applied by the Government in 2015.

3.3.4.1.1 Regulatory framework

3.138. Guatemala has a decentralized government procurement regime under which each procuring entity makes its own purchases on the basis of an annual plan and the financial resources available, although the relevant general legislation applies. The Government Contracting and Procurement Policy Directorate (DNCAE), attached to the Ministry of Finance, is in charge of regulating government procurement and is the governing body for government contracting; it also administers the (GUATECOMPRAS) and its electronic platform and facilitates procurement by the public sector in the form of open procurement contracts.

3.139. The Law on government procurement or LCE (Decree No. 57-92 of 21 October 1992) and its implementing Regulations (Government Decision No. 1.056-92 of 24 December 1992) govern procurement by the public sector. All State authorities using public funds for procurement must comply with the LCE. Both instruments have been amended on a number of occasions since 2009.[62] Decree No. 27-2009 provided for the incorporation of an attestation of available funds before a contract could be awarded and made the bases for competition available free of charge. Resolution No. 30-2009 (regulations on use of the GUATECOMPRAS system) provided for a price quotation procedure through the GUATECOMPRAS system, incorporated the notion of

[62] The Law on government procurement was amended by Decrees No. 27-2009 of 17 September 2009, No. 45-2010 of 22 November 2010, No. 6-2011 of 31 May 2011 and No. 9-2015, approved on 17 November 2015 and in force since 16 December 2015. The corresponding amendments to the implementing Regulations were in the form of Government Decisions.

non-conformity in the procedure and increased the basic amount of the price quotation. Decree No. 6-2011 incorporated the open contract procedure into the LCE.

3.140. The most important amendments were those approved by Decree No. 9-2015, which sought to impose stricter control and more transparency in bidding procedures. They include the following:

- GUATECOMPRAS is defined as the only system authorized to undertake government procurement; it is given the status of a Directorate-General, with the creation of the Directorate-General of Government Procurement in charge of government procurement and the GUATECOMPRAS information system. Its responsibilities also include coordinating the open contract method of procurement; deciding on use of private funds to strengthen, develop and modernize procurement procedures; and certifying the government officials responsible for procurement.

- The form in which bidding committees should be set up is specified: they may not include legal representatives, managers, employees or their families, advisers, attorneys or experts belonging to the bidding firm or persons involved in preparing any stage of the bid.

- Purchase of medicines: there may not be a single supplier. The MSPAS and the Guatemalan Social Security Institute (IGSS) may purchase medicines and other medical inputs directly under international agreements signed with the Pan American Health Organization, the WHO and other United Nations agencies.

- In order to prevent any conflict of interest, persons financing electoral campaigns, government officials and employees and their families may not be government suppliers.

- Online reverse auctions are introduced.

- Online submission of bids for the method of procurement to be used is regulated (computerized procedures).

- The general register of suppliers is established.

- It is provided that the National Institute of Statistics shall be responsible for providing reference prices for the processes and procedures established in the LCE and stricter rules on their use are laid down.

- Exceptions to the obligation to use a public bidding procedure are restricted and leasing, whether or not with a purchase option, is made subject to public competition.

3.141. The LCE and its implementing Regulations apply to the purchase, sale and contracting of goods, supplies, works and services by government authorities, their decentralized and autonomous bodies, municipal authorities and State-owned enterprises.[63] Following the amendment of the LCE in Decree No. 9-2015, the privileges given for government funds used through trusts and non-governmental organizations (NGOs), which had been subject to the LCE, were abolished. The LCE applies on a supplementary basis to procurement covered by international agreements to which Guatemala is party, provided that it is not contrary to the provisions in these agreements (Article 1).

3.142. The LCE does not discriminate between Guatemalan and foreign natural or legal persons as far as government procurement is concerned. Foreign nationals may take part in any government procurement procedure provided that they meet the requirements laid down and, if they are awarded a contract, they must be registered in the appropriate Register. The Law does not contain any provisions giving preferential treatment to goods, services or works of domestic suppliers compared to foreign suppliers. Both domestic and foreign suppliers must pay VAT.

[63] Article 1 of Decree No. 57-92.

3.143. The LCE provides for various contracting methods that are applied according to the amount and subject of the procurement.[64] These are:

- Public bidding (Article 17): this applies to procurement or contracts for an amount exceeding Q 900,000 (US$115,385), except in cases specified in the Law. Invitations to bid are published on GUATECOMPRAS and once only in the Official Journal, with no more than five calendar days elapsing between the publications.[65]

- Price quotation regime (Article 38): this applies to contracts for an amount of Q 90,001 to Q 900,000 (US$11,539 to US$115,385) and entails a public competition through GUATECOMPRAS; a minimum number of bidders is not required.

- Direct purchasing (Article 43): this is used for contracts of up to Q 90,000 (increased from Q 30,000 in 2009) under the responsibility of the contracting authority, which must take into account the price, quality, delivery time and other criteria beneficial to the State. Details showing as a minimum the goods or services contracted, the name of the supplier and the amount of the contract awarded must be published on GUATECOMPRAS. Direct purchasing is also used if there are no bids in a public bidding procedure (Article 32).

- Open contracting (Article 46): this allows contracting authorities to procure goods and services customarily and regularly used, without a bidding or price quotation procedure, directly from preapproved suppliers selected by means of an open contract with the Ministry of Finance. The DNCAE coordinates this procurement method, for which the volume and standard specifications have to be taken into account. Calls for an open contract competition have to be published on GUATECOMPRAS and in the Official Journal following the same procedure as that for public bidding.[66]

3.144. Bearing in mind the need for efficient public spending, the amendments to the LCE in 2015 led to the introduction of new methods of procurement in order to streamline and catalyse government procurement and contracting, and also to promote transparency. This is the case for:

- Purchase of small quantities (Article 43(a)): this involves direct purchase of goods, supplies, works or services without respecting the requirements relating to competitive procedures applicable to the other methods in the LCE, if the purchase is for an amount of up to Q 10,000; it must be published on GUATECOMPRAS once the goods, services or supplies have been received.

- Reverse online auction (Article 54*bis*): this method for the government procurement of standardized or approved goods or services is proactive and operates within the GUATECOMPRAS system. Bids are made publicly, online and in real time on the basis of a reference price known to the public before the auction, which is used as the point of departure for the procedure. Transitional Article 38 of the 2015 amendments to the LCE sets a time limit of 24 months from the Law's entry into force for setting up the electronic platform for use of the reverse online auction method.

3.145. The LCE provides for other ways in which government procurement can be effected. For example, donations (Article 1); purchasing under international conventions and agreements (Article 1); negotiations between government bodies (Article 2); direct imports of goods and supplies (Article 5); and special procurement (Article 44). Also as a result of the amendments to the LCE, procurement using public financing resources under international contracts and agreements to which Guatemala is party may be subject to their clauses. In such cases, procurement always has to be through a public competition (procedures governed by Article 54).

3.146. The Law does not determine what should be the usual method of procurement and does not expressly promote competitive methods. As can be seen from Table 3.15, the value of the contracts awarded through non-competitive methods (direct purchasing, special procurement and

[64] The thresholds in effect do not distinguish between types of contracting body (government organizations, municipal authorities or other bodies).

[65] Article 23 of Decree No. 57-92.

[66] Ibid., Article 46*bis*.

procedures governed by Article 54 of the LCE) accounted for an average of 57% of the total amount of contracts awarded annually during the period under review, although the percentage has tended to diminish in recent years. The special procurement method was reorganized in the 2015 amendments to the LCE, now requiring competitive procedures and use of online bidding.

Table 3.15 Amounts of contracts awarded by method of procurement, 2009-2015

(Q million)

	2009	2010	2011	2012	2013	2014	2015
Imported goods and supplies (LCE Article 5)	n/a 0.0%	n/a 0.0%	n/a 0.0%	n/a 0.0%	n/a 0.0%	12.5 0.1%	0.8 0.0%
Direct purchasing (LCE Article 43)	307 4.0%	701 5.9%	885 6.3%	1,072 7.0%	1,232 7.7%	1,283 7.7%	1,267 11.3%
Direct purchasing in the absence of bids (LCE Article 32)	45 0.6%	52 0.4%	59 0.4%	45 0.3%	71 0.4%	71 0.4%	48 0.4%
Open contract (LCE Article 46)	336 4.3%	114 1.0%	7.0 0.1%	476 3.1%	68 0.4%	304 1.8%	1,327 11.8%
International conventions and agreements (LCE Article 1)	n/a 0.0%	n/a 0.0%	n/a 0.0%	26 0.2%	164 1.0%	257 1.6%	2,174 19.3%
Price quotation (LCE Article 38)	1,738 22.4%	2,180 18.2%	2,119 15.2%	2,365 15.5%	2,645 16.5%	2,134 12.9%	1,915 17.0%

n/a Not applicable.

Source: Information provided by the Guatemalan authorities.

3.147. There are various exceptions to the requirement to use public bidding or price quotation methods and these are defined in Article 44 of the LCE. They include the procurement needed in special situations caused by the suspension of public services or when such suspension is imminent; procurement of goods, works and services for State offices abroad; procurement of individual technical and professional services in general; procurement of antiretroviral drugs, vaccines, pharmaceuticals, including through international organizations; contracts for the minting of metal coins and other necessary metals; procurement for elections and referendums. If negotiations are held in relation to any of these special cases, they must be published on GUATECOMPRAS.

3.148. Pursuant to Article 5 of the LCE, government organizations and bodies subject to the Law may, exceptionally, import goods directly if their price does not exceed the amount determined using the price quotation method and the goods are not produced in Guatemala or offered for sale by representatives of suppliers or distributors accredited in Guatemala.

3.149. In order to take part in a government procurement procedure, the bidder must be registered in GUATECOMPRAS' Register of Suppliers and not have been disqualified. There is also a Register of Preapproved Contractors kept by the Ministry of Communications, Transport and Public Works, as well as a Register of Preapproved Consultants, at the Planning and Programming Secretariat in the Office of the President. Listing in the register of preapproved contractors or consultants is essential in order to be able to take part in price quotation or public bidding procedures. Those interested may apply for registration at any time and must have a tax identification number issued by the SAT.

3.150. As a result of the amendments to the LCE, a General Government Procurement Register was created and is kept by the Ministry of Finance. Its purpose is to register Guatemalan or foreign natural or legal persons to be approved as government contractors or suppliers and thus be able to take part in all forms of government procurement. This Register will replace the other registers of suppliers regulated under the LCE within 36 months after the LCE comes into force.

3.151. In addition, the Comptroller-General's Office keeps a register of contracts for control and inspection purposes. Since 2014, companies providing works and services have had to obtain a certificate from the Comptroller-General's Office in order to be able to take part in public bidding, price quotation and other forms of procurement.

3.152. For public bidding, the time limit for submitting and receiving bids is a minimum of 40 calendar days as of the date of publication of the invitation to bid on GUATECOMPRAS. For price quotation procedures, the corresponding time limit is at least eight working days. In both public bidding and price quotation procedures, the contracting authority must publish at least the following information on GUATECOMPRAS: the bases for the bidding or quotation, technical specifications, evaluation criteria, questions, replies, the list of bidders, the decision on awarding the contract and the contracts awarded.[67] Although the LCE does not provide for the publication of government departments' annual procurement plans, they are published on the GUATECOMPRAS website.

3.153. The criteria for evaluating bids in public bidding and price quotation procedures are: quality, price, delivery time, specifications and other conditions defined in the bases, which must also determine the percentage to be assigned to each element. If the bases only mention the price, a decision is taken in favour of the lowest price. In the case of medicinal products and medical devices and equipment procured through an open contract, once the requirements in the Regulations on the sanitary control of medicines and related products have been met, the lowest price is used as the qualification criterion, provided that it is lower than the reference price set by the National Institute of Statistics; if they are procured through a bidding or price quotation procedure, however, the criterion will be the price below the national private market price registered by the DNCAE.[68]

3.154. GUATECOMPRAS manages and publishes information on government procurement and contracting. The system is open to the public and contains invitations to bid or submit price quotations, the bases, decisions on awarding contracts, the contracts awarded, data on non-conformity procedures and other information concerning government procurement and contracts for goods, supplies, works or services, awarded through bidding, price quotation or other procurement methods.[69] The use of GUATECOMPRAS is mandatory for all government bodies (central government, municipal authorities and State-owned enterprises), and for NGOs, trust funds and, in general, any private or joint body using public funds.

3.155. The LCE (Chapter X) provides for the possibility of submitting non-conformity appeals through administrative channels. A request to overturn a decision concerns decisions taken by the administrative authority which has a superior officer within the same ministry or decentralized or autonomous entity responsible for the procurement. An appeal for reversal is made against decisions taken by ministries or by administrative authorities senior to the decentralized or autonomous entities. Appeals must be made within ten working days following notification of the decision in question. Rulings on the two types of appeal must be given in writing, reasoned and based on the law, and they exhaust administrative channels. Appeals to overturn a decision or for reversal may be the subject of an appeal through legal channels before the Administrative Disputes Tribunal, whose rulings are final and binding. Table 3.16 provides some statistics on appeals made between 2009 and 2015.

Table 3.16 Appeals for non-conformity submitted through administrative channels, 2009-2015

Year	Examined	Upheld	Rejected	Total
2009	66	612	2,136	2,814
2010	47	914	1,686	2,647
2011	68	1,235	2,517	3,820
2012	102	1,688	3,576	5,366
2013	141	1,985	3,899	6,025
2014	77	1,545	3,274	4,896
2015	117	1,086	2,712	3,915

Source: Information provided by the Guatemalan authorities.

3.156. Generally speaking, the amendments to the government procurement regime introduced during the period under review have focused on fostering transparency and the efficiency of the government procurement and contracting system, in particular, by making it compulsory for all contracting entities to publish and manage information on their procurement on GUATECOMPRAS and the systematic publication thereon of the annual procurement plans of contracting entities.

[67] Ibid., Articles 23 and 39.
[68] Ibid., Article 28.
[69] The GUATECOMPRAS website may be viewed at: http://www.guatecompras.gt.

3.157. A recent study by the Ministry of Finance, co-sponsored by a number of international organizations, highlights, however, some aspects that could be improved, for example, the fact that there is no specialized independent body dealing with procurement to take measures against non-conformity and the absence of specific authority to suspend the procurement procedure because of failure to comply. It also points to the fact that the LCE does not specifically declare the promotion of open competition to be an objective inasmuch as it does not determine which should be the normal method of procurement.[70] In fact, according to the study, between 2009 and 2011 an increase in the value of contracts awarded through non-competitive methods was noted (direct procurement, special procurement and procedures governed by Article 54 of the LCE), which accounted for over 60% of the contracts awarded in 2011.[71]

3.158. Other problems reported separately include overvaluation in government procurement, contract splitting, abuse of the open contract method, primarily in connection with the purchase of medicines, and over-use of special procurement methods. Civil society's demands for more transparency in government procurement procedures led to revision of the LCE, with the latest amendments being approved in November 2015.

3.159. The Second Open Government National Action Plan (2014-2016) contains measures to enhance the transparency and accountability of government bodies. The actions proposed include regulating direct procurement and special procurement for purchasing by the Government and making them more transparent. For this purpose, it is proposed to adopt standards, including but not limited to, use of online bidding by all contracting entities for the method chosen. According to the authorities, online bidding will be implemented gradually, in accordance with Transitional Article 38 of Decree of the Congress of the Republic No. 9-2015. Notwithstanding regulation of online bidding, in Article 24 the LCE also regulates use of closed bids submitted in writing. Other action includes improving the generation of reference prices for open contract procurement and reinforcing the units responsible for planning government procurement and for internal audit.[72]

3.3.5 Intellectual property rights

3.3.5.1 Overview

3.160. During the review period, Guatemala strengthened its framework for protection of intellectual property rights (IPR), mainly by amending the Industrial Property Law (LPI) in 2013. Among other provisions, this amendment introduced special forms of protection for geographical indications (GI) and appellations of origin (AO) in Guatemala. The existing terms of protection for IPRs were maintained. Copyright is protected throughout the lifetime of the author and for 75 years after his death; protection is granted for 20 years for patents, and for trademarks and distinctive signs there is a renewable term of ten years. Guatemala did not issue any compulsory licences during the review period.

3.161. Guatemala is a member of the World Intellectual Property Organization (WIPO) and is party to several WIPO-administered international treaties (Table 3.17). In 2013, it signed the Treaty on Audiovisual Performances (Beijing Treaty) and in 2014 the Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (Marrakesh Treaty). Both Treaties are awaiting ratification. Guatemala has started the process of acceding to the International Union for the Protection of New Varieties of Plants (UPOV).[73] It is not a member of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, but takes part in meetings of the Lisbon Union as an observer.

[70] Guatemalan Ministry of Finance, EU, IBD, World Bank (2013), *Informe del Desempeño de la Gestión de las Finanzas Públicas (PEFA)*, Final report. Viewed at: http://www.minfin.gob.gt/archivos/pefa/2doInforme2013.pdf.

[71] *Idem.*

[72] Government of Guatemala, Presidential Commission on Transparency and Electronic Government, Second Open Government National Action Plan Guatemala 2014-2016. Viewed at: http://gobiernoabierto.transparencia.gob.gt.

[73] Online information from the International Union for the Protection of New Varieties of Plants (UPOV). Viewed at: http://www.upov.int/export/sites/upov/members/en/pdf/status.pdf.

Table 3.17 Intellectual property treaties signed by Guatemala, 2015

International treaty	Date of entry into force
Convention Establishing the World Intellectual Property Organization (WIPO)	30 April 1983
Copyright and related rights	
Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations	14 January 1977
Berne Convention for the Protection of Literary and Artistic Works	28 July 1997
Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms (Phonograms Convention)	1 February 1977
WIPO Performances and Phonograms Treaty	8 January 2003
Treaty on Audiovisual Performances (Beijing Treaty)	Pending
WIPO Copyright Treaty (WCT)	4 February 2003
Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (Marrakesh Treaty)	Signed on 2 June 2014 but not yet in force
Trademarks and other distinctive signs	
Paris Convention for the Protection of Industrial Property	18 August 1998
Patents, industrial designs and utility models	
Paris Convention for the Protection of Industrial Property	18 August 1998
Patent Cooperation Treaty	14 October 2006
Other	
Washington Treaty on Intellectual Property in Respect of Integrated Circuits	Signed on 31 May 1989 but not yet in force
Nairobi Treaty on the Protection of the Olympic Symbol	21 February 1983
Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure	14 October 2006

Source: WIPO, and information provided by the authorities.

3.162. MINECO is responsible for developing and implementing Guatemala's intellectual property policy. The Intellectual Property Registry (RPI), within MINECO, is in charge of ensuring compliance with the legal framework regulating the recognition and protection of IPRs. In 2008, Guatemala notified that the RPI is the contact point in conformity with Article 69 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement).[74]

3.163. The provisions of the TRIPS Agreement have been incorporated into Guatemala's legislation. IPRs are protected through a combination of national and international provisions, the TRIPS Agreement applying directly to those matters not expressly regulated in domestic legislation (Table 3.18). In some cases, for example copyright and related rights, Guatemala's legislation gives terms of protection that exceed the minimum required by the TRIPS Agreement. The TRIPS Council examined Guatemala's IPR legislation in 2001.[75] Guatemala did not notify any new IPR legislation during the review period.

3.3.5.2 Regulatory framework

3.164. Guatemala's regulatory framework for the protection of IPRs mainly comprises the Law on copyright and related rights (LDA, 1998)[76], the Industrial Property Law (LPI, 2000)[77] and their respective implementing Regulations.[78] The LDA contains rules on the protection of copyright and related rights. The LPI regulates the protection of trademarks and other distinctive signs, GIs and AOs, patents, utility models, industrial designs and the protection of industrial secrets (Table 3.18). In 2004, Guatemala notified the TRIPS Council of the regulations implementing both Laws.[79]

[74] WTO document IP/N/3/Rev.10/Add.5 of 19 September 2008.
[75] The questions put by Members and the respective replies by the Guatemalan authorities are available in WTO document IP/Q/GTM/1, IP/Q2/GTM/1, IP/Q3/GTM/1 and IP/Q4/GTM/1 of 11 May 2001.
[76] Decree No. 33-98 of 21 May 1998.
[77] Decree No. 57-2000 of 31 August 2000.
[78] Regulations implementing the Law on copyright and related rights, Government Decision No. 233-2003 of 9 April 2003, and Regulations implementing the Industrial Property Law, Government Decision No. 89-2002 of 18 March 2002.
[79] WTO documents IP/N/1/GTM/C/2 and IP/N/1/GTM/I/2, both of 14 April 2004.

Table 3.18 Overview of legislation and protection afforded to intellectual property in Guatemala, 2016

Legislation	Term	Scope
Copyright and related rights		
Law on copyright and related rights, Decree No. 33-98 of 22 June 1998 and amendments thereto (Decrees Nos. 56-2000, 11-2006 and 3-2013); Regulations implementing the Law on copyright and related rights (Government Decision No. 233-2003).	Protection is given throughout the lifetime of the author and for 75 years after his death. Computer programs, collective and audiovisual works are protected for 75 years from the date of first publication or exhibition. There are no nationality requirements.	Artistic, literary and audiovisual works and computer programs. The copyright owner's economic rights include the right to authorize or prohibit distribution to the public of the original or copies of the works, whether by sale, rental, hire, loan or any other manner. Special provisions apply to computer programs and databases, audiovisual and three-dimensional works of art, musical compositions and newspaper articles. Protection is given irrespective of any registration formality.
Patents		
Industrial Property Law, Decree No. 57-2000, in force since 1 November 2000, and amendments thereto (Decrees Nos. 30-2005, 11-2006 and 3-2013); Government Decision No. 862-2000, Industrial Property Fees, in effect since 9 January 2001; Regulations implementing the Industrial Property Law (Government Decision No. 89-2002, in force since 1 April 2002) and amendments thereto (Government Decision No. 95-2014). Decree of the Congress of the Republic No. 3-2013, in force since 26 June 2013.	Protection gives the inventor or applicant exclusive rights for 20 years within Guatemala.	Protection is granted for the invention concerned in respect of its reproduction, import, marketing or use. An invention may be patented if it is new, represents an inventive step and is susceptible of industrial application. Contractual licences for working a patent shall only have legal effects against third parties if they have been registered. Products, processes and methods that do not constitute inventions or that are excluded from patentability are indicated in Articles 91 and 92 of the LPI.
Drawings, industrial designs and utility models		
The same as for patents.	Non-renewable term of ten years for utility models. Ten years for industrial designs (including drawings), renewable for a further five years.	The Law contains definitions of industrial designs and utility models.
Layout-designs of integrated circuits		
There is no specific legislation.		
Trademarks		
The same as for patents, i.e. the LPI and amendments thereto (Title II on trademarks and other distinctive signs).	The right to exclusive use of a trademark and advertising expressions or signs is given for a period of ten years and may be renewed indefinitely for further ten-year periods.	Any sign capable of distinguishing products or services produced, sold or supplied by a natural or legal person from other identical or similar products or services produced, sold or supplied by other persons. The owner of a trademark is entitled to oppose registration of an identical or similar sign, prevent its use and request the authorities to prohibit or suspend imports of products that make use of such signs. This protection includes advertising expressions or signs. Trade names are valid indefinitely.
Geographical indications (GI)		
The same as for patents, i.e. the LPI and amendments thereto.		The 2013 amendment to the LPI introduced special provisions on GIs, which prior to this amendment were covered by the protection granted for trademarks. Provisions on the definition of GIs and AOs (Article 4), the inadmissibility of a new trademark which, because it is identical or similar to a protected GI, risks association with it (Article 21(g)), the exclusive right to use the IG or AO for persons authorized to use it and meeting the requirements (Article 87) and actions available to the owner to prevent unlawful use of the IG or AO, *inter alia*. The use of a false GI or one liable to mislead is deemed to be an offence.

Legislation	Term	Scope
Undisclosed information (including test data)		
The same as for patents.	Five years for pharmaceuticals and ten for agricultural chemicals (Article 177(a), (b) and (c)).	The submission of undisclosed information is required by the competent administrative authority as a condition for approving the marketing of pharmaceuticals or agricultural chemicals that use new chemical substances. Criteria are laid down for the protection of such data against unfair commercial use and against disclosure, provided that those submitting the information have requested a specific guarantee of confidentiality. Exceptions to the obligation not to disclose test data: (a) pharmaceuticals, where this is necessary to protect their safe use, life or health or in declared situations of national emergency; (b) agricultural chemicals, in declared situations of national emergency or to protect their safe use, human, animal or plant life or health or the environment; (c) when the holder of the undisclosed information or test data or sanitary or phytosanitary registration which may benefit from the protection has given his agreement in writing with a legalized signature.
New varieties of plants		
The same as for patents.		In the special case of new plant varieties, they must meet the criteria of novelty, distinctiveness, homogeneity and stability.

Source: WTO Secretariat.

3.165. The principal amendments to the legal framework introduced since 2009 are contained in: Decree of the Congress of the Republic No. 3-2013, in force since 26 June 2013, which amended the LPI; Government Decision No. 95-2014, which amended the Regulations implementing the LPI (Government Decision No. 89-2002), in force since 8 March 2014; Government Decision No. 48-2015, which amended Government Decision No. 862-2000, Industrial Property Fees; and Decree of the Congress of the Republic No. 7-2016 of 28 January 2016, on accession to and ratification of the Marrakesh Treaty. The Trademark Law Treaty and its implementing Regulations were approved by Decree of the Congress of the Republic No. 20-2016 of 29 March 2016, and published in Central American Official Journal No. 29 of 30 March 2016. In June 2016, it was awaiting ratification.

3.166. Decree No. 3-2013 amends 36 articles in the LPI. The changes introduced mostly concern trademarks, GIs, AOs and include: a new definition of the concept of trademark; prohibitions on account of the rights of third parties, GIs, AOs and the reputation of the trademark; registration requirements for trademarks, reservations or annulment and country of origin; relinquishing a trademark because of objections; sound and olfactory marks, description and material medium; opposition in the case of well-known marks and judicial cessation of use of a GI; unlawful use, application or placing of a trademark; unprotected elements in complicated trademarks; scope of GIs and AOs; registration and right to use GIs and AOs; inadmissible signs for GIs and AOs; homonymous GIs and AOs; applications and requirements for GIs and AOs; details of requirements; foreign GIs and AOs: procedure, decision and registration; rules on the use and administration of GIs and AOs; protection of GIs and AOs (unlawful use) and their relation to trademarks (cases of inadmissibility); prior use (in good faith) of GIs and AOs; cancellation and nullification of a foreign GI or AO solely in its country of origin.

3.167. With regard to patents, Decree No. 3-2013 introduces rules on the substantive examination of patent applications, especially in connection with the employment of independent experts or private bodies, as well as aspects on completing, correcting, modifying or dividing up patent applications. Changes were also made to the time limits for examining patent applications and on authorization for the marketing of pharmaceuticals within a period exceeding one year as of the date of filing the relevant application. The Decree also created the Official Bulletin of the Intellectual Property Registry (BORPI, see below).

3.168. The LDA protects all literary, scientific or artistic works, as well as computer programs. Protection is granted without the need for prior registration.[80] The Law gives the owner moral and economic rights in his work.[81] Economic rights give the owner the right to assign all or some of his rights and to authorize or prohibit use or exploitation of the work by third parties.[82] Economic rights are protected throughout the lifetime of the author and for 75 years after his death.[83] For audiovisual or collective works and computer programs, the term is 75 years after their first performance or publication.[84] The Regulations implementing the LDA were enacted in 2003 and lay down the administrative requirements and the fees applicable for registering copyright, the Intellectual Property Registry's functions and obligations, and the rights of applicants.

3.169. As indicated above, the LPI and its implementing Regulations were amended during the review period.[85] The key points of the amendment of the LPI concern special forms of protection for GIs and AOs, as well as the procedures required for exercising these rights. The changes authorized the registration of Guatemalan and foreign GIs and AOs in Guatemala and were partly prompted by Guatemala's interest in acceding to the Association Agreement between Central America and the European Union.[86] The Official Bulletin of the Intellectual Property Registry (BORPI) was also created as a new publication medium solely for decisions relating to the initial registration of trademarks, trade names and advertising signs.[87] Other notifications concerning IPRs are published in the Central American Official Journal (Guatemala's Official Journal). The Law makes the Intellectual Property Registry responsible for circulating the Bulletin. The amendment of the Regulations implementing the LPI in 2014 adapted and harmonized its provisions with the amendments to the LPI itself.[88]

3.170. The LPI protects test data for pharmaceuticals for a term of five years and for agricultural chemicals the term is ten years, preventing third parties from marketing them without prior authorization from the owner. This protection takes effect from the date of granting the first marketing authorization in Guatemala.[89]

3.171. Guatemala does not have any special legislation on layout-designs of integrated circuits and applies the relevant provisions in the TRIPS Agreement directly. Protection is for ten years, as provided by Article 38.2 of the Agreement. During the examination of Guatemala's legislation by the TRIPS Council, the authorities indicated that the TRIPS Agreement forms part of domestic legislation and applies as such.[90]

3.172. Guatemala's legislation has provision for international exhaustion of IPRs for trademarks and patents.[91] 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.

3.173. The LPI provides for the issue of compulsory licences for patents for reasons of public interest and particularly for reasons of national emergency, public health, national security, non-commercial public use or to counter anti-competitive practices. Licences are only given in order to supply the domestic market and subject to remuneration paid to the owner, agreed by the

[80] Article 3 of the LDA provides: "The enjoyment and exercise of copyright and neighboring rights recognized in this law are not subject to the formality of registration or any other and are independent and compatible with each other ...".

[81] LDA Article 18.

[82] LDA Article 21.

[83] LDA Article 43.

[84] LDA Articles 44 and 47.

[85] Decree No. 3-2013 of 13 June 2013.

[86] Article 244 of the Association Agreement between Central America and the European Union states that the parties shall provide for a system for the protection of geographical indications and a relevant register in their legislation. The text of the Agreement may be viewed at: http://trade.ec.europa.eu/doclib/docs/2011/march/tradoc_147664.pdf.

[87] Article 31 of Decree No. 3-2013. Since enactment of the Decree, any reference to the Official Journal in the LPI or its implementing Regulations means the Official Bulletin of the Intellectual Property Registry.

[88] Government Decision No. 95-2014.

[89] LPI Article 177.

[90] WTO document IP/Q/GTM/1, IP/Q2/GTM/1, IP/Q3/GTM/1 and IP/Q4/GTM/1 of 11 May 2001.

[91] LPI Articles 37 and 131.

parties or, in the absence of an agreement, by the Intellectual Property Registry.[92] As of June 2016, Guatemala had not issued any compulsory licences.

3.174. In June 2016, Guatemala was in the process of accepting the Protocol amending the TRIPS Agreement.

3.3.5.3 Enforcement

3.175. The Special Prosecutor's Office for Intellectual Property Offences, part of the Public Prosecutor's Office, is responsible for prosecuting infringement of IPRs in Guatemala. In 2015, it investigated some 400 IPR-related cases and a further 200 between January and June 2016.

3.176. Both the LPI and the LDA contain provisions allowing owners to require enforcement of their IPRs, through either civil or judicial channels. The customs authorities are empowered to withhold goods at the border, either *ex officio* or following a request from an interested party.[93] The LPI also gives judges the authority to impose preventive measures during proceedings, including the seizure of the infringing goods and the means used to produce them, immediate cessation of their use and sale and a ban on their import. The LPI and the LDA refer back to the Criminal Code and the Code of Civil and Commercial Procedure, which regulate the procedure and the exercise of action.

3.177. Criminal proceedings may result in terms of imprisonment of up to six years and monetary sanctions of Q 50,000 to Q 750,000 for infringement of copyright. The LPI provides for terms of imprisonment of one to six years and fines of Q 50,000 to Q 750,000 for infringement of industrial property rights.

[92] LPI Article 136.
[93] LDA Article 129 and LPI Article 190.

4 TRADE POLICIES BY SECTOR

4.1 Agriculture

4.1.1 Overview

4.1. The agricultural sector (agriculture, forestry, hunting and fishing) grew at an average annual rate of 3.3% between 2009 and 2015. Its share in Guatemala's GDP nonetheless contracted slightly during the period under review to 10.5% in 2015 (Table 4.1). Guatemala is the Central American country with the highest number of subsistence family farms (about 1 million, with an average size of one hectare each).[1] Some 49% of the population live in rural areas and an estimated 70% of the country's territory is dedicated to agricultural and forestry activities.[2] The sector employs about one third of the economically active population.[3]

4.2. Agricultural activity in Guatemala can be broken down into three subsectors: traditional crops (for export), non-traditional crops (also for export), and crops for domestic consumption (mainly staple grains such as maize, beans and rice). The main traditional exports are sugar, coffee, bananas and cardamom, accounting for about a quarter of the value of overall goods exports. The main non-traditional goods exports are other fresh fruit, vegetables, and honey, while beverages are prominent among agro-industrial products. On the import side, the main products are cereals, prepared foodstuffs, animal feed and dairy produce.

Table 4.1 Main indicators for the agricultural sector, 2009-2015

	2009	2010	2011	2012	2013	2014	2015[a]
Total agriculture, livestock farming, hunting, forestry and fishing sector (Millions of constant 2001 quetzales)	26,436	26,370	27,695	29,063	30,442	31,408	32,429
Growth rates (% at constant 2001 prices)	3.8	-0.2	5.0	4.9	4.7	3.2	3.3
Share of GDP (% at current prices)	11.7	11.1	11.1	10.6	10.6	10.7	10.5
Exports (WTO definition)							
Value (US$ million)	3,259	3,604	4,410	4,528	4,607	4,722	4,768
Five most important products, by HS Chapter (% of total goods exports)							
08 - Edible fruit and nuts; peel of citrus fruit or melons	8.9	6.5	6.8	7.4	8.7	8.9	10.3
17 - Sugars and sugar confectionery	8.3	9.6	7.3	9.0	10.4	9.7	9.1
09 - Coffee, tea, maté and spices	12.3	12.1	14.2	12.2	9.3	8.5	8.5
15 – Animal or vegetable fats and oils	2.3	2.4	3.2	3.6	3.6	3.5	3.4
22 – Beverages, spirits and vinegar	2.5	2.2	1.9	3.0	3.2	3.0	2.7
Imports (WTO definition)							
Value (US$ million)	1,637	1,878	2,267	2,335	2,417	2,534	2,577
Five most important products, by HS Chapter (% of total goods imports)							
10 - Cereals	2.8	2.3	2.7	2.6	2.4	2.3	2.4
21 - Miscellaneous edible preparations	1.5	1.4	1.3	1.4	1.5	1.6	1.8
23 - Residues and waste from the food industries; prepared animal fodder	1.3	1.3	1.2	1.4	1.5	1.6	1.5
19 - Preparations of cereals, flour, starch or milk; pastrycooks' products	1.4	1.5	1.4	1.3	1.3	1.3	1.4
04 - Dairy produce; birds' eggs; natural honey; edible products of animal origin	1.0	1.0	0.9	1.0	0.9	1.0	1.0
Agricultural trade balance (US$ million)	1,622	1,726	2,143	2,192	2,189	2,188	2,191

a The 2015 GDP figures are preliminary.

Source: WTO Secretariat calculations, based on statistics from the Central Bank of Guatemala.

4.3. The performance of the agricultural sector has been impacted in recent years by weather and health factors as well as the falling prices of certain food commodities. The output of coffee, the country's leading export, has been affected by the outbreak of coffee rust, a coffee plant disease that adversely affects the quality of the beans and the volume of production per plant. Coffee exports contracted from US$959 million in 2012 to US$664 million in 2015[4], owing in part to the coffee rust outbreak. Similarly, the drought and heat waves that struck the Central American

[1] ECLAC, FAO and the Inter-American Institute for Cooperation on Agriculture (IICA) (2014), *The Outlook for Agriculture and Rural Development in the Americas.* Viewed at: http://www.fao.org/docrep/019/i3702s/i3702s.pdf.

[2] FAO (2014), *Country Fact Sheet on Food and Agriculture Policy Trends – Guatemala.* Viewed at: http://www.fao.org/3/a-i4124e.pdf.

[3] Information provided by the Guatemalan authorities.

[4] Data from the Central Bank of Guatemala. The 2015 figure is preliminary.

region between 2013 and 2014 have also weakened the production of staple grains, which make up a significant part of the country's food basket.

4.4. The sector showed a positive trade balance during the years under review, with a surplus of US$2,191 million in 2015. Guatemala nonetheless remains a net importer of staple grains such as yellow maize and rice. In 2015, for example, maize (HS 1005) recorded a negative trade balance of US$209.9 million, and rice (HS 1006) a negative balance of US$33.7 million.[5] Some studies have suggested that productivity of the staple grain subsector could be boosted through greater public-private investment.[6]

4.1.2 Agricultural policies

4.1.2.1 Institutional framework

4.5. The Ministry of Agriculture, Livestock and Food (MAGA) is the authority chiefly responsible for formulating and implementing policies for the agricultural sector.[7] The Ministry of the Economy, the Ministry of Public Health and Social Welfare and the Central Bank of Guatemala also help to implement the sector's policies within their respective remits. During the period of this Review, the agriculture sector was governed by the Agricultural Policy 2011-2015, the main planks of which are food and nutritional security; development of agricultural production and trade; animal and plant health; institution building; sustainability; the sociocultural and human factor; and territoriality.

4.6. The priority aims of agricultural policy include: integrating indigenous rural communities into the market economy, providing producers with strategic information to favour their integration into domestic and international markets, developing micro-credit lines for agricultural promotion and strengthening the system of food stockpiles in order to counter food vulnerability.[8]

4.7. Other important policies designed to support subsistence agriculture and food security are the National Policy for Comprehensive Rural Development, the Irrigation Promotion Policy 2013-2023, the "Zero Hunger Pact" *(Pacto Hambre Cero)* and the Family Farming Programme for Strengthening the Rural Economy. In 2010, the Vice-Ministry of Plant and Animal Health and Regulations was set up within the MAGA to promote productivity and competitiveness in the agriculture sector and to improve animal and plant health controls and the safety of unprocessed foods. In 2013, the Special Rural Development Office was established as an interministerial body to formulate and implement strategies for the sector, with a view to the coordinated and more efficient implementation of agricultural policies.[9]

4.8. Guatemala is a member of several regional bodies dedicated to agricultural and livestock development, including the Inter-American Institute of Cooperation on Agriculture (IICA), the Central American Agricultural Council (CAC) and the Regional Technical Support Platform for Territorial Rural Development (PRAT). Guatemala also participates in the Central American Agricultural Policy (PACA) 2008-2017, of which the main objectives are to contribute to the development of sustainable agriculture in Central America from an economic, social, environmental, political and institutional standpoint; to foster conditions for the development of

[5] WTO Secretariat calculations, based on data from the Central Bank of Guatemala.
[6] IICA (2014), *Desempeño competitivo de productos agropecuarios de Guatemala.* Viewed at: http://www.iica.int/sites/default/files/publications/files/2015/B3436e.pdf.
[7] Article 29 of the Law on the Executive Branch (Decree No. 114-97 of 10 December 1997) lays down the functions of MAGA, which include implementing the policy of agricultural and hydrobiological development and sustainable use of resources; applying clear and stable rules in agriculture, hydrobiology, forestry and plant and animal health; promoting business development among the organizations in the sector so as to boost their productivity and competitiveness; and developing mechanisms to enhance food security for the population. The MAGA 2015 budget was Q 1,413.5 million, representing 2.0% of the national budget and a considerable increase compared to 2009 (Q 644 million, or the equivalent of 1.33% of the national budget).
[8] MAGA (2011), *Política Agropecuaria 2011-2015.* Viewed at: http://web.maga.gob.gt/wp-content/uploads/pdf/home/politica_agropecuaria_2011-15.pdf.
[9] Government Decision No. 262-2013 of 28 June 2013.

modern, competitive, equitable and regionally coordinated Central American agriculture; and to develop institutional capacity so as to ensure proper implementation of this policy.[10]

4.1.2.2 Policy instruments

4.1.2.2.1 Border measures

4.9. The level of tariff protection for the agricultural sector is higher than that for manufacturing. In 2015, the average MFN tariff on agricultural products (WTO definition) was 9.5%, compared to an overall average MFN tariff of 5.7% and an average MFN tariff of 5% on non-agricultural products (except petroleum). By product category, the highest tariffs are applied to beverages, spirits and tobacco (15.8%), dairy produce (13.4%), coffee and tea (13.2%) and animals and products of animal origin (12%). The agricultural products with the highest tariff protection are malt beer (HS 2203.00.00), ethyl alcohol and other spirits, denatured, of any strength (HS 2207.20.00) and rum (2208.40.10), among other alcoholic beverages.

4.10. The schedule of WTO commitments signed by Guatemala contains tariff quotas for 30 agricultural by-products.[11] During the period 2008-2013, between two and four tariff quotas were activated per year.[12] In 2015, duty-free tariff quotas were activated for 200,000 tonnes of yellow maize (HS 1005.90.20), 50,000 tonnes of white maize (1005.90.30), and 17,500 tonnes of rough rice (HS 1006.10.90).[13] Guatemala has also opened tariff quotas for agricultural products under its bilateral and regional trade agreements (Table A3.1).

4.11. Tariff quotas are allocated in two ways. The Ministry of the Economy allocates quotas on a "first-come, first-served" basis, until the quota is filled. This mechanism is applied under most of the trade agreements (with the EU, Mexico, Belize, Panama, Chile, Colombia and Ecuador), as well as for the WTO white maize quota. Under the second procedure, applicants must be entered beforehand in a register of importers, and quotas are allocated by specific *ad hoc* commissions comprising the Ministry of the Economy, the Ministry of Agriculture, Livestock and Food, the Ministry of Finance, the Tax Administration Supervisory Authority, and members of the relevant trade association, depending on the type of product to be imported. This procedure is used for the quotas established under the CAFTA-DR and for the rough rice and yellow maize quotas under the WTO.

4.12. Pursuant to Articles 5.7 and 18.2 of the Agreement on Agriculture, Guatemala notified the Committee on Agriculture that it did not take either volume-based or price-based special safeguard actions between 2009 and 2015.[14]

4.1.2.2.2 Domestic support

4.13. Guatemala has several agricultural sector support funds. The National Development Trust Fund (FONADES) was set up in 2006 and promotes projects to modernize and improve agricultural productivity through technical assistance, the supply of inputs and the building of production infrastructure.[15] In 2013, the FONADES budget was increased by Q 700 million to almost Q 2,400 million.[16] In 2015, FONADES focused mainly on delivering fertilizers to low-income families so as to improve productivity in the agricultural sector. Delivery is free of cost to beneficiaries. The National Fund for the Revival and Modernization of Agricultural Activity (FONAGRO) is still operating, and had an assigned budget of Q 35.2 million in 2016.

4.14. During the review period Guatemala implemented some domestic support measures for the agricultural sector. The measures were notified to the WTO as belonging to the "green box" (Annex 2 to the Agreement on Agriculture) and are exempt from the reduction commitment. The

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[10] Central American Agricultural Council (2007), *Política Agrícola Centroamericana 2008 – 2017.* Viewed at: http://www.fao.org/forestry/13772-0e3d01f7a6aa2707e127bf0bc4d796edb.pdf.

[11] Section 1-B of Schedule XXXVIII, Guatemala.

[12] WTO document G/AG/N/GTM/50 of 25 September 2015, covering the years 2008-2013.

[13] Information provided by the Guatemalan authorities.

[14] WTO documents G/AG/N/GTM/36 of 18 August 2010, G/AG/N/GTM/40 of 18 October 2011, G/AG/N/GTM/42 of 24 February 2012 and G/AG/N/GTM/54 of 8 April 2016.

[15] Online information from FONADES. Viewed at: http://www.fonades.gob.gt/?page_id=1307.

[16] Government Decision No. 116-2013 of 6 March 2013.

measures focused especially on research and development in respect of seeds of staple grain varieties (US$3.7 million in 2015), formal basic education, agricultural guidance and technical training for students in rural areas (US$3.1 million in 2015), and food aid for vulnerable population groups (altogether US$16 million in 2015). The numerous environmental emergencies that affected the population during the period (heatwaves, drought, hurricanes) account for the appreciable amounts dedicated to food aid (Table A4.1).

4.15. There are currently no public institutions providing credit support for agriculture in Guatemala, but the BANRURAL bank (a private financial institution with a 17% government stake in equity) runs the "*Crédito Amigo Productor*" programme geared to the sector. The programme enables agricultural producers, livestock farmers and forestry workers to obtain flexible credits for the purchase of machinery, inputs and livestock, among other things. Loans are provided at market interest rates. Under the BANRURAL programme, loans can be financed by means of mortgages and pledges, as well as other joint guarantees.[17]

4.16. Guatemala does not practise agricultural price controls. Nevertheless, the Planning Directorate (DIPLAN) within the MAGA periodically monitors some products such as black beans and white maize, which are important components of the basic food basket. The Government purchases staple grains on a regular basis to alleviate problems of access mainly due to the financial limitations of low-income families.[18] Under its food aid programme, the MAGA thus distributes food rations (mainly white maize, beans and a mixture of maize and soya with fortified sugar) to help vulnerable segments of the population. These rations are distributed free of cost.[19]

4.1.2.2.3 Other measures

4.17. Agricultural exporters receive technical and commercial assistance from various private associations and research centres. The Guatemalan Sugar Cane Research Centre (CENGICAÑA) provides training and technology transfer services for integrated pest control, among other activities. The Independent Banana Producers' Association (APIB) coordinates the commercial strategy of the banana trade association. The National Coffee Association (ANACAFÉ), a private, public-service institution, represents the country's coffee growing sector, promotes Guatemalan coffee abroad and is the authority that issues export licences, subject to verification of the quality of the coffee.

4.18. Guatemala notified the WTO that it had not applied any agricultural export subsidies between 2009 and 2015.[20]

4.2 Energy

4.19. In 2015, the share of the electricity and water supply subsector in Guatemala's GDP was 2.4%, while mining and quarrying accounted for 1.8%. The energy sector has been expanding in recent years, with appreciable inflows of FDI mainly into electricity generation.[21] This can be attributed to the country's natural resource endowments, the incentives for the development of renewable energies and the favourable outlook for the regional market. Several power generation plants are being built to use different types of technology and will add some 1,000 MW to the market in the coming years, helping to lower generation costs and boost exports to the region.

4.20. The Ministry of Energy and Mining (MEM) is responsible for the sector's policy. In 2012 the Ministry unveiled the Energy Policy 2013-2027, the main planks of which include diversifying the energy matrix by making greater use of renewable energy sources, securing the supply of fuels at

[17] Online information from BANRURAL. Viewed at: http://www.banrural.com.gt/banruralc/Productos-y-Servicios/Banca-Mipymes/Cr%C3%A9ditos/Cr%C3%A9dito-Amigo-Productor.

[18] Government Decision No. 255-2013 of 26 June 2013 authorizes the Government to make public purchases of staple foods such as rice, maize flour, vegetable oils, beans and oats in order to combat malnutrition in the worst affected areas of the country.

[19] MAGA (2014), *Memoria de Labores.* Viewed at http://web.maga.gob.gt/download/memoria-maga14.pdf.

[20] WTO documents G/AG/N/GTM/37 of 18 August of 2010, G/AG/N/GTM/41 of 18 October 2011, G/AG/N/GTM/43 of 24 February 2012, G/AG/N/GTM/44 of 21 February 2013, G/AG/N/GTM/51 of 22 October 2015 and G/AG/N/GTM/52 of 16 March 2016.

[21] According to the Central Bank of Guatemala, in the first half of 2015 the energy sector attracted US$216.3 million, or 39.4% of total FDI for that period.

competitive prices, exploring and working oil reserves and the economical and efficient use of energy.[22] Accordingly, the MEM has launched a plan to expand the electricity transmission system (2012-2021) with a view to covering the entire national territory by upgrading existing transmission lines, creating new lines and substations and developing other necessary infrastructure.

4.2.1 Electricity

4.21. Guatemala's electricity system, the National Interconnected System (SNI), produced 10,301.96 GWh in 2015, of which about two thirds from renewable resources. The electricity came from the following sources: hydroelectricity (37.55%), coal (19.08%), the biomass (24.56%), bunker fuel (13.86%), geothermal (2.44%), solar (1.33%), wind (1.04%) and diesel fuel (0.10%). Energy consumption was 9,466.48 GWh in 2015, up 5.7% on the previous year. In 2016 the SNI's total installed capacity was 1,704.45 MW.[23]

4.22. The SNI is responsible for 98% of the country's electricity generation, while the remaining 2% comes from stand-alone systems (communal electricity networks or private properties, photovoltaic panels and wind energy). Electricity coverage is almost 92% of the population, though some rural areas are still without access to electricity.[24]

4.23. Since its reform in 1996, the electricity industry has comprised four main segments: generation, transmission, marketing and distribution. In 2015, 18.2% of electricity from the SNI was generated by the Electricity Generation Company (EGEE), which belongs to the State-run National Electrification Institute (INDE), while the remainder was produced by private companies. In the transport segment, INDE maintains a dominant position through the Electricity Transport and Control Company *(*ETCEE*)*, which owns the principal electricity transmission system.[25] The distribution companies[26] as well as most of the marketing companies are privately owned.

4.24. The electricity subsector operates through an open wholesale market and involves some 1,350 operators (generators, transporters, distributors and marketers) and large consumers.[27] They are free to buy their power and energy through a marketing company or directly from a generating company. Generation and marketing take place in a free and competitive environment comprising a spot market and a futures contracts market. Transmission and distribution are regulated.

4.25. Guatemala trades in electricity with the countries of Central America in the framework of the Regional Electricity Market (MER)[28] through the Central American Electricity Interconnection System (SIEPAC line), and with Mexico via a binational interconnection. Table 4.2 shows that as of 2013 Guatemala became a net electricity exporter, with net trade amounting to 502 GWh in 2015.

4.26. Recent years have witnessed a marked expansion of exports to the MER, making Guatemala the leading electricity exporter in Central America, having exported over 1,000 GWh in 2014. Some 98% of Guatemala's external electricity sales went to the MER in 2014 and the remaining 2% to Mexico. In that same year, 73% of Guatemala's electricity imports came from Mexico and 27% from the MER.[29]

[22] Government Decision No. 80 of 2013.
[23] Wholesale Market Administrator, Preliminary Report 2015. Viewed at: http://www.amm.org.gt.
[24] Online information from the Ministry of Energy and Mining. Viewed at: http://www.mem.gob.gt/energia/electrificacion-rural/informacion-general-er.
[25] There is also a secondary transmission system owned by the generating companies and is the means of connecting them with the main system.
[26] There are three distribution companies in operation: DEOCSA, DEORSA and EEGSA. The first two were operated by a British holding company (Energuate) from 2011 to January 2016, when they were bought by a United States company. EEGSA is 80% owned by a Colombian company.
[27] Large consumers are those with an electricity demand in excess of 100 kW and they are registered as such with the Ministry of Energy and Mining.
[28] The MER was created by the Framework Treaty on the Central American Electricity Market signed between Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica and Panama. The SIEPAC Line is a regional transmission system completed in 2014, which interconnects the electricity systems of the member countries.
[29] Online information from the National Electricity Commission (2015), *Informe estadístico de Mercado-2014*. Viewed at http://www.cnee.gob.gt/xhtml/Informe%20estadistico%202015.pdf.

Table 4.2 Net electricity trade, SNI, 2010-2015

(GWh)

	2010	2011	2012	2013	2014	2015
Total electricity exported from the SNI[a]	145	193	196	583	1,027	1,087
Total electricity imported into the SNI	367	526	226	267	708	585
Net trade, SNI	-223	-332	-30	317	499	502

a SNI: National Interconnected System.

Note: Total energy includes losses. Net trade equals exports less imports.

Source: National Electricity Commission (2015), *Informe estadístico de Mercado-2014.* Viewed at: http://www.cnee.gob.gt/xhtml/Informe%20estadistico%202015.pdf.

4.27. The MEM is responsible for formulating and coordinating electricity sector policies, plans and programmes; the granting of permits to set up generating plants and to provide electricity transmission and final distribution services, as well as the registration of wholesale market operators and large consumers, among other functions. The National Electricity Commission (CNEE) is the regulatory authority; it is tasked with determining the transmission and distribution tariffs that are subject to regulation, including their method of calculation; it issues technical regulations; monitors competition in the wholesale market; ensures fulfilment of the undertakings of concessionaires and successful bidders; and protects the rights of consumers.[30] The CNEE reports to the MEM but discharges its functions independently. The operation of the SNI is the responsibility of the Wholesale Market Administrator (AMM), a private body whose functions are to coordinate the operations of power generation companies, international interconnections and transmission lines; to set short-term market prices; undertake purchases and sales on the wholesale market; and to ensure a safe and adequate supply of electricity in the country.

4.28. The regulatory framework for the electricity subsector comprises mainly the General Electricity Law (LGE)[31]; the Regulations implementing the LGE [32]; the Regulations governing the Wholesale Market Administrator[33]; the Law on incentives for the development of renewable energy projects[34] and its implementing Regulations.[35] The passing of the LGE in 1996 laid the groundwork for the liberalization and reform of the subsector by ending the State monopoly on electricity, separating the subsector's various activities and allowing for private investment in all of them. The Law contains no provisions granting different treatment to foreign-owned companies.

4.29. Under the LGE, government authorization is not required for electricity generation. The sole requirement is permission from the MEM to set up power generation plants that make use of public property, when the plant's capacity exceeds 5 MW; the maximum period of authorization is 50 years. Permission is also required for the transport of electricity that entails the use of public property and for the final distribution of electricity. The LGE provides for free access to and use of transmission lines and distribution networks. Likewise, the Law enables private generators to export energy.

4.30. Electricity prices are freely determined, with the exception of tariffs for transmission and final distribution services, which are subject to authorization. Transmission charges are regulated by the CNEE when there is no agreement between the parties. Prices to small consumers are proposed by the distributors and are subject to approval by the CNEE. Prices practised between electricity industry operators and major consumers are set in the spot market or through contracts negotiated directly among them.

4.31. The social tariff introduced in the year 2000 to benefit low-income consumers is still in place.[36] Its methodology was changed in 2011 and it is now applied to all users that consume up

[30] The CNEE regularly publishes information on wholesale market activities and prices.
[31] Legislative Decree No. 93-96 of 6 October 1996.
[32] Government Decision No. 256-97 of 21 March 1997 and amendments thereto (Decision No. 68-2007).
[33] Government Decision No. 299-98 of 1 June 1998 and amendments thereto (Decision No. 69-2007).
[34] Legislative Decree No. 52-03 of 2003.
[35] Government Decision No. 211-2005.
[36] Law on the social tariff for the supply of electricity, Executive Decree No. 96-2000.

to 300 kWh per month.[37] The social tariff is financed by the INDE with resources allocated by the State, as the LGE does not permit the use of cross-subsidization between distribution tariffs. In 2014, the total amount provided by the INDE was Q 1,323.3 million, and the 2015 figure was Q 1,094.7 million.[38] Between 2000 and 2015, the INDE contributed over Q 10.7 billion to the social tariff, which benefited 77% of consumers. This has nevertheless impacted the capacity of the INDE to invest in electricity generation and transmission projects. Proposals to channel support more effectively towards the neediest consumers are currently being examined.

4.32. On a quarterly basis, the CNEE adjusts and publishes the electricity tariffs applied by distributing companies. The gap between social and non-social tariffs has narrowed over recent quarters[39], and there has generally been a marked reduction in tariffs. This is in part the outcome of international market conditions, declining oil prices and changes to Guatemala's energy matrix. It is hoped that this trend will continue with the forthcoming launch of new private power generation projects.

4.33. The Law on incentives for the development of renewable energy projects and its implementing Regulations grant fiscal, economic and administrative incentives in order to promote such projects and lessen dependence on imported fuels. The fiscal incentives include: (a) exemption from customs duty, VAT, consular fees and charges on imports of machinery and equipment used exclusively for renewable energy generation in the area where projects are located during the pre-investment phase and construction phase, which may not exceed ten years; (b) a ten-year income tax waiver as of the launch of commercial operations; this waiver is granted only to natural and legal persons directly implementing projects and only for the part that corresponds to a given project; and (c) a ten-year waiver of the tax on commercial and agricultural enterprises (IEMA) as of the launch of commercial operations.

4.34. The incentives granted under the Law may have favourably impacted the composition of Guatemala's energy matrix. In 2015, 66.9% of the energy generated by the SNI came from renewable sources, mainly hydroelectric plants, compared with less than 50% in 2003 when the Law was enacted. Besides, consequent on the expiry of several electricity generation contracts in 2014, public tenders were held and new projects introduced into the market to generate electricity from renewable sources such as wind, solar and geothermal energy, and these will mean further changes to the energy matrix. These projects include at least four major works that are either in construction or were recently completed, which together will add 200 MW.[40] With the successive implementation of various plans for the expansion of electricity generation and transmission systems[41], it is hoped to add a further 574 km of electricity transmission lines, distributed into five rings that will cover the national territory, with priority being given to sectors that lack this service.[42]

4.2.2 Hydrocarbons

4.35. In 2015 Guatemala produced 3.66 million barrels of crude (16% less than in 2010) or 10,039 bbl/day, while the output of petroleum products added another 1.18 million barrels. The country's total consumption of petroleum products for that year was 32.52 million barrels or an average of 89,116 bbl/day.[43] In 2015 Guatemala's oil reserves amounted to 780 million barrels (petroleum originally in place).[44]

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[37] The tariff breaks down into three bands of consumption: from 0 to 50 kWh; from 51 to 100 kWh; and the first 100 kWh of consumption of up to 300 kWh/month.

[38] Information provided by the INDE.

[39] For example, under the tariff adjustment for the quarter from November 2015 to January 2016, the social tariff applied by the distributor EEGSA was Q 1,1421/kWh, while the non-social tariff was Q 1,1516. Viewed at: http://www.cnee.gob.gt/wp/?p=2107.

[40] SIGLO21.com.gt, *Cuatro proyectos nuevos generarán otros 200 MW*, 10 November 2014. Viewed at http://www.s21.com.gt/pulso/2014/11/10/cuatro-proyectos-nuevos-generaran-otros-200-mw.

[41] Transmission Expansion Plan PET-1-2009, National Transmission Expansion Plan PETNAC-2014, and 2012, 2014 and 2016 Plans for the Expansion of Generation and Transmission Systems.

[42] Online information from the MEM. Viewed at http://www.mem.gob.gt/2014/07/presentan-avances-de-la-politica-energetica-2013-2027.

[43] Ministry of Energy and Mining (2016), *Informe estadístico de hidrocarburos 2015*, *Guatemala*, Guatemala City, January. Consumption of oil products includes domestic crude oil consumption.

[44] Information provided by the Guatemalan authorities.

4.36. As Guatemala lacks sufficient oil refining infrastructure, most of its crude oil output (80%) is exported for processing, mainly to the United States. In 2015, crude oil exports totalled 3.17 million barrels. Guatemala also exports asphalt, albeit in small quantities. Guatemala is a net importer of petroleum products and is dependent on imports for meeting almost all of its fuel needs. In 2015, the country imported 36.65 million barrels of petroleum products, mainly diesel, premium gasoline (95 octane), liquefied petroleum gas (LPG) and regular gasoline (88 octane) (Table 4.3).

Table 4.3 Trade in petroleum and petroleum products, 2010-2015

(Thousand barrels)

	2010	2011	2012	2013	2014	2015
Exports						
Crude petroleum	3,719.36	3,529.42	3,271.14	3,223.56	2,978.23	3,179.59
Asphalt	139.53	135.77	87.39	89.42	67.76	99.08
Total	3,858.89	3,665.19	3,358.53	3,313.98	3,045.99	3,278.67
Imports						
LPG	3,979.82	4,073.97	4,304.66	4,915.25	4,873.21	5,916.30
Aviation fuel	15.37	13.80	13.79	15.31	44.23	11.53
Premium gasoline	5,212.70	4,733.63	4,877.06	5,015.27	5,734.52	6,836.51
Regular gasoline	3,358.39	3,268.36	3,046.59	3,585.07	4,403.11	5,435.28
Kerosene	593.38	589.72	591.01	771.96	1,025.77	162.24
Jet fuel	0.00	0.00	0.00	0.00	0.00	1,213.09
Diesel fuel	9,011.13	9,219.82	9,549.88	9,599.15	10,503.24	9,846.96
Low sulphur diesel	0.00	0.00	0.00	161.74	481.49	2,550.34
Bunker C or fuel oil	3,796.03	4,179.31	3,879.27	3,167.97	3,082.86	3,494.34
Asphalt	78.91	100.09	97.01	39.67	82.75	89.05
Petcoke	625.38	1,184.98	1,114.50	1,154.78	1,279.41	1,101.54
Total	**26,671.15**	**27,363.72**	**27,473.82**	**28,426.23**	**31,510.63**	**36,657.23**

Source: MEM (2015), *Informe Estadístico de Hidrocarburos, Guatemala*, January-September. Viewed at: http://www.mem.gob.gt/wp-content/uploads/2015/06/2015-Revista-Hidrocarburos-03.pdf.

4.37. Plummeting international oil and fuel prices as of the end of 2014 have meant substantial savings on Guatemala's oil bill (-33% in 2015 compared to the prior year) and an improved trade balance for the country. This has been reflected in lower fuel prices to end consumers, which, besides, are the most competitive prices in the Central American region.[45]

Table 4.4 Average consumer prices of fuels in Central America, 2014-2015

(January-September, US$/gallon)

	Guatemala		El Salvador		Honduras		Nicaragua		Costa Rica	
	2014	2015	2014	2015	2014	2015	2014	2015	2014	2015
Premium	4.18	3.06	4.25	3.14	4.83	3.80	4.81	3.78	5.21	4.18
Regular	3.99	2.87	3.94	2.89	4.48	3.49	4.55	3.54	5.02	3.98
Diesel	3.72	2.46	3.88	2.64	4.20	3.05	4.19	3.04	4.56	3.33

Source: MEM (2015), *Informe Estadístico de Hidrocarburos, Guatemala.* Viewed at: http://www.mem.gob.gt/wp-content/uploads/2015/06/2015-Revista-Hidrocarburos.pdf.

4.38. The hydrocarbons industry is regulated by the MEM through the Directorate-General of Hydrocarbons, which is responsible for issuing licences for imports, exports, the opening of service stations, refining and processing, the opening of asphalt plants, storage and the preparation of oily mixtures.[46] The National Petroleum Commission issues opinions on matters regarding the exploration and exploitation of hydrocarbons and the setting of crude oil export prices. The industry is also regulated by the Ministry of the Environment and Natural Resources and, where appropriate, by the Council for Protected Areas.

[45] MEM, *Informe Estadístico de Hidrocarburos, Guatemala*, January-September 2015. Viewed at: http://www.google.ch/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwilxPGIjtTJAhXHaxQKHckEAGYQFggcMAA&url=http%3A%2F%2Fwww.mem.gob.gt%2Fwp-content%2Fuploads%2F2015%2F06%2F2015-Revista-Hidrocarburos-03.pdf&usg=AFQjCNE-7Gxsx0txlci6Pzr9Bje2mk0eaQ&sig2=KQuMEroCb0QLFS1mG5KU_g&bvm=bv.109910813,bs.2,d.bGQ.

[46] The license application requirements and forms may be viewed at: http://www.mem.gob.gt/hidrocarburos/ventanilla-de-emision-de-licencias.

4.39. According to Article 121 of the Constitution, the subsoil and its hydrocarbon deposits and minerals, together with any other organic or inorganic substances found in the subsoil, are the property of the State, and Article 125 requires the State to create favourable conditions for the exploration, exploitation and marketing of hydrocarbons, minerals and other non-renewable natural resources.

4.40. The legal framework governing the hydrocarbons industry has not been altered since 2009. In addition to the provisions of the Constitution, this framework consists essentially of the Hydrocarbons Law[47] and its implementing Regulations[48]; the Invitation to bid for hydrocarbons exploration and exploitation contracts[49] and its implementing Regulations[50]; the Regulations governing contractors and subcontractors in the petroleum sector[51]; the Regulations on the conclusion of petroleum-related service contracts with the Government[52]; and the Law on the National Economic Development Fund (FONPETROL)[53] and its implementing Regulations[54], issued in 2009. The marketing and importation of hydrocarbons are governed mainly by the Hydrocarbons Marketing Law[55] and its implementing Regulations[56], as well as by various rules that govern, *inter alia,* the quality characteristics and specifications for imported petroleum products; petroleum products produced and marketed in the country; their transport; and the procedures for obtaining import and export licences.[57]

4.41. Guatemala's hydrocarbons regime stands out for its relative openness. The Hydrocarbons Law allows private companies to participate in petroleum-related operations, including the extraction and marketing of hydrocarbons through contracts signed with the State. No distinction is made between domestic and foreign companies. In fact, the country's leading oil companies are part of multinational corporations. The Law nonetheless prescribes that contractors involved in petroleum-related operations and services must give preference to Guatemalan goods, services and personnel in the conduct of their activities.

4.42. The year 2010 saw the amendment, expansion and extension of the main petroleum exploitation contract.[58] Furthermore, to encourage investment, new oilfields were put up for tender in 2012 (Guatemala Round 2012), leading to the award of two contracts and to another contract pending award.

4.43. During the term of their contracts, oil companies may bring into Guatemala the materials they need for their operations, whether as imports admitted free of the duty and other related levies (including VAT and consular fees) on fungibles, machinery, equipment, spare parts and accessories destined for final use in the country or to remain in Guatemala for at least five years; or under the temporary relief procedure, without surety, for foreign-owned machinery, equipment and accessories.

4.44. All companies must pay a percentage of royalties to the State, the amount of which is set in accordance with the API gravities of crude oil output. In any case, the royalty may not be less than 5%.[59] Furthermore, the State is required by law to hold an equity stake in each oil exploration and exploitation project, directly proportional to the number of barrels per day

[47] Legislative Decree No. 109-83 of 15 September 1983, as amended by Decree No. 161-83.
[48] Government Decision No. 1034-83 of 15 December 1983, as amended by Government Decision No. 165-2005 of 17 May 2005.
[49] Government Decision No. 764-92 of 7 September 1992.
[50] Government Decision No. 754-92 of 7 September 1992.
[51] Government Decision No. 299-84 of 4 May 1984.
[52] Government Decision No. 167-84 of 14 March 1984.
[53] Decree No. 71-2008 of 18 November 2008.
[54] Government Decision No. 195-2009 of 13 July 2009.
[55] Legislative Decree No. 109-97 of 26 November 1997.
[56] Government Decision No. 522-99 of 14 July 1999, as amended by Government Decision No. 505-2007, published on 12 November 2007.
[57] All laws, regulations and standards may be viewed online at: http://www.mem.gob.gt/quienes-somos/marco-legal/marco-legal-hidrocarburos.
[58] The contract with Perenco. Government Decision No. 214-2010.
[59] Article 61 of the Hydrocarbons Law.

produced by the enterprise. The percentage share of equity is calculated on the basis of net output and must be at least 30%.[60]

4.45. Under the Hydrocarbons Marketing Law, any natural or legal person may import or export petroleum products using the appropriate means of transport.[61] A license must be obtained from the Directorate-General of Hydrocarbons for both imports and exports. For exports, further authorization is needed for each operation, and it will be withheld if the exportation will cause a shortage in the country or distort domestic market prices.[62] The Regulations implementing the Hydrocarbons Marketing Law do not prescribe nationality requirements for obtaining licences, or any different treatment of foreign-owned companies. A single window was introduced in 2013 for the processing of import and export licences for petroleum products.

4.46. The Hydrocarbons Marketing Law provides that persons engaged in the marketing of petroleum and petroleum products are free to set the prices of their products and services, though they must reflect domestic and international market conditions.[63] The Law further provides for the possibility of imposing sanctions on companies engaging in anti-competitive practices such as price fixing agreements and the use of discriminatory quotas and discounts among buyers.

4.47. Pursuant to the 2008 Law on the National Economic Development Fund (FONPETROL) (FONPETROL) and its implementing Regulations (2009), the funds accruing to the State from royalties and its share in hydrocarbons contracts go into the FONPETROL fund, which is supervised by the Ministry of Finance. The funds must go towards the development of the interior of the country and the study and development of new and renewable energy sources. In 2015, a total of Q 249.4 million went into FONPETROL, of which Q 12.4 million were allocated to the Departmental Development Boards, Q 49.8 million to the Departmental Development Boards in areas where petroleum-related operations are located (Petén and Alta Verapaz), and Q 7.4 million to the government bodies responsible for the oversight and recovery of protected areas.[64]

4.48. A specific tax is levied on crude oil and oil-based fuels, whether imported or locally produced, that are processed and distributed in Guatemala (Table 4.5).[65] This tax is waived for crude oil and other fuels used for electricity generation in thermal power plants that form part of the SNI.

Table 4.5 Specific tax on hydrocarbons, 2016

Hydrocarbon	Tax (Quetzals/gallon)[a]
Premium gasoline	4.70
Regular gasoline	4.60
Aviation fuel	4.70
Diesel fuel and gas oil	1.30
Kerosene (DPK)	0.50
Kerosene for jet engines	0.50
Naphtha	0.50
Liquefied petroleum gas (propane, butane, methane and the like) in bulk and for filling stations	0.50

a One US gallon equals 3.785 litres.

Source: Information provided by the Guatemalan authorities.

4.3 Manufactures

4.49. Manufacturing (including the free zone and maquila industries) continues to play an important role in the national economy. The sector grew at an annual average of 3.3% between 2009 and 2015, the most dynamic subsectors being those of machinery and equipment, plastics and rubber, and chemicals. The contribution of manufacturing to GDP (at current prices)

[60] Ibid., Article 66.
[61] Articles 11 and 26 of the Hydrocarbons Marketing Law.
[62] Ibid., Article 28.
[63] Ibid., Article 5.
[64] Ministry of Energy and Mining (2016), *Informe estadístico de hidrocarburos 2015, Guatemala*, Guatemala City, January.
[65] Law on the tax on the distribution of unrefined petroleum and petroleum-based fuels. Decree No. 38-92 of 8 June 1992 and amendments thereto.

nonetheless remained practically stable at 18.5% in 2015. Manufacturing employs some 13% of the economically active population.[66]

4.50. Exports of manufactures grew at an annual average rate of 6.6% between 2009 and 2015, when they amounted to US$4,566 million. Despite this, their share in Guatemala's total exports contracted from 43.1% in 2009 to 42.3% in 2015 as a result of the relative growth of exports from other production sectors, especially mining.

4.51. The main categories of export manufactures are clothing, chemicals, and other semi-manufactures such as articles of paper, paperboard and glass for the conveyance or packaging of goods (Table 4.6). Exports of manufactures produced under the maquila and free-zone regimes represent approximately one third of total merchandise exports.

4.52. In 2015 Guatemala imported manufactures worth US$12,156 million. The leading imports include machinery and transport equipment, chemicals and other semi-manufactures (paper, paperboard, tyres, etc.).

Table 4.6 Manufacturing indicators, 2009-2015

	2009	2010	2011	2012	2013	2014	2015[a]
Total manufacturing sector (Q million, at 2001 constant prices)	34,863	36,030	37,123	38,339	39,663	40,913	42,325
Growth rate (%)	-0.9	3.3	3.0	3.3	3.5	3.2	3.5
% of total GDP (at current prices)	18.6	18.6	18.6	19.1	19.1	18.8	18.5
Exports[b]							
Total (US$ million)	3,107	3,607	3,987	4,104	4,153	4,264	4,566
				(% of exports)			
Articles of apparel and clothing accessories	14.5	14.0	12.4	12.1	13.1	12.2	12.7
Chemicals	12.1	11.4	10.6	11.9	12.0	11.3	11.9
Other semi-manufactures[c]	4.6	4.8	4.8	5.1	5.0	5.0	5.5
Other consumer goods[d]	3.9	3.9	3.7	4.2	4.1	3.9	4.1
Iron and steel	2.2	2.1	2.4	2.2	1.9	2.2	3.0
Imports[b]							
Total (US$ million)	7,419	9,120	10,624	10,914	11,376	11,748	12,156
				(% of imports)			
Machinery and transport equipment	20.5	21.8	21.4	22.5	22.3	22.4	24.3
Chemicals	17.3	17.4	16.9	17.1	17.4	17.1	18.3
Other semi-manufactures[e]	8.6	8.4	8.1	8.3	8.5	8.4	9.1
Other consumer goods[f]	7.1	6.8	6.2	6.5	6.6	6.9	7.0
Textiles	6.9	6.8	6.4	5.8	5.8	5.0	5.5

a Preliminary figures.
b By product group according to the Standard International Trade Classification (SITC Rev.3) system.
c The main ones include: cartons, boxes, cases, bags and other packing containers, of paper, paperboard; tanks, casks, drums, cans, of iron, steel or aluminium, of a capacity not exceeding 300 litres; and containers, of glass, of a kind used for the conveyance or packing of goods.
d The main ones include: articles for the conveyance or packing of goods, of plastics; floor coverings of plastics, household and toilet articles of plastics; printed matter, n.e.s.
e The main ones include: kraft paper and paperboard, uncoated, n.e.s., in rolls or sheets; articles of paper pulp, paper, paperboard or cellulose wadding, n.e.s.; and tyres, pneumatic, new, of a kind used on buses or lorries.
f The main ones include: articles for the conveyance or packing of goods, of plastics; and articles, n.e.s, of plastics.

Source: WTO Secretariat calculations, based on information provided by the Guatemalan authorities, and the UNSD Comtrade database.

4.53. In 2015, the average MFN tariff for the manufacturing sector (according to the International Standard Industrial Classification (ISIC Rev.3)) was 5.6%, which was marginally lower than the overall average MFN tariff. Categories of manufactures with an above-average level of tariff protection are: manufactured foodstuffs, beverages and tobacco (average MFN tariff of 11.5%); textiles, clothing and leather goods (10%); wood and wood products (9.8%); the item "other

[66] Information provided by the Guatemalan authorities.

manufacturing industries" (9.2%); and non-metallic mineral products, except petroleum and coal products (6.2%).[67]

4.54. Until late 2015, manufacturing activity benefited under the maquila and free-zone regimes, which contain some export subsidy elements. New regulations in the form of the Emergent Law on job protection (Decree No. 19-2016), adopted on 25 February 2016, introduced important changes in this regard (Section 3.2.4).

4.55. In 2015, the Ministry of the Economy and the Chamber of Industry of Guatemala tabled an "Industrial Policy Proposal based on Competitiveness and Innovation for Guatemala 2016-2044".[68] It aims to expand job opportunities and boost the incomes of Guatemalan workers by creating a new production structure and exponentially increasing national value added. The strategies laid out in the proposal include: attracting light manufacturing enterprises to the country's urban centres; strengthening value chains for manufactured goods; generating effective technology transfer through backward manufacturing linkages; expanding transport infrastructure; developing the financial and capital market; improving quality system infrastructure; investing in research and development; developing R&D capabilities; promoting market intelligence; simplifying formalities; and creating a new institutional framework for the sector, thereby enhancing its autonomy and technical capabilities.

4.56. The proposed industrial policy aims, by 2044, to: (a) raise the share of the manufacturing sector to 40% of Guatemala's GDP; (b) increase formal employment in the manufacturing industry to 20% of the economically active population; (c) place at least ten manufactures among the 15 principal export products; and (d) triple the average wage of workers in the sector. Among the light manufacturing activities for which Guatemala wishes to attract investment and position itself as an export platform are electronic products, refrigerators, automotive parts, plastics, cosmetics, software development, pharmaceutical equipment and medical devices.

4.4 Services

4.4.1 Overview and multilateral commitments

4.57. In Guatemala, the services sector accounts for 63% of GDP and employs around 50% of the economically active population (2015).[69] The most important subsectors in terms of their participation in the economy are: trade; transport, storage and communications; housing rental; and business activities and other real estate activities (Table 1.1).

4.58. Between 2009 and 2015, Guatemala's services sector grew at an average annual rate of 3.9%, with growth being especially rapid in the financial intermediation, insurance and auxiliary activities (average annual growth of 9.3% over the period) and public administration, defence and social security (6.3%) subsectors. Guatemala is still a net importer of services and during the review period it ran a balance of services deficit, which amounted to US$310 million in 2015 (Table 1.4).

4.59. Under the General Agreement on Trade in Services (GATS), Guatemala has undertaken specific commitments in only five of the 12 GATS services categories, namely: business services; communications services; tourism services; transport services; and financial services.[70] In the case of transport, Guatemala has only adopted commitments under air transport, specifically in repair and maintenance services, sale or marketing of transport services, and computer reservation services. The commitments assumed under financial services are limited to the reinsurance of insurance policies, the supply and transfer of financial information and financial advisory services. In the tourism sector, Guatemala's commitments relate to hotel and lodging services (four and five star), restaurant services, and tourist marina operator services.

[67] ISIC Rev.2 (2 digits).
[68] The industrial policy proposal was officially presented to the Government that took office in January 2016. The proposal may be viewed at: http://www.mineco.gob.gt/sites/default/files/pdfs/folleto_politica_industrial.pdf.
[69] Information on employment provided by the Guatemalan authorities.
[70] WTO document GATS/SC/36 of 15 April 1994.

4.60. In its horizontal commitments, under both market access and national treatment, Guatemala bound only the presence of natural persons for higher-level and specialized personnel in connection with a commercial presence which must contribute to the training of Guatemalan personnel. It also specified minimum percentages for the Guatemalan workers that a company must employ and for their share of total wages; these percentages may be reduced at the discretion of the Ministry of Labour.

4.61. In its Schedule of Specific Commitments, Guatemala entered exemptions from MFN treatment for the sectors covered by the CACM agreements. In addition, it exempted from MFN treatment the Convention on Investment Guarantees with the United States (1962) and its implementing Regulations; the Trade and Investment Agreement between Central America and Colombia and Venezuela (1993); and the Tuxtla Gutiérrez Agreements between the Central American countries and Mexico (1991).[71]

4.62. Guatemala participated in the negotiations on basic telecommunications and then expanded its Schedule of Specific Commitments in that sector.[72] However, due to changes made in its General Telecommunications Law, Guatemala has not been able to ratify the Fourth Protocol on Basic Telecommunications annexed to the GATS. The only limitation on market access that Guatemala has stipulated in its revised Schedule of Commitments in telecommunications is the requirement that international traffic be routed through the facilities of an enterprise with a frequency user's title and/or telecommunications registration certificate issued by the Supervisory Authority for Telecommunications. There are no limitations on national treatment. Guatemala has accepted the WTO reference paper on telecommunications. Guatemala has not participated in the extended negotiations on financial services.

4.63. Since the conclusion of the Uruguay Round, Guatemala has further liberalized its services regime by adopting autonomous measures, as well as through commitments undertaken in connection with the RTAs in which it participates. Consequently, the services regime currently applied is considerably more liberal than the commitments undertaken within the context of the GATS.

4.4.2 Telecommunications

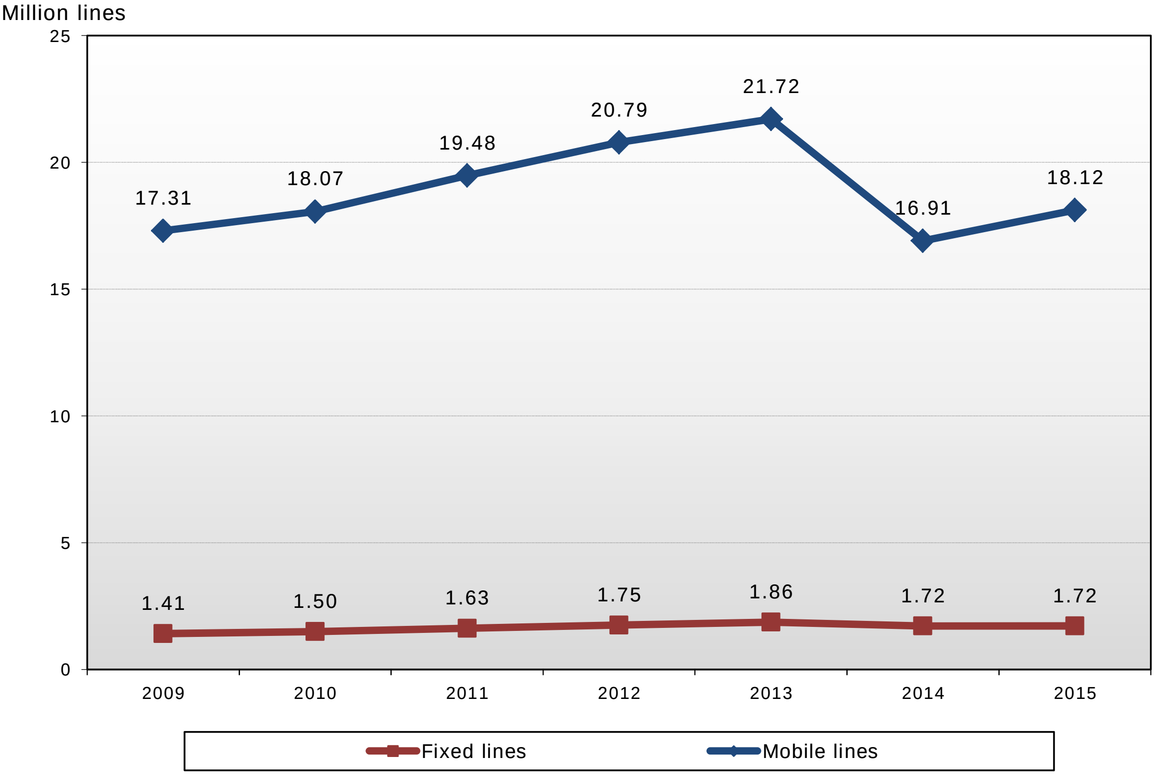
4.4.2.1 Overview

4.64. Guatemala's telecommunications market is the largest in Central America, with an estimated income of US$2.9 billion in 2014.[73] Taken together with transport and storage, communications represents 7.6% of the country's GDP. Since it was privatized and opened up in 1996, the Guatemalan telecommunications market has experienced strong growth, driven by increasing competition and the gradual introduction of new technologies.

4.65. During the review period, with the exception of the years 2013 and 2014, mobile telephony grew steadily, increasingly serving as an alternative to fixed-line telecommunications services.[74] For its part, fixed telephony has stagnated in recent years, reflecting the global trend (Chart 4.1). Guatemala has one of the highest mobile telephony penetration rates in Latin America, with 112 lines per 100 inhabitants, 95% of which correspond to prepayment plans. By contrast, fixed telephony has one of the lowest penetration rates in the region, partly due to inadequate public investment in telecommunications infrastructure. This, in its turn, has restricted the use of fixed broadband and the number of households with Internet access is still relatively low (15%), especially in rural areas. With the advent of new technologies, mobile broadband subscriptions have gradually increased, but the penetration rate is only 9.4 per 100 inhabitants (Table 4.7).

[71] WTO document GATS/EL/36 of 15 April 1994.
[72] WTO document GATS/SC/36/Suppl.1/Rev.1 of 29 November 1999.
[73] Krishna, S., "Telecom Services market in Guatemala is the largest in Central America", online article, viewed at: https://www.linkedin.com/pulse/telecom-services-market-guatemala-largest-central-america.
[74] The reduction in the number of mobile terminals in 2013 and 2014 was partly due to the impact of Decree-Law No. 20-2014 (repealed in September 2015) which imposed a tax of Q 5 per mobile line.

Chart 4.1 Trend in fixed and mobile telephone lines, 2009-2015



Source: Online information from the Supervisory Authority for Telecommunications. Viewed at: http://www.sit.gob.gt.

Table 4.7 Principal telecommunications indicators, 2015

Indicator	2015
Fixed lines per 100 inhabitants	11.0
Mobile lines per 100 inhabitants	112.0
Fixed broadband subscriptions per 100 inhabitants	2.4
Mobile broadband subscriptions per 100 inhabitants	9.4
Households with a computer (%)	19.7
Households with Internet access (%)	15.0
Persons using the Internet (%)	23.0

Source: Information provided by the Supervisory Authority for Telecommunications.

4.66. The reform of telecommunications in 1996 put an end to the monopoly of the State-owned company GUATEL, which was later privatized, and opened up the sector to competition. In the following years, around 20 operators entered the market; however, their number has declined as a result of mergers, amalgamations, and buying and selling between these operators.

4.67. According to data provided by the Supervisory Authority for Telecommunications, at the end of 2015, the mobile line market was made up as follows: the operator TIGO (formerly Comcel) had 8.6 million users or 51% of the market, followed by TELGUA (Claro), which belongs to the international operator América Móvil, with 5.1 million users (31% of the market), and Movistar of Guatemala, which belongs to the international operator Telefónica, with 2.9 million users and a market share of 18%.

4.68. In the fixed telephony segment, at the end of 2015, the market was shared out as follows: TELGUA was the main operator with 75.6% of fixed lines, while the remaining 24.4% was divided up among a dozen other operators. In the Internet access segment, there were around 20 service providers (ISPs), including 11 international port operators.[75]

4.69. The prices of telecommunications services in Guatemala are still relatively high, including at regional level. For example, according to data from the International Telecommunication Union (ITU), in 2014 mobile telephony prices in Guatemala accounted for 7.89% of per capita Gross National Income (GNI), well above the percentages recorded in Costa Rica, Panama and, to a lesser extent, El Salvador (Table 4.8). In the same year, Guatemala recorded one of the highest fixed broadband prices in Latin America (exceeded only by the prices in Honduras, Nicaragua, Cuba and Haiti) and ranked 118th out of 181 countries. For its part, the price of mobile broadband (under a post-payment contract for cellular) was equivalent to 6.93% of per capita GNI and Guatemala ranked 126th out of 164 countries. In general, the average price of the "basket" of telecommunications (ICT) services offered in Guatemala accounted for 5.7% of per capita GNI in 2014.

Table 4.8 Telecommunications prices in Central America, 2014

(% of per capita Gross National Income (GNI))

	Costa Rica	El Salvador	Guatemala	Honduras	Nicaragua	Panama
Fixed telephony	1.06	2.92	2.23	3.61	4.57	1.81
Mobile telephony	0.48	4.76	7.89	8.63	20.54	1.41
Fixed broadband	1.82	5.83	6.93	12.12	16.10	1.80
Mobile broadband, post-payment	1.52	4.84	6.93	19.01	7.71	1.68
Basket of ICTs[a]	1.1	4.5	5.7	8.1	13.7	1.7

a Information and communications technologies (ICT) include: fixed telephony, mobile telephony and fixed broadband.

Source: International Telecommunication Union (ITU) (2015), *Measuring the Information Society Report*. Viewed at: http://www.itu.int/en/ITU-D/Statistics/Pages/publications/mis2015.aspx.

4.4.2.2 Institutional and legal framework

4.70. The Ministry of Communications, Infrastructure and Housing (MCIV) is responsible for formulating policy, drafting legislation and supervision in the telecommunications sector. The Supervisory Authority for Telecommunications (SIT), a primarily technical arm of the MCIV, was set up in 1996 to regulate the sector and implement the General Telecommunications Law. The functions of the SIT include administering and supervising the use of the radio-frequency spectrum; administering the Telecommunications Register; settling disputes between operators relating to access to essential resources; drawing up and administering the National Numbering Plan; applying the sanctions for which the law provides; and representing Guatemala as a technical body at meetings of the international telecommunications organizations and in negotiations concerning international telecommunications treaties and conventions.[76]

4.71. The sector's legal framework consists mainly of: the General Telecommunications Law/LGT (Decree No. 94-96 of 17 October 1996) and amendments thereto[77]; the Radio Communications Law (Decree-Law No. 433 of March 1966); the Regulations on the provision of the international telephone service (Government Decision No. 408-99 of 25 June 1999); and the Regulations for the exploitation of satellite systems in Guatemala (Government Decision No. 574-98 of 2 September 1998).

4.72. During the review period, the main changes in the legal framework for the telecommunications sector were as follows: the enactment of Decree Law No. 34-2012, which extended the period of beneficial use of radiofrequencies by a further five years to give a total of 20 years, renewable; the approval of Decree No. 08-2013 (Law on mobile terminal equipment), with a view to reducing the theft of such equipment by establishing a negative database; and the issuing of Decree-Law No. 12-2014 on the strengthening of the data transmission infrastructure,

[75] These were: TELGUA, UNITEL, COMCEL, TELENORSA, OPTEL, TELEFÓNICA, BNA, ATEL, GUATEL, Teledistribución Guatemala and Columbus Networks.

[76] Online information from the SIT. Viewed at: http://www.sit.gob.gt/index.php/2014-05-28-20-40-03.

[77] Amendments introduced by Decrees Nos. 115-97, 47-2002, 82-2002 and 11-2006. The latest amendment was approved on 20 November 2012.

the purpose of which is to facilitate authorizations for the installation of telecommunications infrastructure in the country. To this end, an Infrastructure Unit was set up within the SIT.[78]

4.73. The LGT establishes a legislative framework for promoting investment and competition in the telecommunications sector, protecting the rights of users and providers of these services, and supporting the rational and efficient use of the radiofrequency spectrum. The Law applies to all telecommunications services and the companies that market them, whether domestic of foreign, private, State-owned or semi-public. The Law provides for freedom of entry into the market, freedom to amalgamate, free pricing and the free use of technologies. The first step in the process of entering the telecommunications market is to register as a commercial network operator (CNO); this is a simple procedure and open to any interested party that meets the requirements. Internet service providers also operate under the CNO system.

4.74. The frequencies of the radiofrequency spectrum are classified as: (a) bands for amateur radio enthusiasts, for which there is no need to obtain user rights; (b) bands reserved for the use of State agencies; and (c) regulated bands, i.e. bands which do not fall within either of the previous two categories and may only be used if user rights are acquired.[79] The SIT is responsible for allocating user rights for regulated bands through public auctions in which both Guatemalans and foreigners may participate. There are no specific requirements for the allocation of these rights; the interested party evaluates the frequencies available and files an application with the SIT, indicating the frequency bands in which it is interested. If there is more than one interested party, a public auction is held. The SIT can only reject an application if: on account of technological advances, the band is impossible to define under the conditions requested; its acceptance would violate international agreements; or it relates to frequency bands previously allocated to others, reserved bands or bands for amateur radio enthusiasts.[80] User rights are granted for a term of 20 years, renewable for equal periods of time at the request of the holder.[81] The rights are registered and may be leased or sold, in whole or in part.

4.75. In conformity with the LGT and the Regulations on the provision of the international telephone service, all commercial telecommunications network operators, holders of user rights, users of bands reserved for the State, and amateur radio enthusiasts must be enrolled in the SIT's Telecommunications Register before commencing operations.

4.76. According to Article 28 of the LGT, operators that own fixed networks must allow the interconnection of other operators. The Law states that the contractual conditions for the interconnection of commercial telecommunications networks may be freely negotiated between operators.[82] Interconnection contracts are not subject to SIT approval, but must be recorded in the Telecommunications Register. Other provisions of the LGT require commercial network operators to offer, at cost-related prices and on reasonable terms: leased circuits, unbundled access to fixed network elements, the co-siting of equipment necessary for connection, and the resale of public telecommunications services. These provisions and others relating to access to essential resources and additional resources were incorporated in the LGT in 2006[83], as part of the legislative changes necessary to implement the CAFTA-DR.

4.77. There is free pricing for telecommunications services, except in the case of access to essential resources. In accordance with the LGT, the contractual conditions and prices for the provision of any kind of commercial telecommunications services are freely agreed between the parties and are not subject to State regulation or approval, except where access to essential resources is concerned, in which case they are subject to a dispute settlement procedure.[84]

4.78. The LGT requires commercial telecommunications network operators to provide access to essential resources for any operator that so requests, subject to the appropriate payment. The prices and conditions are agreed by the parties and the applicant is entitled to contractual

[78] In 2014 and 2015, the Infrastructure Unit dealt with 280 files and authorized the installation of 50,958 items of infrastructure.

[79] LGT Article 51.

[80] The public auction procedure for the allocation of regulated frequencies is governed by LGT Article 61.

[81] The amendment of the LGT approved in November 2012 resulted in the period being increased from 15 to 20 years.

[82] LGT Article 26.

[83] Decree No. 11-2006 of 18 May 2006.

[84] LGT Article 22.

conditions similar to those that the operator granting the resource maintains with other operators in similar circumstances. If the parties are unable to reach an agreement, the SIT may be called upon to settle the dispute, in which case it must seek the opinion of an expert, based on economic and technical criteria.

4.79. The Law also provides for the free choice of network operator. Commercial network operators with more than 10,000 access lines must allow users connected to their network to choose and use the services of other operators, by means of a selection code in conformity with the numbering plan prepared by the SIT and free of charge.[85] Moreover, local network operators must ensure that their users have access to international telephone services.

4.80. Although the LGT established the basis for opening up competition in the telecommunications sector, it contains few provisions for monitoring restrictive behaviour. The Law (Article 22) only stipulates that commercial telecommunications network operators must refrain from engaging in anti-competitive practices. Some independent studies have concluded that there is room for more effective competition and point, in particular, to the lack of mechanisms or regulations that would make it possible to punish abuses of dominant position, cartels and other anti-competitive practices. They therefore suggest that the SIT be given greater powers to protect free competition and the interests of consumers.[86]

4.81. The General Budget for 2015, approved by Congress, introduced a Q 5 tax on every mobile line. As a result, the mobile telephony operators returned six million inactive lines to the SIT and brought actions to have the measure declared unconstitutional. The tax was definitively suspended by the Constitutional Court in September 2015.

4.82. The LGT does not stipulate the provision of a universal service; however, it created the Telephony Development Fund (FONDETEL) as a mechanism for promoting the development of such a service in rural and low-income urban areas. The Fund is financed from the proceeds of auctioning radiofrequency spectrum user rights (70%) and from the interest generated by the resources deposited in the Fund, government transfers and grants (remaining 30%). Operators seeking aid from FONDETEL must submit specific projects to the Ministry, for assessment on the basis of economic and social criteria. Qualifying projects are awarded by public auction.

4.83. The authorities have noted that they are close to launching the National Connectivity and Broadband Plan, known as "*Nación Digital*", with a view to gradually reducing the digital divide and promoting sustainable technological development in Guatemala. The Plan is aimed at increasing broadband speed, expanding the telecommunications infrastructure and providing products and services focused on the needs of the population in four main areas: education, health, safety and emergencies. Among other strategies, it is planned to establish partnerships between the public and private sectors to support the implementation of the plan and to conduct campaigns to promote a technology-friendly culture among the various segments of the population.

4.4.3 Financial services

4.84. The financial sector (including financial intermediation, insurance and auxiliary activities) is one of the most dynamic in the Guatemalan economy, as reflected in an average annual growth rate of 9.3% between 2009 and 2015. In 2015, the sector's share of GDP was 3.4% (Table 1.1).

4.85. The Guatemalan financial sector escaped the worst effects of the global financial crisis (2008-2009), thanks to its limited exposure to the sources of the crisis, and is currently in a sound position. During the review period, the process of consolidation of the supervised financial system continued, with an increase in financial depth and a notable expansion of the sector's assets. At

[85] Article 48 of the LGT.

[86] National Economic Research Centre (2016), *DesarrollApps, una propuesta para el desarrollo de Guatemala, Infraestructura*. Viewed at: http://centralamericadata.com/es/article/home/Para_mejorar_la_infraestructura_de_Guatemala; UNCTAD (2005), Strengthening Institutions and Capacities in the Area of Competition and Consumer Protection Policies in Latin America: Cases of Bolivia, Costa Rica, El Salvador, Honduras, Guatemala, Nicaragua and Peru, UNCTAD/DITC/CLP/2004/3, Geneva; Urízar C. (2007), *Competencia y regulación de las telecomunicaciones: el caso de Guatemala*, International Trade and Industry Unit, Studies and Perspectives Series No. 75, ECLAC Subregional Headquarters, Mexico City.

the same time, the legal framework of the sector was strengthened by incorporating better practices and international standards of supervision. Particularly noteworthy is the approval of the new Insurance Activity Law (2010) and the authorization of the entry of branches of foreign insurance and reinsurance companies into the domestic market.

4.86. As of 31 December 2015, the Guatemalan financial system supervised by the Banking Supervisory Authority (SIB) consisted of 103 entities which together held assets amounting to Q 317,770.3 million (US$41,634.5 million), equivalent to some 64.9% of GDP (as compared with 56.4% in 2008). The banks continue to hold a major share, accounting for 83.3% of financial sector assets, followed by the offshore entities, the finance companies and the insurance companies (Table 4.9). At the end of 2015, ten financial groups or conglomerates were authorized to operate in Guatemala.

Table 4.9 Composition of the financial system, December 2015

Type of institution	Number of entities	Structure by assets	(Q million)			
			Assets	Liabilities	Capital	Result
Banking system[a]	17	83.3%	264,623.8	240,121.7	24,502.1	4,002.7
Offshore entities	6	8.0%	25,423.2	22,876.5	2,546.7	305.1
Finance companies[b]	14	2.9%	9,306.4	8,189.7	1,116.7	176.1
Insurance companies	28	2.7%	8,685.6	5,618.9	3,066.7	664.6
Businesses specialized in financial services[c]	9	2.1%	6,523.8	4,338.5	2,185.3	862.3
Officially authorized warehouses[d]	14	0.1%	245.8	52.1	193.7	39.1
Other entities[e]	15	0.9%	2,961.7	2,135.5	826.2	126.2
Total	**103**	**100.0%**	**317,770.3**	**283,332.9**	**34,437.4**	**6,176.1**

a The Monetary Board authorized the takeover of Banco Reformador S.A. by Banco de América Central S.A. in Resolution No. JM-77-2015 of 26 August 2015.
b Includes 13 private finance companies and the National Finance Corporation (CORFINA).
c Includes six credit card issuing companies, two leasing companies and one factoring company.
d These are auxiliary credit institutions, established as public limited companies, whose purpose is the storage, preservation, custody, management, distribution, purchase and sale for the account of a third party of domestic or foreign goods and the issuing of documents that protect the value of the goods.
e Includes three foreign exchange companies, ten brokerage firms, the Institute for the Promotion of Insured Mortgages (FHA) and the Pawnbroking Department of the National Mortgage Credit Bank of Guatemala.

Source: SIB, *Informe del Superintendente de Bancos ante la Honorable Junta Monetaria* (Report of the Superintendent of Banks to the Honourable Monetary Board), 31 December 2015. Viewed at: http://www.sib.gob.gt/web/sib/informacion_sistema_financiero/informe-trimestral?p_p_id=110_INSTANCE_n1HH&p_p_action=0&p_p_state=maximized&p_p_mode=view&p_p_col_id=column-3&p_p_col_pos=2&p_p_col_count=3&_110_INSTANCE_n1HH_struts_action=%2Fdocument_library_display%2Fview&_110_INSTANCE_n1HH_folderId=2521241.

4.87. Article 92 of the Tax Update Law (Decree No. 10-2012) stipulates that the rate for capital gains tax is 10%. Article 180 of the same decree repealed the former Law on the financial products tax (Decree No. 26-95).

4.4.3.1 Banks and other financial institutions

4.4.3.1.1 Overview

4.88. As of December 2015, there were 17 private banks active in Guatemala, of which 16 had been established as domestic banks and one was a branch of a foreign bank. There were also 14 finance companies, generally associated with the principal financial groups and specializing in investment banking operations, as well as six offshore entities. Foreign participation in Guatemalan banking accounted for around 26% of the banking system's capital on 31 December 2015.

4.89. During the review period, banking system assets expanded rapidly, at an average annual rate of 10.6%, and at the end of 2015 totalled Q 264,623.8 million. There was an increase in foreign-currency assets, which accounted for almost 30% of the total in 2015. In structural terms, the loan portfolio and investments made up more than 80% of bank assets. Liabilities, for their part, grew at an average rate of 10.6% during the period and foreign-currency liabilities were also observed to increase, with a share that stood at 31% in 2015. Deposits are the main source of funding (over 80% of liabilities), followed by foreign lines of credit (16%).[87]

4.90. As with other countries in the region, the Guatemalan banking sector is highly concentrated, mainly due to the merger-related process of consolidation observed during the last 20 years. The three largest banks hold 66.5% of banking assets and the five largest 81.9%.[88] On the other hand, there is little State presence in the banking system. The National Mortgage Credit Bank is the only bank to be 100% State-owned and has a 1.9% share of the banking system. The State has a 17% stake in the Rural Development Bank (BANRURAL), which has a market share of 20.1%.[89]

4.91. Guatemala's banks have satisfactory financial soundness and solvency indicators. In December 2015, the capital adequacy ratio for all the banks taken together was 14.1% (10% is the minimum required by law) and the past-due portfolio represented 1.3% of the total portfolio (2.7% in December 2009). The immediate liquidity indicator has fallen in recent years, to 18.9% in December 2015 as compared with 21.6% in December 2009. The Guatemalan banks make high profits; the return on equity (ROE) was 16.3% in December 2015 (15.7% in 2009).[90]

4.92. The increase in banking system assets in recent years is mainly due to the dynamism of the loan portfolio, which has maintained positive rates of growth, in some cases higher than those for GDP. In December 2015, the bank loan portfolio recorded a year-on-year increase of 14%. As in previous years, this trend chiefly reflects the growth of the foreign-currency portfolio, the national-currency portfolio having remained stable. In December 2015, the foreign-currency portfolio grew by 18.3% year-on-year and accounted for some 40% of the total loan portfolio, while the national-currency portfolio's year-on-year growth rate was 11.2%.[91] The IMF considers that, although the expansion of credit is desirable, its continuous growth at excessive rates over a long period could gradually undermine financial stability.[92]

4.4.3.1.2 Institutional and legal framework

4.93. The Monetary Board is Guatemala's highest monetary authority and responsible for determining monetary, foreign-exchange and credit policy and for overseeing the liquidity and solvency of the national banking system, by ensuring strong and stable savings. The Bank of Guatemala, which operates under the general direction of the Monetary Board, is the State's financial agent and the only entity authorized to issue money. Under its Organic Law, the principal objective of the Bank of Guatemala is to maintain a stable general level of prices. Its functions include ensuring that the banking system maintains an adequate level of liquidity and that the system of payments functions properly, as well as taking custody of the bank reserves and legal deposits referred to in its Organic Law. Under that same Law, the Bank of Guatemala also acts as lender of last resort.

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[87] Information provided by the Guatemalan authorities.

[88] Banking Supervisory Authority, *Boletín Mensual de Estadísticas del Sistema Financiero*, December 2015. Viewed at: http://www.sib.gob.gt/web/sib/informacion_sistema_financiero/entidades-supervisadas?p_p_id=3&p_p_action=0&p_p_state=maximized&p_p_mode=view&p_p_col_id=&p_p_col_pos=0&p_p_col_count=0&_3_struts_action=%2Fsearch%2Fsearch&_3_keywords=encaje&_3_andOperator=true&cur0=31.

[89] Information provided by the Guatemalan authorities.

[90] *Informe del Superintendente de Bancos ante la Honorable Junta Monetaria*, 31 December 2015. Viewed at: http://www.sib.gob.gt/web/sib/informacion_sistema_financiero/informe-trimestral?p_p_id=110_INSTANCE_n1HH&p_p_action=0&p_p_state=maximized&p_p_mode=view&p_p_col_id=column-3&p_p_col_pos=2&p_p_col_count=3&_110_INSTANCE_n1HH_struts_action=%2Fdocument_library_display%2Fview&_110_INSTANCE_n1HH_folderId=2521241.

[91] *Informe del Superintendente de Bancos ante la Honorable Junta Monetaria*, 31 December 2015.

[92] IMF, Guatemala: Concluding Statement of the 2014 Article IV Mission, 7 July 2014. Viewed at: https://www.imf.org/external/spanish/np/ms/2014/070714s.htm.

4.94. The Banking Supervisory Authority (SIB) is a technical body responsible for overseeing and monitoring the financial sector, which includes the Bank of Guatemala, as well as the commercial banks, finance companies, offshore entities, insurance companies, businesses specialized in financial services, officially authorized warehouses, foreign-exchange companies, brokerage firms, financial groups and financial group holding companies. The SIB acts under the direction of the Monetary Board, but enjoys operational independence in achieving its aims. Its main objective is to promote and maintain stability and confidence in the financial system and the supervised entities, by ensuring that they remain solvent and sufficiently liquid to fulfil their obligations, meet their statutory requirements and provide their services properly through sound and efficient management.

4.95. Table 4.10 lists the principal laws that currently govern the banking sector. To these should be added the regulations issued by the Monetary Board, the decisions and resolutions of the SIB, the circular letters of the Superintendent of Banks, and other provisions that deal in greater detail with various aspects of banking institutions and activities.[93]

Table 4.10 Principal laws governing the banking sector, 2015

Name of law	Instrument
Organic Law of the Bank of Guatemala	Decree No. 16-2002
Monetary Law	Decree No. 17-2002
Law on financial supervision	Decree No. 18-2002
Law on banks and financial groups	Decree No. 19-2002
Law on private finance companies	Decree-Law No. 208-1964
Law on free trading in currencies	Decree No. 94-2000
Law against the laundering of money and other assets	Decree No. 67-2001
Law to prevent and repress the financing of terrorism	Decree No. 58-2005
Amendments to the Law on banks and financial groups and the Organic Law of the Bank of Guatemala	Decree No. 26-2012
Law on credit cards	Decree No. 7-2015
Law on microfinance entities and non-profit microfinance organizations	Decree No. 25-2016

Source: Banking Supervisory Authority. Viewed at: http://infpb.sib.gob.gt/Leyes/#!compendios.

4.96. The Law on banks and financial groups governs the establishment, organization, merger, activities, operations, functioning, suspension of operations and liquidation of banks and financial groups[94], as well as the establishment and closing of subsidiaries, branches and representative offices of foreign banks. The Monetary Law guarantees the free movement of capital and the free external convertibility of the national currency. The Law on financial supervision authorizes the SIB to supervise the banks and empowers it to impose sanctions; moreover, the SIB is authorized to carry out the consolidated supervision of financial groups in order that risks assumed by the members of a group which could affect the group's bank are properly assessed and controlled. The Law on free trading in currencies authorizes credit institutions to possess and operate in any currency; it also allows natural and legal persons, whether Guatemalan or foreign, to make deposits or take out loans with foreign banking entities, whether directly abroad or in Guatemala through representative offices registered in the country.

4.97. During the review period, important amendments were made to the Law on banks and financial groups (13 Articles modified and eight added) for the purpose of strengthening the authorization and operating regime for the entities concerned, improving prudential aspects, reinforcing the bank resolution mechanisms, and promoting market discipline. The principal amendments included the following: banks, finance companies and offshore entities were required to have an official risk rating; the financing limits that banks, finance companies and offshore entities can offer their shareholders or related enterprises were regulated; the SIB was authorized to limit the distribution of dividends by banks, finance companies and offshore entities where necessary to strengthen their liquidity or solvency; a minimum was established for the opening of accounts and the average monthly balance in offshore entities (US$10,000) and their deposits were excluded from the coverage of the Fund for the Protection of Savings (FOPA); the contributions to the FOPA made by the banks were raised; the disposal of banking portfolios was exempted from the payment of VAT and stamp duty; the bank resolution mechanisms were

[93] All these may be viewed on the SIB website at: http://infpb.sib.gob.gt/Leyes/#!compendios.
[94] A financial group is understood to mean a grouping of two or more legal persons which engage in activities of a financial nature and one of which is a bank (Article 27 of the Law on banks and financial groups).

expanded and wider powers were granted to the Assets and Liabilities Exclusion Boards in connection with banking operation suspension processes. Several regulations approved by the Monetary Board were issued between 2012 and 2013 to facilitate the implementation of the reforms contained in Decree No. 26-2012.

4.98. The Organic Law of the Bank of Guatemala (Article 48) was amended by Decree No. 26-2012, which entered into force on 1 April 2013. The amendment gave the Central Bank a more active role in the provision of financial assistance for institutions with liquidity problems; the limit, type of guarantees and term of the loan were extended, without exposing the Central Bank to additional risks.

4.99. The Law on credit cards (Decree No. 7-2015), approved on 4 December 2015, governs credit operations and buying and selling transactions carried out by means of credit cards, as well as the relations between issuers, operators, cardholders and affiliates. The Law entered into force on 8 March 2016 and was the subject of several actions for unconstitutionality. The Constitutional Court provisionally suspended its implementation at the end of March 2016. On 13 April 2016, the Law on microfinance entities and non-profit microfinance organizations was approved, by Decree No. 25-2016, with a view to facilitating financial deepening and inclusion for the direct benefit of micro, small and medium-sized enterprises.

4.100. Under the Law on banks and financial groups, the establishment of banks is subject to authorization by the Monetary Board, on the advice of the SIB. Domestic private banks must be set up as public limited companies. Foreign banks may establish branches or register representative offices solely for the purpose of promoting business and providing financing on Guatemalan territory, in which case they must appoint a legal representative who must then be enrolled in the SIB register.[95] Foreign banks may also be set up in Guatemala as subsidiaries that have their own legal personality and are independent of the parent bank, in which case they must comply with the same requirements and procedures as Guatemalan banks. The Regulations for the incorporation of domestic private banks and the establishment of branches of foreign banks (Resolution No. JM-78-2003) specify the requirements, procedures and time limits for processing the corresponding authorizations. In assessing an application to establish a branch of a foreign bank consideration should be given, among other aspects, to whether the country of the parent bank exercises supervision based on international standards; whether the body that supervises the parent bank has consented to the establishment of the branch in Guatemala; and whether institutional information can be exchanged between the supervisory authorities in the two countries.

4.101. The SIB is responsible for annually fixing and reviewing the minimum amount of initial paid-in capital of banks and branches of foreign banks incorporated or established in Guatemala. At the beginning of 2016, this amount was fixed at Q 109 million.[96] The paid-in capital of branches of foreign banks must actually enter Guatemala and be invested and kept there and may not be withdrawn without the prior express authorization of the Monetary Board. The Law on banks and financial groups (Article 64) requires banks to maintain a minimum capital adequacy ratio of 10% of assets and contingencies, both risk-weighted. During the review period (2009-2015), the ratio was maintained comfortably above the percentage required. Since 2009 the banking institutions have had to maintain, as a minimum, generic and specific reserves totalling 100% of the past-due portfolio.[97]

4.102. Domestic banks and branches of foreign banks authorized to operate in Guatemala may carry out all the operations permitted by Article 47 of the Law on banks and financial groups. In addition, Resolution No. JM-142-2011 authorized the banks in the system to provide insurance mass-marketing services, provided that they comply with the Regulations on the mass marketing of insurance (Resolution No. JM-1-2011 of 5 January 2011). The banks may agree freely with the users on the interest rates, commissions and other charges for the operations and services that they provide. There are no provisions that require banks to allocate part of their resources to specific economic activities.

[95] Article 6 of the Law on banks and financial groups.
[96] SIB Resolution No. 66-2016 of 21 January 2016.
[97] Monetary Board Resolution No. JM-167-2008 of 5 January 2009.

4.103. Both domestic banks and branches of foreign banks may invest in the shares of companies that carry out operations of a financial nature, subject to the approval of the Monetary Board, acting on the advice of the SIB. On the other hand, banks are prohibited from investing, directly or indirectly, in companies dedicated to commercial, agricultural, industrial or mining activities or other activities incompatible with their status as a bank. The investment concentration provisions of the Law on banks stipulate that financing operations, whether direct or indirect, carried out by banks, finance companies and offshore entities may not exceed: 15% of the computable net worth for a single natural or private legal person or single State enterprise or entity; or 30% of the computable net worth in the case of two or more related or linked persons. Decree No. 26-2012, which amended the Law on banks and financial groups, introduced some flexibility into these percentages.[98] The limits do not apply to financial operations with the Bank of Guatemala and the Ministry of Finance.

4.104. The purpose of the Fund for the Protection of Savings (FOPA), created by the Law on banks and financial groups, is to guarantee that depositors in the banking system will be able to recover their deposits. The FOPA covers amounts up to Q 20,000 or its equivalent in foreign currency, per natural or legal person with deposits in a domestic private bank or a branch of a foreign bank. The Fund's resources mainly consist of the compulsory contributions made by domestic banks and branches of foreign funds. The contributions are made up of a fixed component and a variable component. The 2012 amendment of the Law increased the fixed component to 1/12 of 1.5 per thousand of the deposits of each bank during the first nine months of operation of the amended law and 2 per thousand starting from the tenth month. The amendment also stipulated that accounts amounting to less than Q 1,000 (some US$130), inactive for ten years should be made over to the FOPA, except for those contractually or judicially locked up. The Bank of Guatemala is responsible for the management of the Fund, subject to supervision by the SIB. On 31 December 2015, the FOPA had assets of Q 3,155.8 million (US$413 million).[99]

4.105. During the review period, Guatemala pursued its efforts to strengthen its financial legislation as demonstrated by the amendments to the Law on banks and financial groups of 2012 and the regulations issued in order to implement those amendments. Where prudential regulation is concerned, the work of the SIB is oriented towards compliance with the Core Principles for Effective Banking Supervision of the Basel Committee on Banking Supervision. The advances made during the review period include, in particular, the continuous improvement of the risk-based approach to supervision by means of the preventive (*ex ante*) assessment of the risks assumed. Moreover, considering the growing participation of local groups in financial activity in Central America and Panama, as well as the increased foreign participation in Guatemalan banking and the recent opening up of the insurance market, the SIB has developed and implemented a consolidated and cross-border supervision methodology as part of the risk-based approach to supervision. On the basis of a self-assessment, the SIB considers that progress has been made with the consolidation of the framework for the supervision of risk and the gradual implementation of the Regulations for integrated risk management (Resolution No. JM-56-2011), which requires the institutions and entities that form part of a financial group to establish a unit whose functions include risk management, the timely identification of risks, the consolidation of risk analysis at group level and the assessment of capital adequacy in terms of the risks assumed.[100]

4.106. The IMF recommends strengthening consolidated supervision and supervision of financial entities that pose material risks to conglomerates, as well as tightening definitions of related parties, in order to mitigate risks of overestimating capital levels. The Fund also considers that a phased move to Basel III standards appears to be the right course of action.[101]

[98] There are exemptions from the 15% limit for a single person for transitory operational interbank deposits and for deposits and investments made by a financial group in its bank; the 30% limit is fixed for the investments of offshore entities in non-Guatemalan sovereign debt; a 100% limit is established for investments in the sovereign debt securities of countries with the highest risk rating; the limit for related enterprises is increased from 30% to 50% if the excess (20%) consists of credit assets supported by certificates of deposit or notes issued by the institution itself (Article 47 of the Law on banks and financial groups).

[99] Information provided by the Guatemalan authorities.

[100] SIB, *Memoria de Labores*, 2012-2013. Viewed at: http://www.sib.gob.gt/web/sib/superintendiencia/memoria-de-labores.

[101] IMF, "Guatemala: Findings and Preliminary Recommendations of the 2014 Article IV Mission", 7 July 2014. Viewed at: https://www.imf.org/external/spanish/np/ms/2014/070714s.htm.

4.4.3.2 Insurance

4.4.3.2.1 Overview

4.107. At the end of 2015 there were 28 insurance companies operating in Guatemala, of which two were State-owned[102], six were more than 50% foreign-owned and ten belonged to financial groups. Of these 28 insurance companies, ten were exclusively devoted to surety bond insurance. It should be mentioned that the change in the number of insurance companies currently participating in the market as compared with that reported in the 2009 Review is mainly due to the fact that with the entry into force of a new insurance law at the beginning of 2011, the firms that were previously operating as bonding companies acquired the status of an insurance company.

4.108. On 31 December 2015, the assets of the insurance companies amounted to Q 8,685.6 million (US$1,137.9 million), i.e. 10.1% greater than in December 2014, and accounted for 2.7% of the total assets of the financial system subject to SIB supervision. On the same date, the three main insurance companies held 45.1% of insurance sector assets and the first five companies held 60.6% of the total.[103]

4.109. At the end of 2015, total insurance company net premiums amounted to Q 6,156.6 million (US$806.6 million), an increase of 6.3% over the level recorded in 2014, which can be mainly attributed to the increase under the health and hospitalization and casualty (motor vehicle) headings. At the end of 2015, net premiums could be broken down as follows: casualty 51.6%; accident and sickness 25.2%; life (mainly group plans) 19.4%; and surety bond insurance 3.8%. Net premiums ceded amounted to 35.1% of total net premiums and net premiums retained to 64.9%.[104]

4.4.3.2.2 Legal framework

4.110. The legal framework for the insurance market underwent substantial changes with the enactment of the Insurance Activity Law/LAA (Decree No. 25-2010 of 11 August 2010), which entered into force on 1 January 2011, replacing the former Insurance Law (Decree-Law No. 473 of 1966), and the issuing of its implementing Regulations.

4.111. The LAA seeks to modernize the insurance market, improve its efficiency and strengthen its supervision in accordance with international standards; moreover, it forms part of the legislative reforms adopted to facilitate the implementation of the CAFTA-DR. The principal reforms introduced by the Law include the opening-up of the Guatemalan market to foreign insurance companies; an increase in the minimum paid-in initial capital for insurance companies depending on the different kinds of insurance they offer; and the regulation of various aspects of insurance company management previously unregulated. Moreover, the Law regulates reinsurance activities, among other things by introducing minimum paid-in initial capital requirements for reinsurance companies; allows domestic insurers and reinsurers to establish branches and invest abroad; requires companies to obtain an annual official risk rating; strengthens the sanctions regime (from US$500 to US$40,000); and regulates the exit regime, among other changes.

4.112. Under the LAA, authorizing the incorporation of insurance and reinsurance companies and the establishment of branches of foreign insurers and reinsurers is the responsibility of the Monetary Board (previously the Ministry of the Economy), subject to the favourable opinion of the SIB. Private insurers and reinsurers, irrespective of the origin of their capital, must be incorporated as public limited companies and have their domicile in Guatemala and a board of directors. The authorization of the SIB is required in order to acquire insurance company shares, if the value of those shares is equal to or greater than 5% of the paid-in capital.

4.113. Foreign insurers and reinsurers may establish branches (not previously permitted) with the authorization of the Monetary Board and are not required to have a board of directors, but must have one or more senior executives domiciled in Guatemala.[105] In assessing an application to

[102] The Insurance and Pensions Department and the Surety Bonds Department, both belonging to the National Mortgage Credit Bank of Guatemala, a State-owned banking institution.
[103] Information provided by the Banking Supervisory Authority.
[104] *Informe del Superintendente de Bancos ante la Honorable Junta Monetaria*, 31 December 2015.
[105] LAA Articles 6, 21 and 27.

establish a branch of a foreign insurer consideration is given to, among other factors, whether in the country of the parent insurer or reinsurer supervision is exercised in accordance with international standards, whether the supervisor has consented to the establishment of the branch in Guatemala and whether information can be exchanged between the supervisors in the two countries. The Regulations for the incorporation of domestic insurers and reinsurers and the establishment of branches of foreign insurers and reinsurers (Resolution No. JM-87-2010 of 20 September 2010) lays down the requirements, procedures and time limits for processing the corresponding authorizations.[106] Domestic insurers and reinsurers may also establish branches abroad (previously unregulated), subject to authorization of the management by the SIB and provided that the host country ensures supervision in accordance with the international standards for exercising consolidated supervision and the supervisory body agrees to exchange information.

4.114. The LAA increased the minimum amount of paid-in initial capital for the different kinds of activities of insurers and reinsurers incorporating in Guatemala and the branches of foreign insurers and reinsurers establishing themselves in the country; the capital required from the latter must actually enter, be invested and kept in Guatemala and may not be withdrawn without the authorization of the Monetary Board. The minimum amounts of capital are reviewed and fixed annually by the SIB (Table 4.11).

Table 4.11 Minimum amounts of paid-in initial capital for domestic insurers/reinsurers and branches of foreign insurers/reinsurers, 2016

Activity	Q
Life or personal insurance	5,000,000
Casualty insurance	8,000,000
Surety bond insurance	3,000,000
All branches of insurance	13,000,000
Exclusively reinsurance	26,000,000

Source: Article 17 of the Insurance Activity Law. Viewed at: http://infpb.sib.gob.gt/Leyes/#!compendios.

4.115. The LAA also requires insurers and reinsurers to hold different kinds of reserves depending on the insurance that they offer, in addition to provisions for catastrophic risks and other eventualities, as well as to maintain a level of technical equity that guarantees their solvency.[107] They are prohibited from acquiring financing to cover their own technical reserves, something not regulated by the previous law. On 31 December 2015, the global technical equity of the authorized insurers amounted to Q 3,058.7 million, while the solvency margin was Q 965.7 million, giving an asset position of Q 2,093 million.[108]

4.116. Insurance companies authorized to operate in Guatemala must have as their exclusive purpose that of acting as an insurer or reinsurer.[109] They may operate in any branch of insurance, provided that they pay in the minimum capital required for each branch. Moreover, they may form part of a financial conglomerate in accordance with the Law on banks and financial groups. Authorized insurers and reinsurers are free to agree insurance premiums, interest rates, commissions and other charges for their services with users; however, they must submit their insurance policies (texts, general conditions, riders, etc.) for registration with the SIB, prior to use. The SIB is authorized to grant or refuse registration. The offering of insurance policies not registered with the SIB is prohibited.

4.117. As a general rule, any person not authorized in accordance with the LAA is prohibited from marketing or selling insurance or carrying out any other active insurance operation on Guatemalan territory. This prohibition does not apply to the provisions of international agreements and treaties

[106] There is also a Procedures Manual for the Incorporation of Domestic Insurers and Reinsurers and a Procedures Manual for the Establishment of Branches of Foreign Insurers and Reinsurers. Viewed at: http://www.sib.gob.gt/web/sib/normativa/procedimientos?p_p_id=86&p_p_action=1&p_p_state=normal&p_p_mode=view&p_p_col_id=&p_p_col_pos=1&p_p_col_count=4&.
[107] Titles V (Technical Reserves) and VII (Solvency Margin) of the LAA.
[108] *Informe del Superintendente de Bancos ante la Honorable Junta Monetaria*, 31 December 2015. Viewed at: http://www.sib.gob.gt/web/sib/informacion_sistema_financiero/informe-trimestral?p_p_id=110_INSTANCE_n1HH&p_p_action=0&p_p_state=maximized&p_p_mode=view&p_p_col_id=column-3&p_p_col_pos=2&p_p_col_count=3&_110_INSTANCE_n1HH_struts_action=%2Fdocument_library_display%2Fview&_110_INSTANCE_n1HH_folderId=2521241.
[109] LAA Article 6(b).

relating to the supply of or cross-border trade in the following services: (a) insurance against the risks of maritime shipment, commercial aviation, space launches and goods in international transit; (b) reinsurance and retrocession; (c) insurance intermediation solely for the services indicated in (a) and (b); and (d) services auxiliary to insurance.

4.118. Insurers and reinsurers may only contract for reinsurance coverage with insurers or reinsurers registered with the SIB, for which purpose foreign reinsurers or insurers must comply with the requirements laid down in the Regulations issued by the Monetary Board (Resolution No. JM-6-2011 of 11 January 2011).

4.119. Under the LAA, insurers and reinsurers must keep their reserves and technical equity permanently invested in accordance with the investment requirements (liquidity, security, profitability and diversification) laid down in the Law and in the regulations contained in Resolution No. JM-3-2011 of 11 January 2011. Insurance and reinsurance companies are now authorized to invest abroad up to 30% of their technical reserves, which was not permitted under the previous law. On 31 December 2015, the investments underpinning the technical reserves of all the insurance companies taken together amounted to Q 5,342.9 million.[110]

4.120. Another requirement introduced by the LAA obliges insurers and reinsurers to submit to the SIB an annual report on their rating, issued by an internationally recognized rating agency registered with the SIB. The rules for registering were published in Resolution No. JM-41-2013 of 19 April 2013.

4.121. Where supervision of the insurance sector is concerned, the SIB takes a risk-based approach and is guided by the Insurance Core Principles (2011) of the International Association of Insurance Supervisors (IAIS). From the self-assessment carried out in 2013 the SIB concluded that the entry into force of the LAA and the subsequent issuing of prudential regulations had made it possible to progress with the application of these principles in the following areas: conditions necessary for the effective supervision of insurance companies; changes in share control and portfolio disposals; and compliance and sanctions.[111] Other subsequent advances include the implementation of risk-based insurance supervision and the issuing of regulations to strengthen the insurance market, including the Group Insurance Regulations and the Regulations on the mass marketing of insurance. A road map is currently being prepared for adopting a scheme equivalent to Solvency II.

4.4.4 Transport

4.122. Transport services, together with storage and communications, contributed 7.6% of GDP in 2015. The Ministry of Communications, Infrastructure and Housing (MCIV) oversees the transport sector and is responsible for regulation and for formulating and implementing policy in the various subsectors. Decentralized units of the MCIV deal with aspects relating to maritime, air and land transport and highway administration, respectively.

4.123. According to Article 131 of the Constitution, the installation and operation of any national or international transport service requires government authorization and land terminals, airports and seaports are considered to be property for public use.

4.124. During the review period, sectoral policies were governed by the National Transport Master Plan (1996-2015), which established the following as priority tasks: the preparation of a road development plan; the constitution of a maritime-port authority; the privatization of services and the reform of the tariff regime; the modernization of La Aurora International Airport[112]; the construction of a new international airport; and the restructuring of the aviation administration system. The measures carried out in this context include the preparation of the Road Development Plan, which entered into force in December 2007, the start of a new highway project called the Southern Alternative Route (headed by a private company), work on preventing highway collapse and various improvements to La Aurora International Airport. Within the context of the National Competitiveness Programme (PRONACOM), steps were taken to push ahead with the Multimodal

[110] *Informe del Superintendente de Bancos ante la Honorable Junta Monetaria*, 31 December 2015.
[111] SIB, *Memoria de Labores*, 2012-2013. Viewed at: http://www.sib.gob.gt/web/sib/superintendiencia/memoria-de-labores.
[112] Work began in 2007 but was suspended until March 2015.

Plan for Transport Infrastructure Works (PMOIT, 2008), which proposed infrastructure projects for the port, logistical, airport, rail and road subsystems. The authorities have indicated that the progress made involved the preparation of a National Logistics Plan (which replaced the PMOIT) and the strengthening of the maritime-port cluster.

4.4.4.1 Maritime transport and ports

4.125. Guatemala has coastlines on the Atlantic and Pacific Oceans and moves through its ports around 18% of the cargo handled by the Central American countries, which puts it in second place after Panama (60%). In terms of weight, 81% of Guatemala's foreign trade is transported by sea (63.4% in terms of value).[113]

4.126. The national port system (SPN) consists mainly of four ports: Puerto Quetzal and the Boyas de San José terminals (on the Pacific coast) and Puerto Santo Tomás de Castilla and Puerto Barrios (on the Atlantic). The ports are all State-owned, but have different management models. Puerto Quetzal and Puerto Santo Tomás are managed by decentralized and semi-autonomous State-owned enterprises with their own legal capacity. Puerto Barrios has been put out on concession for 25 years to a private company under a beneficial use contract with Ferrocarriles de Guatemala. The Boyas de San José group of terminals is run by hydrocarbon and molasses marketing companies, which use the terminals for servicing vessels outside the coastal fringe. Out of the 26.1 million tonnes (loading and unloading) handled by the SPN in 2015, 36% corresponded to containerized cargo; 36% to solid bulk; 22% to liquid bulk; and 6% to general cargo. In 2015, the SPN moved 1,351,273 TEUs.[114]

4.127. The maritime cargo moved by Guatemalan ports has increased rapidly in recent years: in the first half of 2015 alone it increased by 14% relative to the same period in 2014, a year in which a year-on-year increase of 17% was recorded. The current port infrastructure appears not to be sufficient to absorb this increase and major investment projects for the ports of Quetzal and Santo Tomás have recently been announced. According to a 2015 study, Guatemala's seaports have high operating costs, which are making its exports more expensive. More specifically, the study notes that there is congestion in the approaches to the ports and within the port installations, while the growth of the infrastructure is insufficient to meet the present and future demand, a situation further complicated by long waiting times in customs.[115] According to representatives of the Guatemalan Exporters Association, in Puerto Quetzal, a green-light container can wait for between five and ten days on average to be released, while a red-light container may take up to two weeks to be cleared.[116] In 2015, there was a considerable increase in port charges, which had remained fixed for 20 years.

4.128. Guatemala does not have a national merchant fleet. Guatemalan legislation does not contain specific provisions on the participation of foreign vessels in domestic cabotage services; however, in practice, they are authorized to provide these services. There are no restrictions on the participation of foreigners in the operation of ports put out on concession; nor are there any restrictions on the provision of auxiliary port services such as towing, handling and storage, except as regards pilotage.[117]

4.129. Guatemala does not have a law that deals specifically with maritime transport and ports. The subsector is governed by Article 131 of the Constitution and by Book III of the Commercial Code (Government Decree No. 2946 of 1942), which regulates maritime trade, as well as by other laws such as the Law on the protection and improvement of the environment, the Law on fishing and aquaculture and the Law on protected areas. For several years consideration has been given to the possibility of formulating a maritime transport law, but such a law has still to see the light of day; Book III of the Commercial Code is currently under review. It is also necessary to develop a

[113] Information provided by the Guatemalan authorities.

[114] Online information from the National Port Commission. Viewed at: http://www.cpn.gob.gt.

[115] National Economic Research Centre (2016), *DesarrollApps, una propuesta para el desarrollo de Guatemala, Infraestructura*. Viewed at: http://centralamericadata.com/es/article/home/Para_mejorar_la_infraestructura_de_Guatemala.

[116] Cited in *El Periódico*, "Dos meses para completar proceso de revisión en Puerto Quetzal", 3 November 2015. Viewed at: http://elperiodico.com.gt/2015/11/03/economia/dos-meses-para-completar-proceso-de-revision-en-puerto-quetzal.

[117] Regulations on the exercise of the profession of pilot in the waters of the Republic of Guatemala (1940).

new maritime policy, since the National Maritime Port Policy of 2006 has been left behind. In February 2016, the President of Guatemala entrusted the port authorities with the development of a policy to improve the handling of international maritime transport by establishing strategic partnerships to create infrastructure and train human resources.[118]

4.130. The MCIV is responsible for formulating general maritime transport and port policies and is required by law to serve as the port authority through the Vice-Ministry of Ports and Airports.[119] The National Port Commission (CPN), which reports to the Executive Branch, is a technical advisory body that provides support for the national port system. The CPN is composed of representatives of several Ministries[120], the main State-owned port enterprises and the private sector. Its functions include carrying out studies with a view to establishing a national port development policy and proposing regulations concerning port terminal traffic and tariffs.[121]

4.131. Preliminary draft laws for establishing a new port structure and authority were drawn up several years ago, but have not progressed beyond that stage. In March 2016, a committee was set up to review the latest draft, which dates from 2012, and to produce a new bill for submission to Congress.

4.132. Every port and State-owned port enterprise is governed by its own law and has a Board of Directors in which representatives of the Ministries of State, including the MCIV, participate. The ports assess and determine their charges in accordance with their organic laws and submit them to their respective Boards for approval. In the case of Puerto Quetzal, the charges approved by the Board are transmitted to the MCIV for publication in the Official Journal by Ministerial Decision.

4.133. In March 2015, the National Maritime Administration Commission (CONAMAR) was set up under the direct authority of the President of the Republic.[122] CONAMAR has the task of coordinating the activities of the various institutions involved in maritime administration and is composed of the Vice-Minister for Navy Affairs (Ministry of Defence), the Vice-Minister for Plant and Animal Health and Regulations (Ministry of Agriculture, Livestock and Food), the Vice-Minister for the Environment (Ministry of the Environment and Natural Resources), the Vice-Minister for Communications, Infrastructure and Housing (MCIV), the Vice-Minister for Integration and Foreign Trade (Ministry of the Economy), the Vice-Minister for Energy and Mining, the Vice-Minister for Foreign Affairs and the Executive Secretary of the National Council for Protected Areas. CONAMAR has a 25-year term. It is responsible for recommending maritime policies, together with plans, programmes and strategies for promoting national maritime development. The measures it has taken since being set up include drawing up a Maritime Safety Policy, starting work on developing a national maritime policy and revising Book III of the Commercial Code.

4.134. The authorities have indicated that an Interinstitutional Agreement on Joint Inspection will shortly be signed for the purpose of instructing the border authorities, specifically the MAGA, the Ministry of the Interior and Customs to carry out joint physical inspections of cargo selected for the red channel. This Agreement is expected to become operational in the course of 2016.

4.135. At regional level, Guatemala forms part of the Central American Maritime Transport Commission (COCATRAM), whose function is to advise member governments on the adoption of policies to promote the maritime and port development of Central America.[123] The members of COCATRAM have approved a Regional Maritime and Port Strategy to facilitate foreign trade and speed up port operations. The strategy embraces four areas of action: (i) maritime transport: the intention is to modernize and harmonize the regional maritime legal framework; promote the establishment of a regional short-haul maritime transport service; and guarantee the safety of navigation for Central American routes and areas; (ii) ports: to promote investment in port physical infrastructure to meet present and future demand, while observing the rules for the preservation of the marine environment and security; (iii) community maritime policy: to establish

[118] Agencia Guatemalteca de Noticias (AGN), "Presidente Jimmy Morales modernizará sistema portuario de Guatemala", 22 February 2016. Viewed at: https://civmonitoreodemedios.wordpress.com/2016/02/22/presidente-modernizara-sistema-portuario.
[119] Article 30(i) of the Law on the Executive Branch.
[120] The Ministries of: Communications, Infrastructure and Housing; Finance; and the Economy.
[121] Government Decision (unnumbered) of 10 March 1972.
[122] Government Decision No. 58-2015 of 4 March 2015.
[123] The following are members of COCATRAM: Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama.

a maritime and port skills development and training system; and (iv) marine and coastal zones: to ensure the protection, conservation and sustainable exploitation of the coastal zones and maritime areas and the natural resources of the sea.

4.136. Short-Distance Maritime Transport (TMCD) is a COCATRAM-led project aimed at promoting the growth of intraregional trade, through the establishment of short-distance maritime transport routes in the region, thereby offering new alternatives to land transport. The TMCD is aimed at reducing transport times, formalities and costs; improving safety; increasing cargo volumes; making cargo handling more efficient; creating jobs; and promoting trade with other regions of the world. A feasibility study carried out for this purpose covers four main areas: trade patterns in the Mesoamerican area; potential TMCD routes in Mesoamerica; an institutional design and management model for TMCD; and analysis of the port facilities in the region.[124] In November 2013, the study concluded that it was feasible to develop TMCD. In March 2015 activities were carried out to spread news of the project among the maritime players of the region.

4.137. Guatemala is a member of the International Maritime Organization and a signatory to various international conventions on maritime transport, including the United Nations Convention on the Law of the Sea, the International Convention for the Prevention of Pollution from Ships, the International Convention for the Safety of Life at Sea, the International Convention on Load Lines and the Convention on Facilitation of International Maritime Traffic. In June 2013, Guatemala acceded to the Latin American Agreement on Port State Control of Vessels (Viña del Mar, 1992). Guatemala has not concluded cargo-sharing arrangements with other countries and neither is it a party to the UNCTAD Liner Code.

4.4.4.2 Air transport and airports

4.138. According to the data for 2015, some 10% by value of Guatemala's foreign trade (imports and exports) is transported by air (0.2% in terms of volume).

4.139. Guatemala has 17 airfields; two of these are international airports: La Aurora International Airport near Guatemala City and Mundo Maya Airport in Santa Elena, in the Petén Department in the north of the country. La Aurora International Airport is the busiest and in 2014 handled 101,522 flights, 2.2 million passengers and 59.4 million tonnes of freight. Mundo Maya Airport is mainly focused on tourism and in the same year handled 7,585 flights and 109,490 passengers.[125]

4.140. Although there are no legal restrictions on the participation of private investment in the airports, Guatemala's main airports are in the hands of the State, as are their management and operation. To promote the development of international trade and tourism, during the review period Guatemala continued to work on modernizing its airport infrastructure, mainly at La Aurora International Airport, which received investment for its expansion and refurbishment, including the expansion of the facilities for handling air freight. Moreover, there are projects to develop the airports of Retalhuleu and Puerto Barrios to handle tourist traffic; to renovate Mundo Maya Airport; and to develop the airport of San José to serve as an alternative to La Aurora. These projects are in the economic analysis phase. The authorities are trying to facilitate the participation of private investment in the infrastructure, through the National Agency for Partnerships for Economic Infrastructure Development (ANADIE), created in 2013.

4.141. There are no State-owned enterprises that provide air transport services.

4.142. The air transport sector in Guatemala is governed mainly by the Civil Aviation Law (Decree No. 93-2000 of 18 December 2000) and its implementing Regulations (Government Decree No. 384-2001). No fundamental changes were made in this legal framework during the review period, although the authorities did issue or amend some civil aviation regulations on aspects such as airfield certification, operation and surveillance; operational safety; and the regulation of unmanned aircraft.

[124] The study may be viewed on the official website of the Mesoamerican Project at: http://www.proyectomesoamerica.org/joomla/index.php?option=com_content&view=article&id=620&Itemid=234.

[125] Online information from the Directorate-General of Civil Aviation. Viewed at: http://www.dgac.gob.gt/index.php/estadisticas-2015.

4.143. Under the Law on the Executive Branch, it is for the Vice-Ministry of Ports and Airports of the MCIV to serve as the airport authority. The Directorate-General of Civil Aviation (DGAC), which comes under this Vice-Ministry, is responsible for issuing, overseeing, monitoring and administering, on the basis of the Civil Aviation Law, regulations and other supplementary rules, airport services, air traffic support services, air transport and telecommunications services and, in general, all civil aviation activities.[126] The DGAC is also authorized to supervise airfield construction and operation.

4.144. Under the Civil Aviation Law, the written authorization of the DGAC is required to provide commercial passenger, freight and/or mail air transport services and combined services. Such authorization must be granted within a maximum of 30 days from the date of conclusion of the air operating certificate proceedings and fulfilment of all the corresponding requirements. It is the responsibility of the Air Transport Department of the DGAC to administer the operating certificates for scheduled and non-scheduled air transport companies.

4.145. Authorized air transport operators must be enrolled in the National Aviation Register administered by the DGAC. Any aircraft enrolled in the Register is considered to be Guatemalan. Foreign-registered aircraft can obtain Guatemalan registration, subject to cancellation of the previous registration. A Guatemalan company can lease foreign-owned aircraft for use inside or outside the country and enrol them in the National Aviation Register for the duration of the lease, thereby obtaining provisional Guatemalan registration for them without having to pay import taxes.

4.146. Since January 2004 it has been possible for companies providing domestic air transport services (cabotage) to be 100% foreign-owned. These companies must have their principal domicile in Guatemala and at least one half plus one of their directors and managers must be Guatemalan or reside permanently in the country.[127]

4.147. There are no legal restrictions placed on the ownership of international air transport companies. However, companies authorized to provide international air transport services must appoint a legal representative permanently domiciled in Guatemala. The operating permit for foreign operators is issued on the basis of the international agreements signed by Guatemala and in conformity with the provisions of the Convention on International Civil Aviation (Article 33).

4.148. Under the Civil Aviation Law, the tariffs and charges for domestic and international air transport services are freely fixed by the airlines in accordance with market conditions and the criteria of supply and demand. In the case of international transport services covered by international agreements signed by Guatemala, the tariffs are fixed in accordance with those agreements. By way of exception and for reasons of national interest or public necessity, the Law allows the State to fix minimum and maximum domestic and international air transport tariffs. This situation has not arisen in practice.

4.149. The Civil Aviation Law establishes an "open skies policy". Thus, Guatemala grants the third, fourth and fifth freedoms to all countries with respect to scheduled and non-scheduled international commercial air services.[128] The sixth, seventh and eighth freedoms are subject to reciprocity, while the ninth freedom is not granted. Guatemala currently has 12 bilateral air transport services agreements in force, all concluded prior to the review period (Table 4.12).

Table 4.12 Bilateral air transport agreements in force, 2016

Interlocutor	Decree	Date of ratification	Freedoms granted	Cabotage Y/N
Germany	No. 5-70	23 February 1970	3rd, 4th,	N
Belgium	No. 22-70	24 June 1970	3rd, 4th 5th,...	N
Chile	No. 2-2005	1 March 2005	3rd, 4th 5th,...	N
Ecuador	No. 4-93	18 February 1994	3rd, 4th 5th,...	N
Spain	No. 68-71	10 November 1971	3rd, 4th 5th,...	N
United States	No. 41-98	11 July 2001	3rd, 4th 5th,...	N
France	No. 32-70	23 June 1970	3rd, 4th 5th,...	N

[126] Articles 6 and 7 of the Civil Aviation Law.
[127] Article 71 of the Civil Aviation Law.
[128] Article 66 of the Civil Aviation Law.

Interlocutor	Decree	Date of ratification	Freedoms granted	Cabotage Y/N
Mexico	No. 12-2001	29 May 2001	3rd, 4th 5th,...	N
Netherlands	No. 26-79	21 May 1979	3rd, 4th 5th,...	N
Panama	No. 12-2001	29 May 2001	3rd, 4th 5th,...	N
Switzerland	No. 9-75	24 March 1975	3rd, 4th 5th,...	N
Chinese Taipei	No. 18-2007	9 May 2007	3rd, 4th 5th,...	N

.... Additional freedoms subject to the principle of reciprocity.

Source: Information provided by the Guatemalan authorities.

4.150. Guatemalan-registered aircraft may be maintained in workshops located outside the country. Under the Foreign Investment Law, private and foreign participation in air transport operations is allowed and there are no restrictions on the number of providers of computer reservation systems or on the number of travel agencies which the providers of these systems can service. Computer reservation system providers do not have to be established in Guatemala to supply their services.

4.4.5 Tourism

4.151. Tourism is a sector of increasing importance for the Guatemalan economy, particularly in terms of foreign currency generation. In 2015, the tourism industry accounted for 14% of Guatemala's exports.[129]

4.152. Between 2009 and 2015, the "restaurants and hotels" subsector grew at an average annual rate of 3.6% and accounted for 2.3% of national GDP (2015).[130] The income earned from international tourism increased from US$1,359 million in 2009 to US$1,580 million in 2015 (Table 1.4). The number of international visitors to the country increased from 1.2 million to 1.7 million during the same period.[131] However, this was not reflected in an increase in the hotel occupancy rate, which stood at 54% in 2015.[132] The main markets of origin are El Salvador, the United States, Honduras and Mexico[133]; and the principal mode of entry is by land (seven out of every ten visitors).

4.153. In 2015, there were more than 900 registered hotels and establishments providing lodging services; a total of 845 tourist guides; 520 inbound tour operators; more than 400 tourist transport enterprises; and 18 marinas.[134]

4.154. The Guatemalan Institute of Tourism (INGUAT), a decentralized State entity, is the governing body and responsible for the design and implementation of sectoral plans and policies. INGUAT coordinates and encourages partnership between the public and private sectors for the purpose of promoting the development of tourism. Its terms of reference and functions are laid down in the Organic Law of the Guatemalan Institute of Tourism of 1967 (LOIGT).[135] The institutional framework is completed by the Guatemalan Chamber of Tourism (CAMTUR), the Guatemalan Exporters Association (AGEXPORT) and other private associations, as well as by the municipal governments and the tourism committees of the Urban and Rural Development Councils.

4.155. INGUAT's Organic Law establishes the general legislative framework for the tourism sector. The guidelines for the sector are laid down in the National Policy for Sustainable Tourism Development in Guatemala 2012-2022 (PNDTS), approved by Government Decision No. 98-2012 of 25 May 2012. Its main objectives include: improving the country's competitiveness in the tourism sector; diversifying and enriching the supply of tourist destinations and products; professionalizing the industry's human resources; strengthening tourist information and assistance programmes; and placing sustainability at the heart of national tourism development.

[129] Data provided by the Guatemalan authorities.
[130] Statistics of the Central Bank of Guatemala. Viewed at: http://www.banguat.gob.gt.
[131] Information provided by INGUAT.
[132] Research and Social Studies Association (2015), *Hacia un turismo moderno y desconcentrado.* Viewed at: http://www.asies.org.gt/hacia-un-turismo-moderno-y-desconcentrado-2.
[133] World Tourism Organization (2015), *UNWTO Tourism Highlights*. Viewed at: http://www.e-unwto.org/doi/pdf/10.18111/9789284416875 (preliminary figures).
[134] Information provided by INGUAT.
[135] Decree No. 1071 of 8 September 1967.

4.156. In 2015, the Guatemalan Sustainable Tourism Master Plan 2015-2025, drawn up by INGUAT as part of the programme to achieve the objectives of the PNDTS, was published. The purpose of the Master Plan is to develop tourism in a sustainable way, at the environmental, economic, social and cultural levels. To this end, it provides for the implementation of a new system of land use planning for the various areas of the country with tourist attractions, establishing priority measures, programmes and lead times. INGUAT is responsible for following up, monitoring and assessing the Plan.

4.157. Guatemala has reoriented its country brand strategy towards the promotion of its main comparative advantages as a tourist destination. Thus, the 2015 Master Plan places the emphasis, among other things, on cultural and nature tourism as a mainstay of the sector. Guatemala can count on its Mayan heritage and its wealth of ethnic and archaeological resources. The country is a member of the Mundo Maya Organization, whose mission is the preservation and touristic development of this cultural legacy. Where nature tourism is concerned, the Master Plan seeks to exploit Guatemala's position as one of the countries with the greatest biodiversity in terms of flora and fauna.

4.158. For several years, the sectoral authorities have been working to adopt and implement the Tourism Satellite Account, the standardized methodological framework used by the United Nations to harvest tourism statistics. The authorities have indicated that they are expecting the basic information needed to start applying the Satellite Account to have been organized by June 2017. In 2012, the Sectoral Coordinating Office for Tourism Statistics, coordinated by the National Institute of Statistics, was set up to facilitate the consolidation and standardization of tourism-related statistics. Some observers have drawn attention to the need to use the Satellite Account to improve the collection and reliability of the sector's statistics.[136]

4.159. Work has also been done on improving tourist safety. In 2014, the *Ministerio Público* and INGUAT signed a cooperation agreement to establish institutional cooperation mechanisms in order to provide care and protection for tourists and prosecute anyone who commits an offence against foreign visitors.

4.160. The LOIGT establishes a boarding tax or fee to be paid by everyone, Guatemalan or foreign, leaving the country by air or sea. The tax is US$30 for journeys made by air and US$10 for those made by sea. Departures by land are not subject to the tax. The funds obtained from the payment of the tax are used to finance the budgets of INGUAT and the National Council for Protected Areas (CONAP), among other institutions. In 2010, an amendment to the LOIGT abolished the payment of the tax by international cruise ship passengers deemed to be in transit, whose stay in the country does not exceed 72 hours.[137]

4.161. Foreign investment in the tourism sector is governed by the Foreign Investment Law of 1998. There are no nationality limitations on investment in the sector. National treatment is granted to foreign investment in hotels, lodging services, tour operators and travel agencies.[138] It is necessary to register with INGUAT in order to provide the following tourist services: hotels and guesthouses, travel agencies, schools for teaching Spanish as a second language, Spanish teachers, tourist transport, tourist guides, tourist marinas, tourist information offices and time-sharing properties for tourists.

4.162. Foreigners wishing to provide tourist guide services must apply to register with INGUAT, and submit a sworn statement to the effect that they are resident in Guatemala and are not providing their tourist guide services in a relation of dependence on Guatemalan entities (that is to say, they are working on their own account). Otherwise they must submit a work permit issued by the Ministry of Labour and Social Security.[139] Only in the case of "community" tourist guides is it a

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[136] Research and Social Studies Association (2015), *Hacia un turismo moderno y desconcentrado.* Viewed at: http://www.asies.org.gt/hacia-un-turismo-moderno-y-desconcentrado-2.

[137] Legislative Decree No. 41-2010 of 12 October 2010.

[138] Only hotels and lodging services in the four and five star categories.

[139] Article 9 of the Regulations on the registration and operation of tourist guides, Decision No. 187-2007-D of 7 May 2007.

requirement to be Guatemalan and to come from the community in which the services are provided.[140]

4.163. In accordance with the commitments undertaken by Guatemala within the context of the GATS, under the supply mode "presence of natural persons", the presence of foreign personnel is permitted only if it is specialized and required for the purpose of training Guatemalan personnel.[141]

4.164. Guatemala is not currently offering any tax incentives for investment in tourism activities or infrastructure. The provisions of the National Tourism Promotion Law and the LOIGT which granted tax exemptions for hotel infrastructure have been repealed.[142]

[140] Ibid., Article 7, paragraph 1.
[141] WTO document GATS/SC/36 of 15 April 1994.
[142] Article 10 of the National Tourism Promotion Law and LOIGT Article 30 were repealed by Decree of the Congress of the Republic No. 117-97.

5 APPENDIX TABLES

Table A1. 1 Merchandise exports by HS section, 2009-2015

(US$ million and %)

Description	2009	2010	2011	2012	2013	2014	2015[a]
	(US$ million)						
General exports	**7,214**	**8,463**	**10,401**	**9,979**	**10,025**	**10,803**	**10,726**
of which:							
Exports under Legislative Decree No. 29-89	2,293	2,654	3,352	3,040	3,069	3,481	3,582
Free zone exports	293	335	424	423	534	687	734
	(% of general exports)						
1 - Live animals; animal products	1.1	0.9	0.9	1.0	0.9	0.9	0.7
03 - Fish and crustaceans, molluscs and other aquatic invertebrates	0.8	0.6	0.6	0.6	0.7	0.7	0.5
2 - Vegetable products	25.5	22.3	24.4	23.3	22.1	21.2	22.7
08 - Edible fruit and nuts; peel of citrus fruit or melons	8.9	6.5	6.8	7.4	8.7	8.9	10.3
09 - Coffee, tea, maté and spices	12.3	12.1	14.2	12.2	9.3	8.5	8.5
07 - Edible vegetables and certain roots and tubers	2.5	2.0	2.0	2.2	2.3	2.3	2.3
12 - Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial plants, etc.	0.7	0.7	0.5	0.6	0.9	0.7	0.7
06 - Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage	0.7	0.6	0.6	0.6	0.6	0.6	0.6
3 - Animal or vegetable fats and oils	2.3	2.4	3.2	3.6	3.6	3.5	3.4
4 - Prepared foodstuffs; beverages, spirits and vinegar; tobacco	17.6	18.1	14.9	18.5	20.3	19.2	18.4
17 - Sugars and sugar confectionery	8.3	9.6	7.3	9.0	10.4	9.7	9.1
22 - Beverages, spirits and vinegar	2.5	2.2	1.9	3.0	3.2	3.0	2.7
21 - Miscellaneous edible preparations	1.7	1.6	1.5	1.7	1.6	1.6	1.7
19 - Preparations of cereals, flour, starch or milk; pastry cooks' products	2.0	1.5	1.3	1.4	1.5	1.5	1.7
20 - Preparations of vegetables, fruit, etc.	0.9	1.0	0.9	1.1	1.1	1.0	1.1
5 - Mineral products	8.8	10.6	13.9	10.0	10.0	14.6	11.2
26 - Ores, slag and ash	4.7	5.9	8.8	5.8	5.1	7.8	6.8
27 - Mineral fuels, mineral oils and products of their distillation	4.0	4.5	5.0	4.0	4.6	6.6	4.1
6 - Products of the chemical or allied industries	10.1	9.7	8.7	9.5	9.3	8.8	9.8
30 - Pharmaceutical products	2.3	2.1	2.0	2.2	2.4	2.4	2.9
38 - Miscellaneous chemical products	1.7	1.7	1.4	1.7	1.8	1.7	1.8
34 - Soap, organic surface-active agents, washing preparations, lubricating preparations	2.0	1.9	1.7	2.0	2.0	1.7	1.7
33 - Essential oils; perfumery preparations	1.8	1.8	1.7	1.7	1.4	1.3	1.6
7 - Plastics and articles thereof	4.4	5.5	6.4	6.0	5.4	4.7	4.5
39 - Plastics and articles thereof	2.3	2.5	2.4	2.8	2.8	2.8	2.9
40 - Rubber and articles thereof	2.2	3.0	4.0	3.2	2.6	1.9	1.6
8 - Raw hides and skins, leather, fur skins and articles thereof; saddlery and harness	0.4	0.4	0.4	0.4	0.4	0.4	0.4
9 - Wood and articles of wood; wood charcoal	0.7	0.6	0.6	0.6	0.7	0.6	0.8
10 - Pulp of wood or of other fibrous cellulosic material; paper or paperboard, etc.	2.2	2.3	2.3	2.4	2.4	2.3	2.5
48 - Paper and paperboard; articles of paper pulp, of paper or of paperboard	1.8	1.9	1.8	2.0	2.0	1.9	2.1
11 - Textiles and textile articles	17.1	16.7	14.4	14.4	15.3	14.3	15.0
61 - Articles of apparel and clothing accessories, knitted or crocheted	11.2	10.7	9.1	9.2	10.1	9.4	9.8
62 - Articles of apparel and clothing accessories, not knitted or crocheted	2.9	2.9	2.6	2.7	2.6	2.4	2.6
60 - Knitted or crocheted fabrics	1.1	1.2	1.0	0.8	0.9	0.9	1.1
12 - Footwear, headgear, umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, etc.	0.5	0.5	0.4	0.4	0.4	0.4	0.4
13 - Articles of stone, plaster, cement, asbestos, mica; ceramic products; glass	1.0	1.1	1.1	1.0	1.0	1.0	1.2
70 - Glass and glassware	0.5	0.6	0.6	0.5	0.5	0.5	0.6
14 - Natural or cultured pearls, precious or semi-precious stones, precious metals	0.7	0.7	0.5	0.7	0.5	0.4	0.3
15 - Base metals and articles of base metal	3.7	3.8	4.1	3.9	3.5	4.0	4.6
72 - Iron and steel	1.7	1.7	2.0	1.6	1.3	1.6	2.3
73 - Articles of iron or steel	1.1	1.0	1.1	1.3	1.2	1.2	1.3
16 - Machinery and mechanical appliances; electrical equipment; parts thereof	2.4	2.9	2.1	2.2	2.2	1.8	2.2
84 - Nuclear reactors, boilers, machinery	1.3	1.4	1.3	1.2	1.3	1.0	1.3
85 - Electrical machinery and equipment	1.2	1.5	0.8	1.0	0.9	0.8	0.9
17 - Vehicles, aircraft, vessels and associated transport equipment	0.6	0.5	0.6	0.7	0.6	0.5	0.7
18 - Optical, photographic or cinematographic instruments and apparatus, etc.	0.3	0.2	0.2	0.2	0.3	0.3	0.3
20 - Miscellaneous manufactured articles	0.7	0.8	0.8	0.9	1.0	1.0	1.0
94 - Furniture; bedding, mattresses, mattress supports, cushions, etc.	0.4	0.5	0.5	0.5	0.6	0.5	0.6

a Preliminary figures.

Source: WTO Secretariat estimates.

Table A1. 2 Merchandise imports by HS section, 2009-2015

(US$ million and %)

	2009	2010	2011	2012	2013	2014	2015[a]
General imports	**11,531**	**13,838**	**16,613**	**16,994**	**17,518**	**18,282**	**17,639**
of which:							
Imports under Legislative Decree No. 29-89	1,450	1,797	2,077	2,114	2,458	2,375	2,166
Free zone imports	706	868	1,075	1,025	1,321	1,724	1,380
	(% of total imports)						
1 - Live animals; animal products	2.0	2.1	1.9	2.2	2.2	2.5	2.5
02 - Meat and edible meat offal	0.6	0.6	0.6	0.7	0.7	0.8	1.0
04 - Dairy produce; birds' eggs; natural honey; edible products of animal origin	1.0	1.0	0.9	1.0	0.9	1.0	1.0
2 - Vegetable products	4.5	3.8	4.3	4.2	4.0	4.0	4.1
10 – Cereals	2.8	2.3	2.7	2.6	2.4	2.3	2.4
11 - Products of the milling industry; malt; starches, etc.	0.6	0.5	0.6	0.5	0.6	0.5	0.5
3 - Animal or vegetable fats and oils	1.3	1.5	1.4	1.2	1.2	0.9	0.9
4 - Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured tobacco substitutes	6.4	6.2	5.9	6.2	6.5	6.8	7.3
21 - Miscellaneous edible preparations	1.5	1.4	1.3	1.4	1.5	1.6	1.8
23 - Residues and waste from the food industries; prepared animal fodder	1.3	1.3	1.2	1.4	1.5	1.6	1.5
19 - Preparations of cereals, flour, starch or milk; pastry cooks' products	1.4	1.5	1.4	1.3	1.3	1.3	1.4
22 - Beverages, spirits and vinegar	0.6	0.5	0.5	0.6	0.6	0.7	0.8
5 - Mineral products	19.7	18.5	20.3	20.0	19.3	19.8	14.6
27 - Mineral fuels, mineral oils and products of their distillation; bituminous substances, etc.	19.3	18.1	20.0	19.7	19.1	19.5	14.2
6 - Products of the chemical or allied industries	13.8	13.6	13.0	13.4	13.4	12.9	14.1
30 - Pharmaceutical products	3.4	2.9	2.7	2.8	3.2	3.2	3.8
33 - Essential oils and resinoids; perfumery, cosmetic or toilet preparations	2.3	2.1	2.0	2.0	1.9	1.9	2.1
29 - Organic chemicals	1.9	2.0	1.9	1.9	1.8	1.7	1.8
31 - Fertilisers	1.2	1.8	1.9	2.0	1.8	1.6	1.7
38 - Miscellaneous chemical products	1.7	1.7	1.4	1.5	1.7	1.6	1.6
32 - Tanning or dyeing extracts; tannins and their derivatives; dyes, pigments; paints and varnishes, etc.	1.0	1.0	1.0	1.0	0.9	0.9	1.0
7 - Plastics and articles thereof	6.5	6.8	6.8	6.5	6.8	7.0	7.1
39 - Plastics and articles thereof	5.4	5.6	5.6	5.3	5.6	5.8	5.9
40 - Rubber and articles thereof	1.1	1.2	1.2	1.2	1.2	1.2	1.3
8 - Raw hides and skins, leather, fur skins and articles thereof; saddlery and harness	0.3	0.3	0.3	0.3	0.3	0.3	0.4
9 - Wood and articles of wood; wood charcoal	0.3	0.3	0.3	0.4	0.3	0.3	0.4
10 - Pulp of wood or of other fibrous cellulosic material; paper and paperboard and articles thereof	4.7	4.5	4.4	3.9	3.9	3.9	4.1
48 - Paper and paperboard and articles thereof	3.9	3.8	3.7	3.2	3.3	3.2	3.4
11 - Textiles and textile articles	8.8	8.8	8.3	7.6	7.6	6.8	7.6
52 - Cotton	2.7	2.8	2.6	2.0	2.0	1.5	1.6
60 - Knitted or crocheted fabrics	1.6	1.3	1.2	1.0	1.1	1.1	1.2
55 - Man-made staple fibres	1.1	1.2	1.2	1.1	1.1	1.1	1.1
54 - Man-made filaments	1.1	1.1	1.1	1.2	1.1	0.9	1.0
12 - Footwear, headgear, umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, riding-crops, etc.	0.8	0.8	0.8	0.8	0.8	0.8	1.0
64 - Footwear, gaiters and the like; parts of such articles	0.7	0.7	0.7	0.8	0.8	0.8	0.9
13 - Articles of stone, plaster, cement, asbestos; ceramic products; glass, etc.	1.0	0.9	0.8	1.0	0.9	0.9	0.9
70 - Glass and glassware	0.4	0.4	0.4	0.4	0.4	0.4	0.4
69 - Ceramic products	0.3	0.3	0.3	0.4	0.3	0.3	0.3
14 - Natural or cultured pearls, precious or semi-precious stones, precious metals	0.4	0.3	0.2	0.3	0.2	0.2	0.2
15 - Base metals and articles of base metal	5.8	6.6	7.1	6.3	6.6	6.7	6.9
72 - Iron and steel	2.5	3.3	3.7	2.9	3.0	3.1	3.0
73 - Articles of iron or steel	1.3	1.3	1.3	1.4	1.5	1.5	1.6
76 - Aluminium and articles thereof	0.9	0.8	0.9	0.9	1.0	1.0	1.1
83 - Miscellaneous articles of base metal	0.6	0.6	0.5	0.6	0.6	0.6	0.6
16 - Machinery and mechanical appliances; electrical equipment; parts thereof	15.4	16.2	15.7	16.3	16.8	17.0	17.2
84 - Nuclear reactors, boilers, machinery and mechanical appliances, etc.	7.8	7.5	8.1	8.6	8.7	8.6	8.7
85 - Electrical machinery and equipment and parts thereof; recorders and reproducers, etc.	7.6	8.7	7.6	7.7	8.1	8.4	8.5
17 - Vehicles, aircraft, vessels and associated transport equipment	5.5	6.2	6.0	6.6	6.0	6.1	7.5
87 - Vehicles other than railway or tramway rolling-stock	5.3	6.1	5.9	6.5	5.8	6.0	7.4
18 - Optical and photographic instruments and apparatus, etc.	1.2	1.0	1.0	1.0	1.1	1.1	1.2
19 - Arms and ammunition; parts and accessories thereof	0.1	0.1	0.0	0.0	0.0	0.1	0.1
20 - Miscellaneous manufactured articles	1.5	1.5	1.4	1.8	1.7	1.9	2.1

Source: WTO Secretariat estimates.

Table A1. 3 Merchandise exports by trading partner, 2009-2015

(US$ million and %)

Description	2009	2010	2011	2012	2013	2014	2015[a]
	(US$ million)						
Exports	**7,214**	**8,463**	**10,401**	**9,979**	**10,025**	**10,803**	**10,726**
	(% of exports)						
America	**84.2**	**83.8**	**83.9**	**84.3**	**80.8**	**79.1**	**79.6**
USA	41.0	38.9	41.7	40.2	38.2	35.7	35.3
Other America	43.2	44.9	42.1	44.1	42.6	43.4	44.3
El Salvador	11.3	11.8	10.9	11.1	11.1	11.7	11.6
Honduras	8.4	8.3	7.8	8.0	7.9	8.2	8.4
Nicaragua	3.9	4.2	4.4	4.7	4.9	4.8	5.2
Mexico	5.9	5.3	4.9	5.5	4.7	4.0	4.0
Costa Rica	3.9	4.1	3.9	4.3	4.0	3.9	3.9
Panama	2.5	2.6	2.4	2.5	2.4	2.6	2.4
Canada	1.5	1.6	1.5	1.5	1.6	2.2	2.2
Dominican Republic	1.5	1.6	1.2	1.2	1.3	1.3	1.4
Chile	1.3	1.1	1.3	1.3	1.1	1.0	1.0
Belize	0.7	0.6	0.5	0.5	0.7	0.9	0.8
Venezuela, Bolivarian Republic of	0.2	0.8	0.7	0.7	0.9	0.7	0.7
Europe	**5.6**	**5.8**	**6.6**	**6.4**	**6.7**	**7.6**	**8.2**
EU(28)	5.5	5.6	6.4	6.2	6.5	7.5	7.9
Netherlands	1.6	1.3	1.3	1.7	2.6	2.5	2.7
Belgium-Luxembourg	0.6	0.6	1.1	0.8	0.6	0.9	1.1
Italy	0.8	0.8	1.0	0.8	0.6	0.7	1.0
United Kingdom	0.4	0.6	0.4	0.4	0.5	0.5	0.8
Germany	1.0	1.1	1.4	1.2	0.9	1.1	0.8
Spain	0.7	0.8	0.8	1.0	0.8	0.9	0.6
EFTA	0.1	0.2	0.2	0.2	0.1	0.1	0.1
Norway	0.1	0.2	0.2	0.2	0.1	0.1	0.1
Other Europe	0.0	0.0	0.0	0.0	0.1	0.1	0.2
Commonwealth of Independent States (CIS)[b]	**0.1**	**0.4**	**0.4**	**0.2**	**0.4**	**1.8**	**1.5**
Kazakhstan	0.0	0.0	0.0	0.0	0.0	1.2	0.9
Ukraine	0.0	0.1	0.0	0.0	0.1	0.5	0.5
Africa	**0.1**	**0.2**	**0.3**	**1.0**	**1.4**	**1.9**	**2.0**
Ghana	0.0	0.0	0.0	0.7	0.5	0.6	0.8
Congo, Democratic Republic of the	0.0	0.0	0.0	0.0	0.0	0.1	0.2
Tunisia	0.0	0.0	0.3	0.2	0.6	0.6	0.2
Middle East	**2.8**	**2.6**	**2.0**	**2.1**	**2.3**	**2.4**	**1.7**
United Arab Emirates	0.6	0.6	0.4	0.5	0.5	0.6	0.7
Saudi Arabia, Kingdom of	1.2	1.4	1.0	0.9	0.7	0.7	0.7
Syrian Arab Republic	0.5	0.3	0.3	0.4	0.7	0.9	0.1
Asia	**5.2**	**5.0**	**4.8**	**4.1**	**6.4**	**5.8**	**6.4**
China	0.4	0.4	0.3	0.3	1.7	0.4	1.9
Japan	1.5	1.7	2.0	1.8	1.9	1.5	1.7
Other Asia	3.3	2.9	2.5	2.0	2.8	3.9	2.8
Korea, Republic of	0.9	0.9	1.2	0.5	1.5	2.7	1.0
Malaysia	0.4	0.0	0.2	0.0	0.0	0.1	0.5
Chinese Taipei	0.4	0.5	0.4	0.5	0.6	0.6	0.4
Australia	0.1	0.0	0.1	0.1	0.1	0.1	0.2
Other	**2.0**	**2.2**	**2.0**	**1.9**	**2.0**	**1.4**	**0.6**

a Preliminary figures.
b The Commonwealth of Independent States (CIS) includes Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Republic of Moldova, Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

Source: WTO Secretariat estimates.

Table A1. 4 Merchandise imports by trading partner, 2009-2015

(US$ million and %)

Description	2009	2010	2011	2012	2013	2014	2015[a]
	(US$ million)						
Total imports	**11,531**	**13,838**	**16,613**	**16,994**	**17,518**	**18,282**	**17,639**
	(% of imports)						
America	**75.8**	**72.8**	**74.3**	**73.4**	**73.1**	**72.7**	**70.5**
USA	36.8	37.0	39.2	38.0	37.2	40.3	37.1
Other America	39.0	35.7	35.1	35.4	35.9	32.4	33.4
Mexico	10.3	11.1	11.2	11.3	10.6	10.7	11.6
El Salvador	5.1	4.9	4.9	4.6	4.7	4.5	5.1
Panama	3.2	3.2	2.9	3.2	3.3	3.7	3.4
Costa Rica	3.4	3.1	2.7	2.8	3.0	2.9	3.4
Colombia	2.8	2.8	3.6	3.2	4.4	2.1	2.1
Honduras	2.3	2.2	2.1	2.2	2.3	2.3	2.1
Brazil	2.0	1.7	1.7	1.5	1.4	1.1	1.3
Nicaragua	0.6	0.6	0.5	0.6	0.6	0.7	0.7
Chile	1.2	0.7	0.8	0.8	0.7	0.7	0.6
Peru	0.7	0.5	0.6	0.7	0.5	1.1	0.6
Uruguay	0.5	0.4	0.4	0.4	0.4	0.4	0.5
Europe	**7.6**	**7.4**	**7.4**	**7.3**	**7.7**	**7.4**	**8.0**
EU(28)	7.1	6.5	6.3	6.1	6.7	7.1	7.6
Germany	1.5	1.8	1.5	1.6	1.7	1.5	1.6
Spain	1.2	1.1	1.0	1.1	1.3	1.7	1.5
Belgium-Luxembourg	0.8	0.7	1.0	0.9	0.7	0.7	1.0
Netherlands	0.8	0.6	0.6	0.6	0.6	0.6	0.7
Italy	0.7	0.6	0.6	0.7	0.7	0.8	0.7
EFTA	0.4	0.8	0.9	1.0	0.9	0.2	0.2
Switzerland and Liechtenstein	0.2	0.3	0.3	0.2	0.2	0.1	0.1
Other Europe	0.1	0.1	0.1	0.2	0.2	0.1	0.1
Commonwealth of Independent States (CIS)[b]	**0.4**	**0.6**	**0.6**	**0.6**	**0.6**	**0.2**	**0.3**
Russian Federation	0.3	0.5	0.5	0.5	0.4	0.2	0.3
Africa	**0.0**	**0.0**	**0.0**	**0.1**	**0.1**	**0.1**	**0.0**
Middle East	0.3	0.4	0.3	0.4	0.4	0.5	0.6
Saudi Arabia, Kingdom of	0.1	0.1	0.2	0.1	0.2	0.3	0.3
Israel	0.2	0.2	0.2	0.2	0.2	0.2	0.2
Asia	**13.6**	**16.3**	**15.6**	**16.7**	**16.8**	**18.9**	**20.4**
China	5.3	7.1	6.9	7.4	8.2	9.8	10.6
Japan	1.5	2.0	1.8	1.6	1.5	1.4	1.6
Other Asia	6.8	7.1	6.9	7.6	7.2	7.6	8.2
Korea, Republic of	2.8	2.8	2.2	2.5	2.3	2.4	2.5
India	0.8	1.0	1.0	1.4	1.4	1.3	1.5
Hong Kong, China	1.2	1.0	1.0	1.1	1.1	1.4	1.4
Thailand	0.5	0.7	0.7	0.8	0.7	0.9	1.0
Chinese Taipei	0.7	0.7	0.7	0.8	0.7	0.7	0.8
Indonesia	0.1	0.1	0.1	0.2	0.2	0.2	0.2
Singapore	0.1	0.2	0.5	0.2	0.2	0.3	0.2
Malaysia	0.2	0.2	0.2	0.2	0.2	0.2	0.2
Other	**2.4**	**2.6**	**1.8**	**1.6**	**1.3**	**0.2**	**0.1**

a Preliminary figures.
b The Commonwealth of Independent States (CIS) includes Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Republic of Moldova, Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

Source: WTO Secretariat estimates.

Table A2. 1 Notifications to the WTO, 1 January 2009 to 15 June 2016

Agreement and Article	Requirement	Frequency	Document (most recent only if submitted regularly)	Date
Agreement on Trade Facilitation				
Article 15, Section II	Category A commitments	Once only	WT/PCTF/N/GTM/1	12/08/2014
Agreement on Agriculture				
Articles 10 and 18.2, ES:1	Export subsidies	On an annual basis	G/AG/N/GTM/52	16/03/2016
Article 18.2, DS:1	Domestic support	On an annual basis	G/AG/N/GTM/53	17/03/2016
Article 18.2, DS:2	Domestic support	On an annual basis	G/AG/N/GTM/49	28/05/2015
Article 18.2, MA:1	Tariff quotas	On an annual basis	G/AG/N/GTM/38	18/01/2011
Article 18.2, MA:2	Tariff quotas	On an annual basis	G/AG/N/GTM/55	24/05/2016
Article 18.2, MA:5	Special safeguard	On an annual basis	G/AG/N/GTM/54	08/04/2016
General Agreement on Trade in Services				
Article V:7(a)	Notification of a regional trade agreement	Ad hoc	S/C/N/471/Rev.1 S/C/N/692/Rev.1 S/C/N/680 S/C/N/646 S/C/N/622 S/C/N/614 S/C/N/595 S/C/N/471	28/01/2014 26/04/2013 27/02/2013 03/09/2012 04/04/2012 09/01/2012 12/07/2011 21/01/2009
Agreement on Implementation of Article VI of the GATT 1994 (anti-dumping)				
Article 16.4	Anti-dumping actions (taken during the preceding six months)	Semi-annual	G/ADP/N/272/GTM	07/10/2015
GATT 1994				
Article XXVIII:5	Modification of schedules (reservation of the right to modify schedules for a 3-year period)	Ad hoc	G/MA/311 G/MA/259	10/12/2014 27/10/2011
Article XVII:4(a)	State-trading activities	On an annual basis	G/STR/N/14/GTM	11/07/2012
Article XXIV:7(a)	Formation of a free-trade area	Ad hoc	WT/REG349/N/1/Rev.1 WT/REG336/N/1/Rev.1 WT/REG332/N/1 WT/REG316/N/1 WT/REG312/N/1 WT/REG305/N/1 WT/REG297/N/1 WT/REG211/N/5	28/01/2014 26/04/2013 27/02/2013 03/09/2012 04/04/2012 09/01/2012 17/07/2011 21/01/2009
Agreement on the Application of Sanitary and Phytosanitary Measures				
Article 7, Annex B	Sanitary/phytosanitary regulations	Ad hoc	G/SPS/N/GTM/63 – G/SPS/N/GTM/45	24/05/2016 05/01/2009
Agreement on Rules of Origin				
Article 5 and Annex II, paragraph 4	Changes in preferential rules of origin; new preferential rules of origin	Ad hoc	G/RO/N/114 G/RO/N/95 G/RO/N/93	02/04/2014 16/05/2013 09/04/2013
Agreement on Technical Barriers to Trade				
Article 2.9	Technical regulations	Ad hoc	G/TBT/N/GTM/89 - G/TBT/N/GTM/62	08/02/2016 - 09/04/2009

Agreement and Article	Requirement	Frequency	Document (most recent only if submitted regularly)	Date
Agreement on Subsidies and Countervailing Measures				
Article 25.1	Any subsidy as defined in Article 1.1 of the Agreement, which is specific within the meaning of Article 2 of the Agreement, as well as any other subsidy which causes increased exports or decreased imports within the meaning of Article XVI:1 of the GATT 1994	On a triennial basis	G/SCM/N/253/GTM	22/07/2013
Article 25.11	Countervailing measures (adopted during the preceding six months)	Semi-annual	G/SCM/N/250	20/12/2012
Article 27.4	Extension of the transition period for the elimination of export subsidies	On an annual basis	G/SCM/N/GTM/290	11/11/2015

Source: WTO Secretariat.

Table A3. 1 Preferential quotas by agreement, 2015

Quota	Tariff heading	Quantity (MT)	In-quota tariff (%)	Out-of-quota tariff (%)
CAFTA-DR				
Meat of bovine animals	0201.20.00B 0201.30.00B 0202.20.00B 0202.30.00B	1,660	0	5
Cheese	0406.10.00 0406.10.10 0406.10.90 0406.20.20 0406.20.90 0406.30.00 0406.90.10 0406.90.20 0406.90.90	733	0	15
Milk powder	0402.10.00 0402.21.11 0402.21.12 0402.21.21 0402.21.22 0402.29.00 0403.90.10 0403.90.90	652	0	15
Butter	0405.10.00 0405.20.00 0405.90.90 0401.40.00 0401.50.00	163	0	15
Ice cream	2105.00.00	261	0	15
Meat of swine	0203.11.00 0203.12.00 0203.19.00 0203.21.00 0203.22.00 0203.29.00	6,123	0	5
White maize	1005.90.30	24,400	0	20
Rice in the husk	1006.10.90	80,600	0	29.2
Pounded rice	1006.20.00 1006.30.10 1006.30.90 1006.40.00	15,500	0	29.2
Poultry cuts	0207.13.99B 0207.14.99B 1602.32.90A	9,970	0	15
Panama				
Meat of bovine animals	0201.10.00 0201.20.00 0201.30.00 0202.10.00 0202.20.00 0202.30.00	723	0	4.5
Meat of swine	0203.11.00 0203.12.00 0203.19.00 0203.21.00 0203.22.00 0203.29.00	142	0	9
Long-life (UHT) milk	0401.10.00AA 0401.20.00AA 0401.40.00AA 0401.50.00AA	200,000 (litres)	0	4.5
Processed cheese	0406.30.00	50	0	4.5
Mozzarella cheese	0406.90.10 0406.20.20	84	0	4.5
Potatoes	0701.90.00	216	0	15
White onions	0703.10.12	351	0	15
Refined soya-bean oil	1507.90.00	200	0	15
Refined sunflower-seed oil	1512.19.00	200	0	15
Crude palm oil	1511.10.00	250	0	15
Wings of fowls of the species *Gallus domesticus*	1602.32.90BB	12	0	15
Other tomato sauces	2103.20.00	143.75	0	15
Colombia				
Dog or cat food, put up for retail sale (other than food put up in airtight containers)	2309.10.00	1,344	0	15

Quota	Tariff heading	Quantity (MT)	In-quota tariff (%)	Out-of-quota tariff (%)
Belize				
Yellow maize	1005.90.20	23,000	0	15
Black beans	0713.33.10	1,006.50	0	20
Chile				
Milk powder	0402.10.00 0402.21.12 0402.21.22	230	0	15
	0402.21.21	402.50	0	15
Condensed milk	0402.99.10	625	0	10
Concentrated milk, cream	0403.90.10 0403.90.90 0404.90.00	115	0	15
Butter	0405.10.00	115	0	15
Mature goat cheese, mature sheep cheese	0406.90.90	250	0	15
Cow's milk cheese (Gouda)	0406.90.90	63.3	0	15
Caramel, fudge	1901.90.90	46	0	15
Other prepared or preserved tomatoes	2002.90.90	40	0	15
Mexico				
Yellow maize	1005.90.20	150,000	0	15
Tuna	1604.14.10AA 1604.19.00AA	500	0	15
Cheese	0406.10 0406.90	460	0	15
European Union				
Preserved hams and bellies (streaky)	0210.11.00 0210.12.00 0210.19.00	1,035	0	15
Prepared or preserved meat of swine	1602.41.00 1602.42.00 1602.49.90	1,035	0	15
Milk powder	0402.10.00 0402.21.11 0402.21.12 0402.21.21 0402.21.22 0402.29.00	460	0	15
Cheese	0406.20.90 0406.30.00 0406.90.10 0406.90.20 0406.90.90	990	0	15

Source: Information provided by the authorities.

Table A3. 2 Sanitary and phytosanitary measures adopted, 2009-2015

Instrument	Purpose or scope of the measure
Animal health	
Ministerial Decision No. 456-2009	Establishes requirements for obtaining certification declaring a poultry production unit to be free of avian influenza with or without vaccination.
Ministerial Decision No. 440-2009	Amendment to Article 4 of Ministerial Decision No. 1090-2001.
Ministerial Decision No. 439-2009	Officially declares the Republic of Guatemala to be free of classical swine fever.
Ministerial Decision No. 102-2009	Prohibits the import, manufacture and marketing of the classical swine fever vaccine.
Ministerial Decision No. 394-2009	Biosafety manual and technical inspection data sheet for swine production units.
Ministerial Decision No. 456-2009	Requirements for obtaining certification declaring a poultry production unit to be free of avian influenza with or without vaccination.
Ministerial Decision No. 95-2010	Provisions relating to the removal, handling and transport of inorganic solid waste from vessels that poses a risk to plant and animal health.
Ministerial Decision No. 191-2010	Amendment to Article 10 of Ministerial Decision No. 390-2006.
Government Decision No. 338-2010	Basic Internal Regulations of the Ministry of Agriculture, Livestock and Food (MAGA).
Ministerial Decision No. 129-2011	Manual on biosafety procedures for poultry production units.
Ministerial Decision No. 72-2012	Amendment to Ministerial Decision No. 390-2006 of 21 July 2006, which establishes requirements for the registration of natural and legal persons interested in carrying out activities relating to inputs for animal use, and for the registration, renewal of registration, import, export and return of inputs for animals.
Ministerial Decision No. 166-2012	Amendments to Ministerial Decision No. 225-2008.
Ministerial Decision No. 167-2012	Amendments to Ministerial Decision No. 592-99.
Ministerial Decision No. 105-2012	Declares a states of emergency throughout national territory following an outbreak of highly pathogenic avian influenza H7N3 in Jalisco, Mexico.
Ministerial Decision No. 119-2012	Prohibits the vaccination of poultry against highly pathogenic avian influenza H7N3.
Ministerial Decision No. 110-2012	Establishes the national health programme for the prevention, control and eradication of bovine spongiform encephalopathy (BSE).
Ministerial Decision No. 254-2012	Amendments to Ministerial Decision No. 592-99 establishing the National Poultry Farming Council.
Ministerial Decision No. 253-2012	Amendments to Ministerial Decision No. 225-2008 establishing the National Poultry Farming Technical Commission.
Ministerial Decision No. 218-2013	Decision on emergency temporary preventive (prophylactic) vaccination against highly pathogenic avian influenza H7N3 and other health measures.
Ministerial Decision No. 228-2013	Amendment to Article 3(a) of Ministerial Decision No. 105-2012.
Ministerial Decision No. 182-2013	Amendment to Article 4 of Ministerial Decision No. 105-2012.
Ministerial Decision No. 655-2014	Technical provisions allowing the country to be declared free of classical swine fever without vaccination.
Ministerial Decision No. 24-2014	Establishes the national livestock traceability system.
Ministerial Decision No. 350-2015	Establishes the national swine health programme "PRONASPORC" (G/SPS/N/GTM/62 of 29 February 2016).
Ministerial Decision No. 444-2015	Approves the national bovine health programme "PROSABO".
Plant health	
Decree No. 5-2010	Law on the registration of agrochemical products.
Ministerial Decision No. 50-2010	Establishes requirements governing the import and return of inputs for agricultural use.
Ministerial Decision No. 95-2010	Issues provisions relating to the removal, handling and transport of inorganic solid waste from vessels that poses a risk to plant and animal health.
Government Decision No. 342-2010	Regulation on the registration of fertilizers and soil amendments and substances related thereto with the Ministry of Agriculture, Livestock and Food.
Ministerial Decision No. 343-2010	Implementing Regulation of the Law on the registration of agrochemical products.
Ministerial Decision No. 283-2011	Establishes, within the Plant Health Directorate of the Ministry of Agriculture, Livestock and Food, the MOSCAFRUT programme, which promotes the productivity and competitiveness of national and regional fruit production.
Ministerial Decision No. 126-2010	Declares a phytosanitary state of emergency in areas where huanglongbing (HLB) is present, namely the municipalities of Poptún, Dolores, Sayaxché, San José, San Luis and Melchor de Mencos in the department of Petén; the municipalities of Livingston and Puerto Barrios in the department of Izabal; and the municipality of Fray Bartolomé de las Casas in the department of Alta Verapaz. These municipalities are considered to form an "area under phytosanitary control", which may be geographically extended or reduced at national level, in accordance with phytosanitary sampling and diagnostic results.
Government Decision No. 84-2011	Declares various municipalities in the departments of Totonicapán, Quetzaltenango and Sololá in the Republic of Guatemala (71,000 hectares in total) to be areas free of Mediterranean fruit fly (*Ceratitis capitata* Wied) and other fruit flies of the genera *Anastrepha* spp., *Dacus* spp. and *Bactrocera* spp.
Ministerial Decision No. 11-2011	Establishes conditions governing the registration and renewal of registration of natural or legal persons interested in importing, exporting, manufacturing, producing, processing, blending, formulating, packaging, repackaging, packing, storing and marketing technical grade active ingredients or formulated agrochemical products.
Ministerial Decision No. 07-2012	Establishes requirements for authorizing the importation of tomato seeds originating in or coming from countries which have reported the presence of the bacteria *Clavibacter michiganensis* subsp. *Michiganensis*.
Ministerial Decision No. 13-2012	Establishes the national plant health programme for the prevention, control and eradication of pests associated with the growing of citrus fruits and related pests hosted by other plant species (PRONAFICIT). The programme falls under the responsibility of the Plant Health Directorate.

Instrument	Purpose or scope of the measure
Ministerial Decision No. 14-2012	Establishes the national plant health programme for the prevention, control and eradication of pests associated with plants of the botanical family Solanaceae (PRONAFISOL). The programme falls under the responsibility of the Plant Health Directorate.
Ministerial Decision No. 11-2013	Declares a state of emergency due to the increased incidence of coffee rust.
Ministerial Decision No. 614-2013	Provisions relating to the prevention of the introduction of the pest *fusarium oxysporum* (Foc) race 4, which is absent from national territory and causes what is known as "Panama disease" (G/SPS/N/GTM/60 of 10 October 2014).
Resolution No. 314-2013	Central American Technical Regulation (RTCA) No. 65.05.54:09: Fertilizers and soil conditioners for agricultural use (G/SPS/N/GTM/46 of 21 April 2009).
Ministerial Decision No. 03-2014	Provisions on wood packaging material used in international trade.
Ministerial Decision No. 491-2015	Establishes an updated list of regulated pests and provisions governing the establishment of phytosanitary import requirements applicable to consignments of products of plant origin imported into national territory for the first time (G/SPS/N/GTM/61 of 9 February 2016).
Safety	
Ministerial Decision No. 026-2009	Establishes, within the Standards and Regulations Unit of the Ministry of Agriculture, Livestock and Food, the programme for the control and monitoring of the physical characteristics of, and the microbiological contaminants and chemical substances in, water that is to be used in hydrobiological product establishments.
Ministerial Decision No. 435-2009	Approves the manual of procedures for food safety inspections in establishments producing hydrobiological products.
Ministerial Decision No. 0063-2010	Manual of procedures to follow in the event of an alert relating to the safety of food of hydrobiological origin.
Ministerial Decision No. 214-2010	Amends Ministerial Decision No. 427-2005, "Rules on obtaining sanitary permits for the operation of milking parlours, collection centres and modes of transport for raw milk".
Ministerial Decision No. 07-2011	Establishes the provisions applicable to the organoleptic testing of tuna and shrimp.
Ministerial Decision No. 06-2011	Approves the procedure for the hygiene and sanitary inspection of fishing and freezer vessels. Repeals Ministerial Decision No. 171-2008.
Ministerial Decision No. 03-2011	Establishes hygiene and sanitary requirements for fishery products in fishing and freezer vessels. Repeals Ministerial Decision No. 327-2007 and Ministerial Decision No. 653-2007.
Ministerial Decision No. 0271-2010	Amends Ministerial Agreement No. 74-2007, which establishes the national monitoring programme for detecting histamines in the flesh of tuna and sea bream destined for the European Union market in processing facilities.
Ministerial Decision No. 13-2011	Updates the national monitoring programme for detecting heavy metals in the flesh of tuna destined for the European Union market.
Ministerial Decision No. 02-2012	Approves the conceptual framework for the national monitoring programme for detecting substances and residues harmful to human health in farmed shrimp.
Ministerial Decision No. 69-2012	Establishes the provisions applicable to all persons engaged in the production, collection, processing, packaging, storage and marketing of apiculture products in national territory.
Ministerial Decision No. 07-2013	Establishes the national monitoring programme for heavy metals and dioxins in wild-caught shrimp.
Ministerial Decision No. 08-2013	Establishes the national monitoring programme for metabisulfite in shrimp in processing plants.
Ministerial Decision No. 14-2013	Establishes the provisions applicable to the importation of products of hydrobiological origin that are to be processed in Guatemala and exported to the European Union.
Ministerial Decision No. 15-2013	Establishes the national monitoring programme for dioxins and similar substances in tuna and sea bream.
Ministerial Decision No. 382-2014	Regulations on conducting hygiene and sanitary inspections in countries of origin in establishments engaged in the production, processing or storage of unprocessed foods of animal and plant origin that are interested in exporting these products to Guatemala.
Plant and animal husbandry	
Ministerial Decision No. 12-2010	Establishes requirements for registering plant varieties.
Ministerial Decision No. 52-2010	Issues provisions on certification in the production and marketing of peach (*Prunus persica* L.) seeds, plant parts and plants.
Ministerial Decision No. 58-2010	Establishes requirements applicable to the production, import, export, re-export and marketing of certified citrus seeds, plant parts and plants.
Ministerial Decision No. 415-2013	Establishes the register for foals born following the transfer of embryos and use of surrogate mares of the Peruvian Paso breed.
Ministerial Decision No. 528-2013	Establishes requirements for the flock book registration and certification of sheep.

Source: Information provided by the authorities.

Table A4. 1 Agricultural domestic support measures, 2009-2015

Type of measure with reference to criteria in Annex 2 of the Agreement on Agriculture	Institutional axis / Description of measure	Cost of measure (US$ thousand)						
		2009	2010	2011	2012	2013	2014	2015
Measures exempt from the reduction commitment - "Green Box"								
General services **- Agricultural research services** (Annex 2, paragraph 2(a))	**Institute of Agricultural Science and Technology** - Research and development of seed varieties.	1,026.3	1,065.3	1,065.3	3,448.2	3,727.7	3,423.1	3,785.9
- Pest and disease control (Annex 2, paragraph 2 (b))	**Integrated pest and transfer management** - Integrated pest management.	311.1	276.5	---	---	---	---	---
- Extension and training (Annex 2, paragraph 2 (c))	**Agricultural training schools (EFAS)** - Agriculture-oriented basic formal education and technical training for students in rural areas.	1,957.0	2,369.9	2,369.9	2,567.5	2,738.1	2,923.6	3,194.5
	Fruit-growing and Agroindustry Development Project - Support for fruit-growing and agroindustry development in the form of training and technical assistance for producers.	864.9	597.1	597.1	---	---	---	---
	Maya Center agri-food services - Technical assistance and training for small and medium-size producers in agriculture-, livestock-, agro-industrial development- and gender-related matters.	244.5	323.4	---	---	---	---	---
	Watershed conservation	1,013.8	934.2	934.2	---	---	---	---
	Rural Development Programme, Phase One: The Western Region - Implementation of production projects.	---	2,389.3	2,389.3	---	---	---	---
	Support for rural economies - Training and technical assistance to galvanize the rural economy.	---	383.2	---	---	---	---	---
	PROBOTEN - Technical assistance in managing and maintaining forest plantations.	---	297.63	---	---	---	---	---
- Infrastructural services (Annex 2, paragraph 2 (g))	**Post-harvest management** - Training for silo manufacturers and delivery of silos to rural families.	1,188.8	959.5	---	---	---	---	---
Domestic food aid **Domestic food aid** (Annex 2, paragraph 4)	**Food security support** - Food aid for vulnerable segments of the population.	3,259.6	403.3	14,626.7	5,874.7	10,979.5	9,753.4	5,185.4
	"Supertortillas" for enhanced nutrition Provision of enriched flour	---	---	---	1,915.7	---	---	---
	Assistance for persons affected by the heat-wave Distribution of food rations on a monthly basis, during a six-month period, to families affected by the extended heat-wave of 2014.	---	---	---	---	---	44,066	10,893
Payments for relief from natural disasters **- Aid** (Annex 2, paragraph 8)	**Government Decree No. 15-2010** - Support for the population affected by Tropical Storm Agatha. Food aid.	---	10,394.8	---	---	---	---	---
	Government Decree No. 15-2010 - Support for the agricultural and livestock sector affected by Tropical Storm Agatha.	---	3,574.1	---	---	---	---	---

Type of measure with reference to criteria in Annex 2 of the Agreement on Agriculture	Institutional axis / Description of measure	Cost of measure (US$ thousand)						
		2009	2010	2011	2012	2013	2014	2015
Structural adjustment assistance provided through investment aids **- Assistance** (Annex 2, paragraph 11)	**PLAMAR/DIAPRYD** - Credit support for irrigation systems in agricultural areas affected by seasonal water deficit.	1,235.9	---	---	---	---	---	---
	PLAMAR - Credit support for irrigation systems in agricultural areas affected by seasonal water deficit.	---	1,780.2	---	---	---	---	---
	Irrigation Credit support for irrigation systems in agricultural areas affected by seasonal water deficit (due to restructuring pursuant to Government Decision No. 338-2010, now the Irrigation Department in the Vice-Ministry of Rural Economic Development).	---	---	---	555.2	---	---	---
Payments under environmental programmes **- Environmental programmes** (Annex 2, paragraph 12)	**Forests and Water Trust Fund for Concord** Guatemalan Government-initiated project for the reforestation of municipally owned areas and/or areas without forest cover, with financial incentives for former civil patrol members to restock an anticipated 25,000 hectares of deforested soil.	---	12,547	6,426.7	12,263.1	12,543.3	12,201.3	5,014

Source: Notifications submitted by Guatemala to the WTO Committee on Agriculture.

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