

# DOING BUSINESS & INVESTING IN GUATEMALA

2019

16th Edition





TABACALERA CENTROAMERICANA S.A.

Guatemala, país de Tradiciones

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# GUATEMALA

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To be a leader organization, proactive and capable of having a positive and long-term impact on its associates, the community and the government, through the promotion of commercial relations between the United States and Guatemala.

### MISSION

Promote relations between the United States, through the medium of economic activity and free enterprise, and further the legitimate interests of its members, fostering social responsibility.

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AmCham believes that economic development is essential for progress and well-being. The Chamber considers that the key is the individual effort and initiative of each member of society. The rule of law, respect for property and individual liberties must be guaranteed by all causes and the fundamental status to achieve a better standard of living in the country.



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# Waleska Sterkel de Ortiz

Executive Director

Dear readers,

On behalf of AmCham Guatemala's team, I want to wish you all a happy and prosperous 2019.

We plan another great year of various services prepared for our members and participants, on behalf of our member companies and investing community.

Year after year, we have sought to provide our partners with the best tools for business growth and internationalization. We believe that economic development is essential for progress and well-being. The key for success is the individual effort, involvement and initiative of each member of the society. The rule of law, respect for property and individual liberties; must be guaranteed by all authorities and are fundamental to achieve a better and more sustainable standard of living in our country.

As an effort on providing you, the reader, the know-how and essential information on how to do Business and Invest in Guatemala, we requested several experts to assess you about different topics that will provide a complete overview on the business growth in our country. It is a great pleasure to welcome you to the 16th edition of our annual editorial, and we hope this magazine gives you a general perspective about Guatemala's economy and productive sectors.

We look forward to approaching the resulting opportunities of the bilateral relationship between Guatemala and its first trading partner; and for you to let us be your best ally regarding your business.

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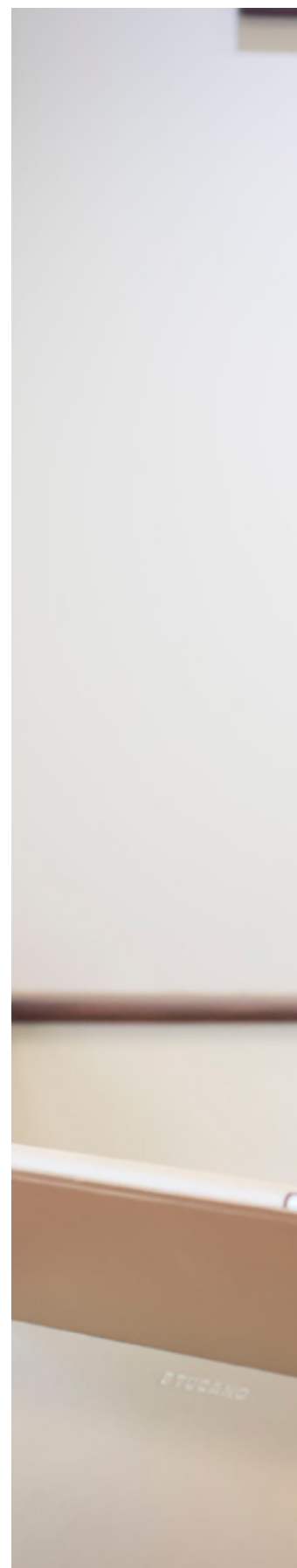
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# by Juan Pablo Carrasco de Groote

President, Amcham

Dear reader,

Welcome to the 16th edition of our annual editorial Doing Business and Investing in Guatemala.

As President of the Board of Directors for this prestigious Chamber, it has been a pleasure to serve our members, strategic allies and our country, in creating more economic growth and opportunities; and we will continue doing so for many years to come. It has been an honor to lead this institution in which for more than 50 years we have supported bilateral trade between Guatemala and the United States of America.

Through these pages, the main objective is to help companies and investors that are interested on business opportunities, to get to know Guatemala's economy; and experience through AmCham, what investing in our country would be like. Our main goal is for the magazine to be useful to obtain information and key contact for business development.

Guatemala is a diverse country, very rich in natural resources, hardworking people, beautiful landscapes, and a strong growing economy, among many other things. Also, Guatemala offers many advantages and opportunities, the United States is our first commercial partner, working together toward a same goal within the framework of the CAFTA-DR agreement.

AmCham looks forward to being your best ally in Guatemala for any need and requirement that you have regarding business with the USA. Providing contacts, holding meetings with potential business partners and government entities, commerce assessment and events, are some of the services that we, as a Chamber, provide. We are here to be your concierge for business.

I also would like to thank to each of the writers of this publication, and each one of you for the trust placed in our team in AmCham Guatemala. We hope that this edition will help you get to know more about our business and investing climate in our country.

Don't hesitate to contact us if you have any questions, it will be our pleasure to serve you and welcome you this beautiful country.





# Gabriela Negreros

*Trade Center Director*  
**TRADE CENTER**

## I. GOVERNMENT OF THE REPUBLIC OF GUATEMALA

Guatemala, constitutionally, is a demographic and representative republic. Guatemala's 1985 constitution provides for a separation of powers among the executive, legislative, and judicial branches of government. The executive power is exercised solely by the government, directed by the president. The legislative power is unicameral and is vested in both the government and the Congress of the Republic; and the judicial power is independent from both the executive and the legislative powers, with 13 members forming the Supreme Court of Justice that serve a 5 year term. Guatemala has a civil law system with a judicial review of legislative acts.

The President of Guatemala is both head of the state and head of government. The President, who must be a native-born lay person, is elected through popular vote for a four-year term and may not be reelected. The Constitution of Guatemala calls for a popularly elected Vice-President. The office of Vice-President provides a guarantee of presidential succession in case of the death or disability of the chief executive.

The Supreme Court consists of 13 justices who are elected by Congress from a list of candidates submitted by the bar association, law school deans, a university rector, and appellate judges. The Supreme Court and local courts handle civil and criminal cases. There also exists a separate Constitutional Court which is Guatemala's highest court.

Members of Congress, which holds 158 seats, are elected through a party list proportional representation system via the D'Hondt method. Guatemala has 22 administrative subdivisions (departments) which are administered by governors appointed by the President of the republic and 332 municipalities with elected mayors and city councils.

The Head of State is President Jimmy Morales Cabrera, since January 14 2016, and the Vice President is Jafeth Cabrera. The cabinet is the Council of Ministers named by the president. New elections will be held in 2019.

## II. GEOGRAPHY

- **Location:** Central America, bordering the North Pacific Ocean, between El Salvador and Mexico, and bordering the Gulf of Honduras and Caribbean.

**Total Area:** Total: 108,889 sq. km.

- **Cities:** Capital, Guatemala City (area Population approximately 3.48 million). Other major cities include Quetzaltenango and Escuintla.
- **Climate:** Tropical: hot, humid tropical lowlands and colder, drier highlands peaks.

- **Terrain:** Two mountain chains enter Guatemala from west to east, dividing the country into three major regions: the highlands, where the mountains are located; the Pacific coast, south of the mountains; and the Petén region, north of the mountains. All major cities are located in the highlands and Pacific coast regions; by comparison, Petén is sparsely populated.
- **Administrative Divisions:** Guatemala is divided into 22 departments and sub-divided into 345 municipalities.



### III. ECONOMY

Official Currency: Quetzal

Currency (code): Quetzal (GTQ), US dollar (USD), others allowed

Guatemala has a GDP per Capita of one-half average for Latin America and the Caribbean. The purchasing power parity GDP as of 2018 is approximately \$145.24 billion; Guatemala's GDP (PPP) per capita is US\$8,413 and the real GDP growth rate is that of 3.0% for 2018. Mainly, Guatemala's economy is dominated by the private sector, which generates about 90% of GDP.

The United States is the country's largest trading partner, providing 37.9% of Guatemala's imports and receiving 36.6% of its exports. Given Guatemala's large expatriate community in the United States, it is the top remittance recipient in Central America, with inflows serving as a primary source of foreign income equivalent to nearly one-half of exports or one-tenth of GDP.

Programs to promote foreign investment enhance competitiveness and expand investment in the export and tourists sectors are well underway and the implementation of the U.S.-Central American-Dominican Republic Free Trade Agreement (CAFTA-DR) has led to increases in foreign direct investment

inflows. Guatemala also has free trade agreements with Taiwan, Mexico, Chile and Colombia, Panama, the European Union, Peru and the European Free Trade Association (EFTA) countries and recently with South Korea. Guatemala has also signed partial scope agreements with Belize, Ecuador, Cuba, Trinidad and Tobago and Venezuela.

At 11.9% of GDP in 2013, Guatemala's taxes are low compared to the Latin America average of 13.9%.

- **Natural Resources:** Oil, timber, nickel, gold.
- **Agriculture:** 13.2% of GDP and 31% of the labor force – coffee, sugar, bananas, and vegetables.
- **Manufacturing:** (24% of GDP): Types—prepared food, clothing and textiles construction materials, tires, pharmaceuticals.
- **Services:** (63.2% of GDP) (2017).
- **Trade:** Exports--\$8.08 billion (2018): coffee, bananas, sugar, crude oil, chemical products, clothing and textiles, vegetables. Major markets U.S. 34%, Central American Common Market (CACM) 28.3%, Mexico 4.3%. Imports--\$15.73 billion: machinery and equipment, fuels, mineral products, chemical products, vehicles and transport materials, plastic materials and products. Imports-partners--U.S. 38.1%, CACM 11.4%, Mexico 11%, China 9.9%.

## GUATEMALA: COUNTRY PROFILE BRIEF

#### GENERAL INDICATORS

Official Name	República de Guatemala
Total Population	16,581,273 hab. * (Julio 2018 est.)
Population Density	158.38 hab. per km <sup>2</sup>
Territorial Extension	108,889 km <sup>2</sup>
Political Division	22 departments
Official language	Spanish
Government Type	Constitutional democratic republic
Currency	Quetzal (Q)
Average Temperature	15°C - 25°C (59°F - 77°F)

Infant mortality rate	23.3 deaths / 1,000 live births (2018 est.)
Life Expectancy at birth	71.74 years (2018)
Total Fertility rate	2.87 children born / woman (2018 est.)

# STARTING BUSINESS IN GUATEMALA

Our country offers a stable macroeconomics environment, a strategic location, well qualified professionals and manpower. We have access to both oceans and we are a bridge between Mexico and the rest of Latin America.

As most Latin-American countries, we face great challenges in matters of security, infrastructure, political and justice systems. But, beyond those challenges, our country continues being a great destination for doing business.

So, we want to provide the main aspects about the

costs and considerations to take into account to start a business in Guatemala.

## Business entities in Guatemala

You can establish a business in Guatemala under the name of a natural person (personal company) or through one of the different types of commercial entities that the Guatemalan Commercial Law (Código de Comercio, Decree number 2-70 issued by the Guatemalan Republic Congress and its amendments) considers:

Commercial Entity	Equity	Liability
<b>Sociedad Anónima (Corporation)</b>	Divided in shares	Up to the shareholders equity contributions
<b>Sociedad de Emprendimiento (Entrepreneurial Company)</b>	Divided in shares	Up to the shareholder(s) equity contributions
Annual income can't exceed of USD 650,000. Partner(s) can't make equity contributions different than cash.		
<b>Sociedad Colectiva (General Partnership)</b>	Divided in partners contributions	Unlimited
<b>Sociedad de Responsabilidad Limitada (Limited Liability Company)</b>	Divided in partners contributions	Up to the partners equity contributions
<b>Sociedad en Comandita Simple (Limited Partnership)</b>	Divided in partners contributions	Up to the capitalist partner(s) equity contributions
<b>Sociedad en Comandita por Acciones (Limited Partnership divided in Shares)</b>	Divided in shares	Up to the capitalist partner(s) equity contributions



Only the Entrepreneurial Company can be hold by a solely person, all other commercial entities require at least two partners. An Entrepreneurial Company can only receive partners' equity contributions in cash. In practice, you can begin a business entity of any type considering a minimum initial investment of USD 30 of equity and the average time to incorporate it is 6 weeks.

A Branch of a Foreign Corporation can also run businesses in Guatemala. To start operations, it is required to be registered in the Registro Mercantil de Guatemala (Commercial Registry) and pay a minimum deposit of USD 50,000 as a third parties' guarantee.

Amounts in USD in this document were converted considering a currency exchange rate of GTQ7.5 per USD1.

## Country's economics, business and taxes information

GDP	USD 75.62 billion (2017), GDP per Capita USD 4,471
Inflation	Around 4% annual
Currency	Quetzal (GTQ) issued by Guatemala's Central Bank
Exchange currency rate	GTQ 7.70 per USD 1 During the last 10 years it has oscillated between Q7.26 and Q8.39, average of Q 7.73.
Exchange controls	Free negotiation of foreign currencies is permitted. There are no limitations on the movement of capital or other payments into or out of Guatemala. There are laws and regulations against money laundering which require that cash transactions of USD\$ 10,000 or more, among others, must be reported.
Minimum monthly salary	Around USD 400
Rent fees in Guatemala City	Offices: USD 8 to USD 15 per m2 Warehouses: USD 3 to USD 5 per m2 Housing: USD 3 to USD 12 per m2
Commercial Authority	Registro Mercantil de Guatemala (Commercial Registry)
Tax Administration	Superintendencia de Administración Tributaria (SAT)
Treatment of Nationals and Foreigners	Investment laws treat Guatemalan and foreign companies equally for tax and business purposes.
Import and export	Custom tariffs on merchandise imports vary from 0% to 15%.  Guatemala has signed various free commerce treaties with its main commercial associates like USA, Mexico and other central American countries.  Central American Invoice and Single Declaration (FYDUCA, for its Spanish acronym): is the electronic document that records transfer (formerly known as exports) and acquisitions (formerly known as imports) of goods with free movement, that are traded between the sales and VAT taxpayers of Guatemala and Honduras. The procedure is 100% electronic.  The Central American Economic Integration process began in 1960, after signing the General Treaty on Central American Economic Integration. The legal framework consists of a set of international treaties and decisions issued and adopted

	by regional bodies. The Council of Ministers for Economic Integration (COMIECO for its Spanish acronym) is responsible for the coordination, harmonization, convergence and unification of the economic policies of Central American countries. These are some of the benefits of FYDUCA on the FAUCA (Central American customs single form): The FYDUCA has no cost while the FAUCA has a cost of USD8.4 and the FYDUCA does not oblige the companies to an intermediary or customs agent while the -FAUCA obliges the use of the Single Window for Exports VUPE of Agexport. FYDUCA only applies to 6,500 free circulation products, while the FAUCA can be applied to all products.
Tax incentives	Tax incentives are provided mainly for companies operating in free zones, export companies, companies entitled to a duty drawback and those engaged in activities relating to renewable sources of energy. Incentives include an exemption from corporate income tax, the solidarity tax, VAT and import taxes.
Accounting and auditing filing requirements	Guatemala adopted the IFRS - International Financial Reporting Standards as the GAAP in Guatemala referred in the country's commercial laws. In practice, Guatemalan commercial entities prepare their financial statements based on accounting policies designed to comply with the Income Tax Law. The company's balance sheets have to be published yearly. Accounting records must be kept in Spanish and expressed in GTQ. Audited financial statements must be filed annually by SAT's requirement, once SAT assigns an entity the status of "special taxpayer". Commercial banks require audited financial statements for general purpose if the entity owns bank debt higher than USD 650,000.
Annually tax period	The fiscal year coincides with the calendar year.
Double Taxation Treaties	To date, Guatemala has not entered into a tax treaty with another country.
Withholding Taxes	Some tax laws establish withholding rules, this task is assigned only to entities obligated to keep full accountancy records according to Guatemala Commercial Laws.
e-Invoices	Guatemala has introduced clearance e-invoicing framework where suppliers must clear the invoice with the SAT but do not need to wait for the authorization to communicate the invoice to the buyer. However, the invoice's authorization message, returned by the SAT (the Guatemalan Tax Authority), is essential to ensure the invoice's validity as a legally recognized tax document. To this end, electronic invoices must be sequentially numbered, digitally signed and generated by an issuance system that fulfills the necessary security requirements.

## Tax costs to consider

### I. Impuesto al Valor Agregado (Value Added Tax)

Levied on the sale of tangible goods, the import of tangible goods, the sale or transfer of rights over intangible and the provision of services. The subtraction method is used to compute VAT, crediting VAT paid on purchases against VAT liabilities arising from sales.

- **Taxable basis:** the sale invoice or transaction amount.
- **Rate:** 12% with a preferential rate of 0% applying to exports.
- **Filing:** Monthly payments.

VAT's law considers a special regime named "Small Taxpayer", which is eligible for taxpayers with an annually turnover lower than USD19,500. The invoices issued by Small Taxpayers don't include VAT and they must to pay monthly a tax of 5% over their turnover.

### II. Impuesto Sobre la Renta (Income Tax)

Guatemala operates a territorial tax system, under which residents and nonresidents are taxed only on Guatemala-source income. Foreign companies and branches of foreign companies are taxed only on their Guatemala-source income. When foreign



companies conduct their corporate activities in Guatemala through a fixed place of business (which is not necessarily a tangible fixed place of business, such as an office), they are deemed to have a permanent establishment (PE) in Guatemala. The Guatemala-source profits earned by the PE will be subject to the income tax.

### a. Corporate and Individuals

The Income Tax Law considers two regimes under the chapter of Profitable Activities:

Regime based on Net Profit

- **Taxable basis:** Net profit, deduction and transfer pricing rules apply.
- **Rate:** 25%
- **Expenses** are deductible as for depreciation, intangible assets, start-up expenses, interests, bad debts, all taxes except income tax and value added tax, and certain donations.
- **Transfer pricing rules** apply for transactions between resident with a nonresident party.
- **Filling:** Advance payments on April, July and October based on quarterly accounting closures or presumed income of 8% over the gross revenue. Final payment at March 31 of the next year, when the annual declaration is presented.
- **Optional Regime based on Gross Revenue**
- **Taxable basis:** Monthly gross revenue.
- **Rate:** Progressive rates of 5% and 7%, first revenue tier applies up to USD4,000.
- **Filling:** Withholding scheme applies to all invoices that exceed USD 373. Monthly payments considering withheld tax. Annual declaration at March 31 of the next year.

### b. Capital income and capital gains

- **Taxable basis:** Transaction amount. In the capital gains case, taxpayer can deduct from the taxable base the capital losses incurred in the past 3 years.
- **Rate:** Concept based, most common capital incomes: dividends 5%, interests 10%, royalties 10% and leasing income 7%. Capital gains 10%.
- **Filling:** Payer must withhold the tax and pay it on the following month.

### c. Employment

- **Taxable basis:** Annual gross revenue minus personal allowances of USD6,400 and

other minor deductions permitted by law.

- **Rate:** Progressive rates of 5% and 7%, first taxable basis tier applies up to USD40,000.
- **Filling:** Employer withholds the tax monthly, based on projected revenue of the employee. Final clearance and annual declaration at March 31 of the next year.

### d. Non Residents

Withholding Income Tax depending on the activities of nonresidents in Guatemala and other considerations.

A corporation is resident if it is organized under Guatemalan law, if it has its main domicile in Guatemala or if its administration headquarters are located in the country.

An individual is considered resident if stays in Guatemalan territory intermittently or continuously, for 183 days or more during the fiscal year, or if his/her main economic activities are carried out in Guatemala.

- **Taxable basis:** Transaction amount.
- **Rate:** Concept based, most common: dividends 5%, interests 10%, royalties 15%, professional services 15%, salaries and bonuses 15%.
- **Filling:** Resident entity has to withhold the tax from the nonresident and pay it on the following month.

## IV. Other taxes

### IV.1 Real estate

Real estate is subject to municipal taxation, is imposed annually at progressive rates up to 0.9%.

### IV.2 Stamp tax

Stamp tax is levied on various documents at a rate of 3%, as well as on certain transfers of real estate.

### IV.3 Social security

**Social security:** The rate is 12.67% for the employer and 4.83% for the employee.

Mining companies are subject to a license tax, surface tax and royalties.

## Labor costs

It is important to consider all the minimum benefits established by Guatemala Labor Laws as part of the costs, so taking as base the monthly salary amount, the employer has to consider the following benefits:

Description	Date of payment	Percentual relation over the monthly salary
Salary	At the end of the month	100.00%
Employer must to consider an additional Incentive Bonus of at least USD34 monthly.		
Employer social security contributions (Cuota patronal IGSS)	Monthly  Payment to the Social Security is every 10th next month	12.67%
Vacation  (15 working days per 1 year of services)	Yearly	4.17%
Annual bonus (Bono 14)	This benefit is paid every year, 100% in the first half of July. Equivalent to a salary or ordinary salary accrued during a month for workers who have worked during a continuous year.	8.33%
Christmas bonus (Aguinaldo)	It is payable every December	8.33%
Severance (Indemnización)	When dismissal occurs.	
Employer must pay 1 salary per each year of services received if unjustified dismissal occurs.		8.33%
<b>Total labor cost</b>		<b>141.83%</b>

### Sources:

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# ECONOMIC SCOPE IN GUATEMALA 2018

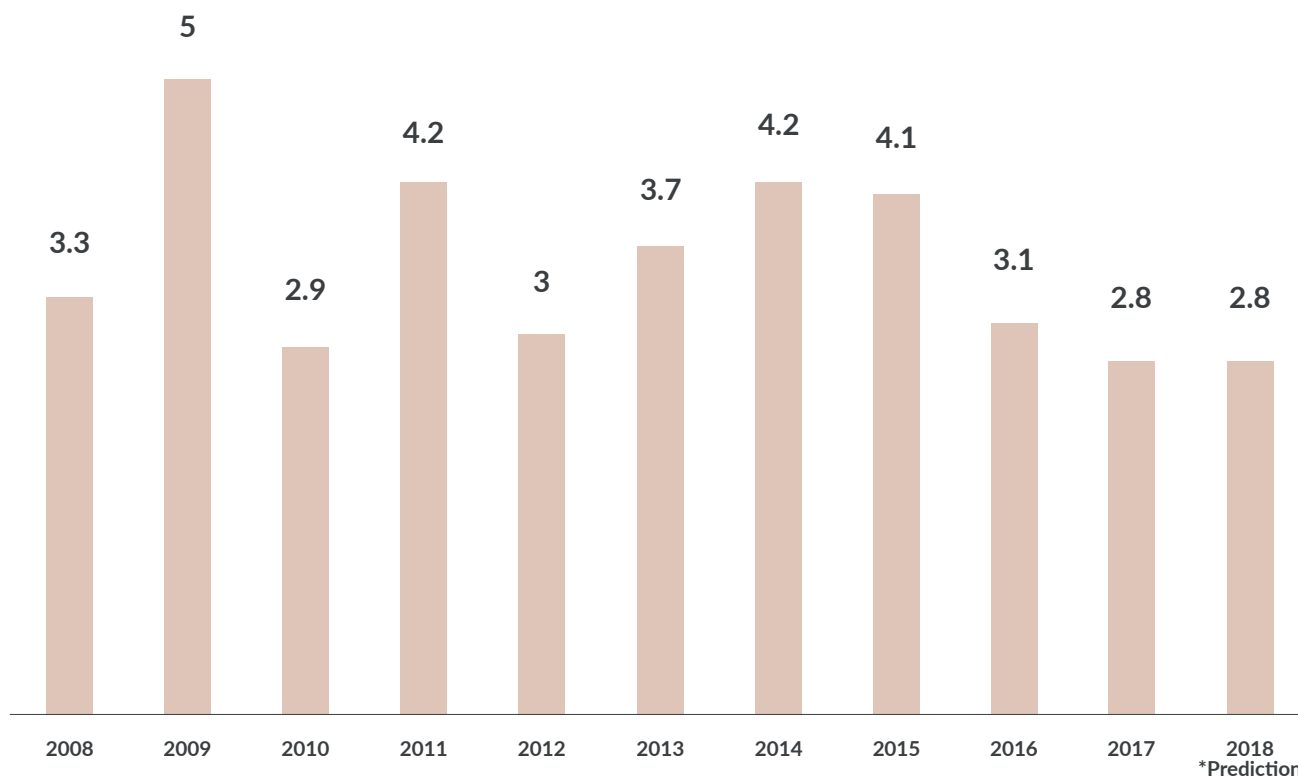
Guatemala's economy has been distinguished by a background of macroeconomic stability, which has allowed it to withstand economic crises and politically difficult circumstances. The Gross Domestic Product (GDP) growth has been positive, but in recent years it has slowed, being most evident in private consumption and investment.

Banco de Guatemala [Bank of Guatemala] predicted at the beginning of 2018 that the country's economy would grow about 3.2%. However, at the

end of the year, early figures show growth below this estimate, a rate close to 2.8%, which is the same as in 2017. The manufacturing industry, private services, agriculture and commerce are the main economic activities that drive the Guatemalan economy, and although all of them have shown a positive growth, it has only been close to 3%. Short-term indicators such as the Monthly Index of Economic Activity, imports and family remittances, show a dynamism consistent with such projection.

## Guatemala: Economic Growth Rate

Variation in real GDP



Source: own compilation with data from Banguat (Bank of Guatemala).

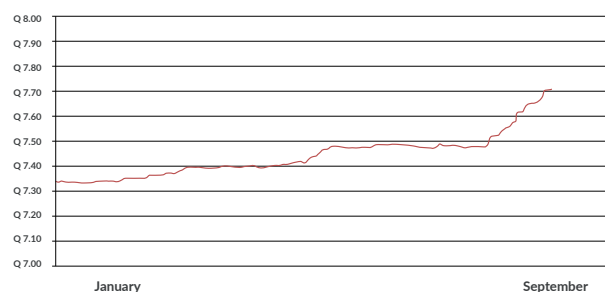
Inflation for 2018 is anchored to the goal established by the Banco de Guatemala of around 4.0% (+/-1 percentage point) and the interest rates show stable behavior in accordance to their foundations, reflecting a prudent management of the monetary policy. In addition, the financial system is sound and well regulated.

Tax policy is known by low debt tolerance and weak execution, resulting in a tax deficit of less than 2% of GDP in 2018.

As to the exchange rate, from January 1, 2018 to September 26 there is an accumulated net depreciation of the Guatemalan quetzal against the U.S. dollar of 0.35 cents. However, it is since early August that this bullish tendency has become

more prominent. According to the Banguat authorities, the factors that have generated most pressure on the exchange market have been the decrease in the income of family remittances and the increase in imports at the end of the year.

Evolution of the exchange rate in 2018  
Guatemalan quetzales per USD  
January to September 2018



Source: own compilation with data from Banguat (Bank of Guatemala).

Although Guatemala has been known for having a current account deficit, since 2016 it reported a surplus, which was the result of the increase in the flow of family remittances and the reduction in the value of imports, particularly in fuels and lubricants, due to the decrease in the international price of oil. The International Monetary Fund (IMF) estimates that the external position will return to a modest deficit by 2021, driven by a partial normalization of remittances and positive shocks in terms of trade.

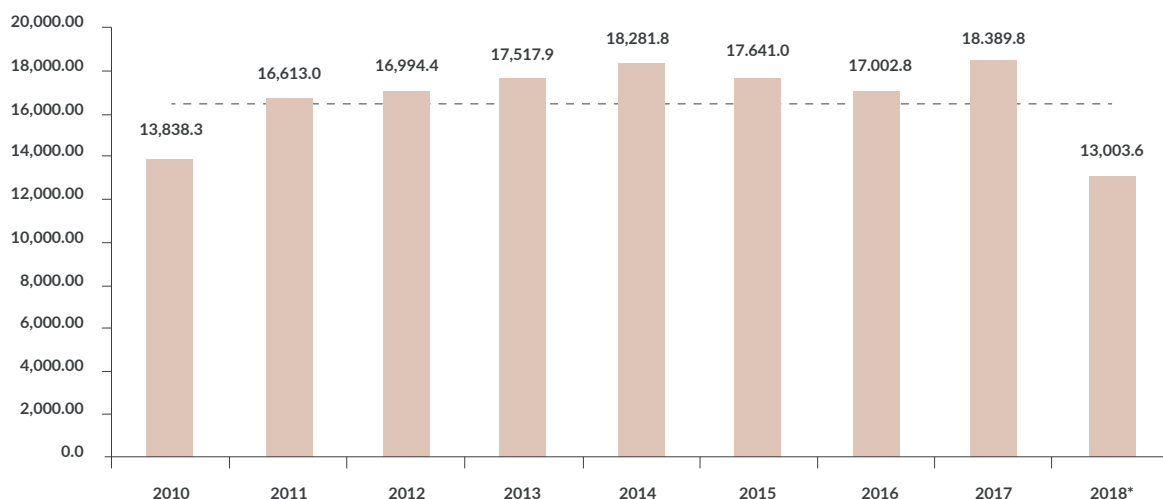
The decreases in international prices of some

commodities have negatively influenced the exports of sugar, rubber, coffee and bananas, although the volume of exports in general has increased, especially in the non-traditional ones.

In 2017, imports closed with a total amount of USD 18,389.8 million. By 2018, they have maintained a steady upward tendency and little volatility during the year. Imports grew above 9% in the first semester of 2018 compared to the same period last year, driven by consumer and capital goods.

#### CIF Imports

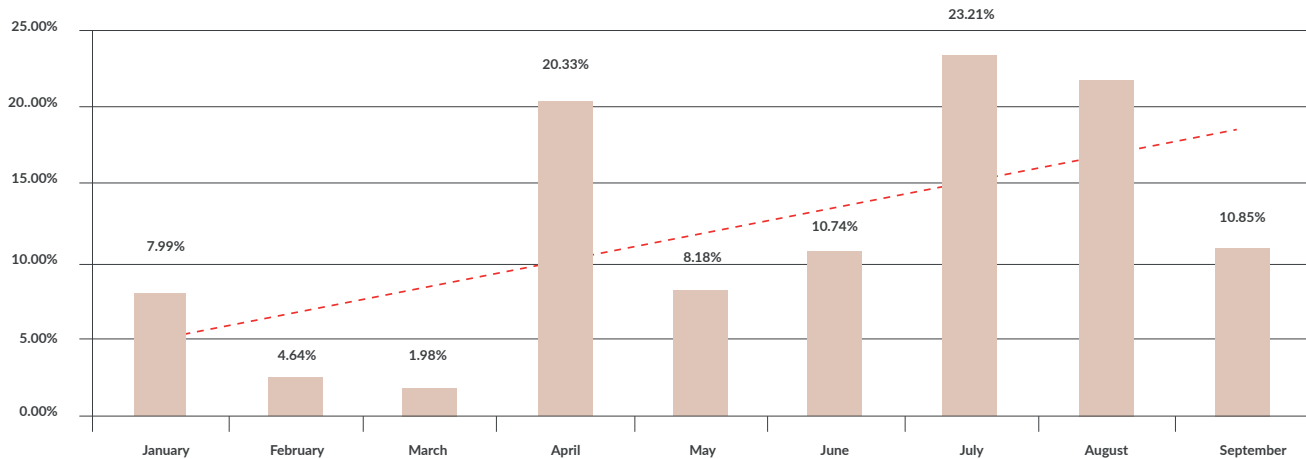
2010-august 2018. \* Figures in millions of USD.



Source: own compilation with data from Banguat.

The income from family remittances has had a positive variation in all months in comparison to 2017.

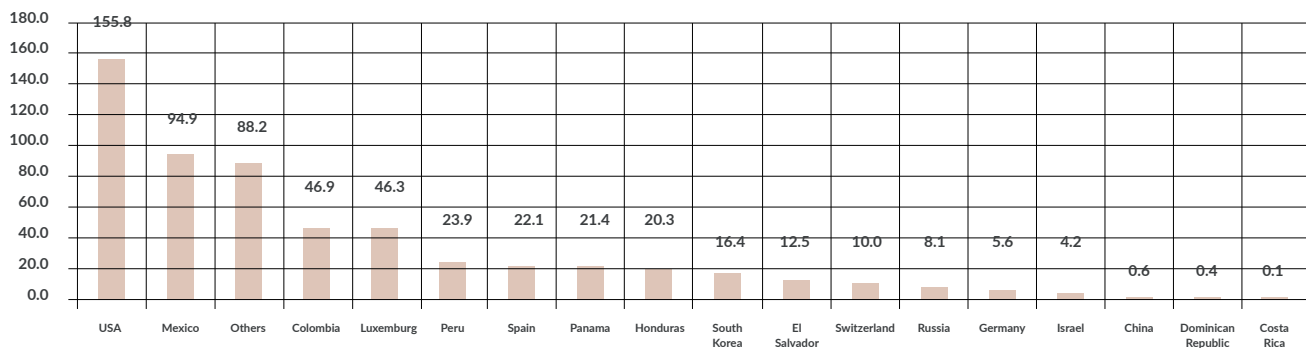
**Foreign Exchange Income from Family Remittances**  
% of variation from 2018 regarding 2017



Source: own compilation with data from Banguat.

As for foreign direct investment (FDI), 2017 closed with a net flow of US participation of USD 174.8 million. By June 2018, the North American country continues to be the main partner from which direct investment is received, reaching USD 155.8 million which would represent 28.5% of total foreign capital.

**FDI flows to Guatemala by country of origin**  
As of June 2018. Figures in millions of USD.



Source: own compilation with data from Banguat.

Indicators for Guatemala are positive, but growth has decreased. A recovery could be expected with an increase in public spending execution, an improvement of the business environment resulting in higher investment and better economic conditions within the United States, which is the main trading partner.





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**Sergio Recinos**  
President of **Banco de Guatemala**



# NOMINAL EXCHANGE RATE, LOAN TERMS AND BANKING SYSTEM IN GUATEMALA

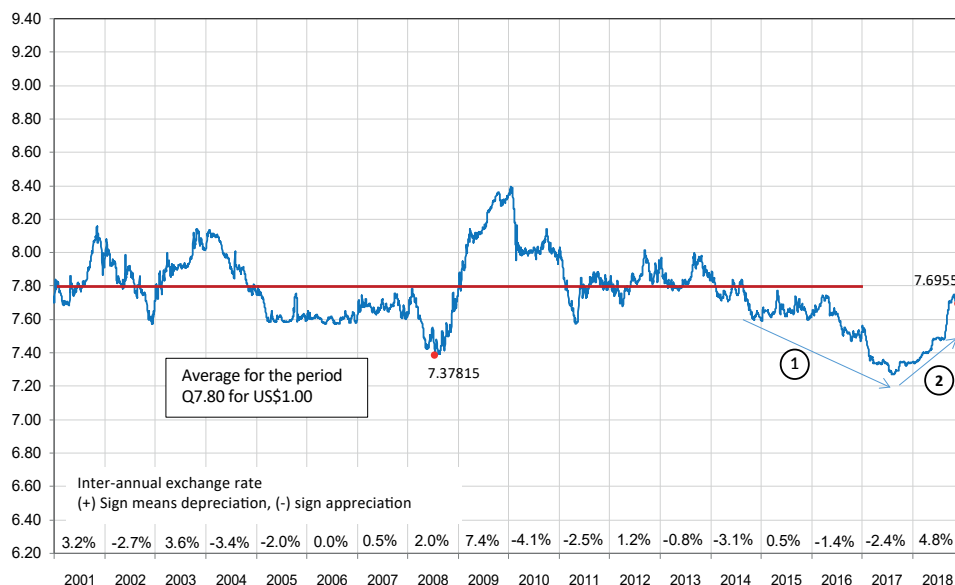
## I. Nominal exchange rate

In Guatemala the nominal exchange rate of the Guatemalan quetzal in regards to the US dollar is flexible. In other words, it is determined by the interaction between sellers and buyers in the exchange market, which makes it align with the explicit inflation plan goals used by Banco de Guatemala [Bank of Guatemala] to conduct the monetary exchange and credit policy of the country. Their plan's main goal seeks to maintain low and stable inflation rates.

The nominal exchange rate flexibility is important not only because it allows Banco Central [Central Bank] to concentrate its efforts on its fundamental goal, but also because it provides a buffer against external shocks, avoiding external sector imbalances to be transferred directly to employment and production.

In their context, and from a long-term perspective, the nominal exchange rate's behavior has been quite stable, with episodes of appreciation and depreciation that have been conditioned by the behavior of its main determinants. In fact, between September 2014 and mid-August 2017, the nominal exchange rate had a tendency to appreciate, which was explained by an excess of foreign currency sales in the exchange market, mainly as a result of a combination of factors affecting its foundations: for supply, these changes can be attributed to the significant increase in the family remittances flow (growths of 13.4% in 2015, 13.9% in 2016 and 14.4% in 2017); for demand, these changes can be attributed to the lower requirements of foreign currency for the importation payments, registered reductions of 3.5% in 2015 and 3.6% in 2016 (especially of fuels and lubricants) and as a result of the decrease of the international price of oil and its by-products as well as other raw materials that the country imports.

**Chart 1** Nominal Exchange Rate 2001-2018 (2)



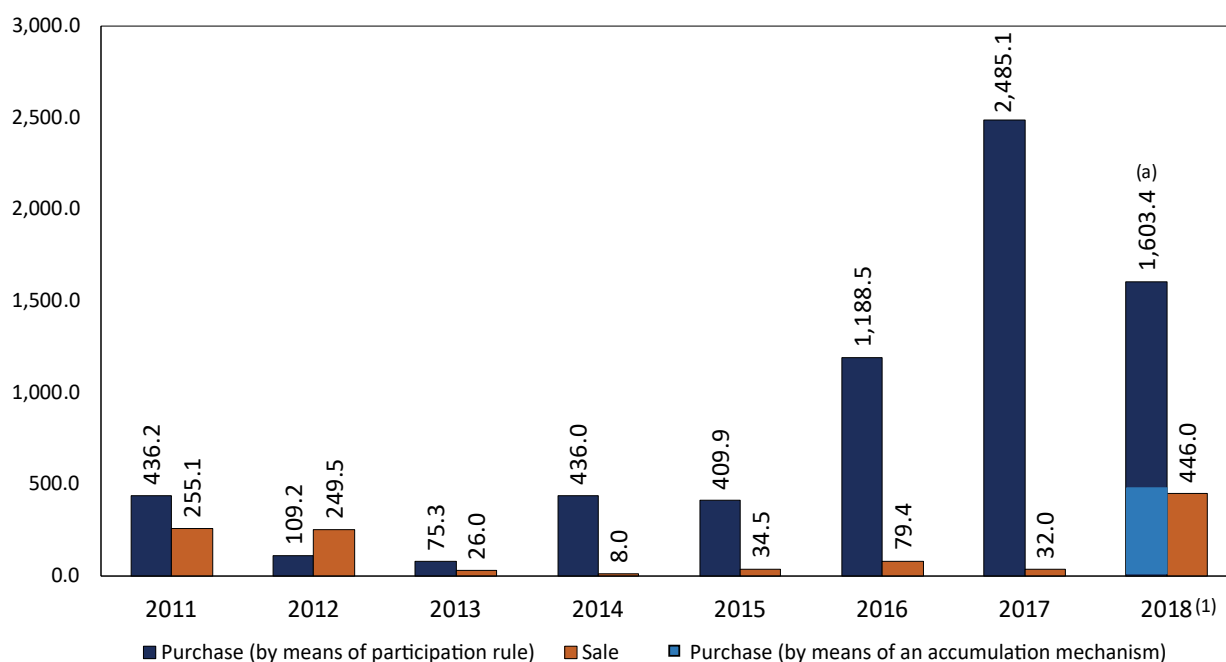
(1) Guatemalan quetzales for US\$1.00  
(2) Numbers up to 15 of November of 2018  
Source: Banco de Guatemala

Subsequently, to the extent that a gradual reversal of such factors was observed, the nominal exchange rate reflected a change in trend (toward depreciation), which prevails to date. In fact, the flow of family remittances, although still shows an important increase (12.8% to November 8, 2018), has shown a tendency to slow down and the value of imports has increased (8.9% to September 2018), mostly due to the increase in the median import price; which, when added with other adjustments in the economic agents' expectations, has contributed to strengthening the recent tendency to the depreciation of the nominal exchange rate (4.8% so far ttheir year).

It is worth highlighting that, the participation of Banco de Guatemala in the exchange market has been effective and has privileged modifying the volatility

of the nominal exchange rate without affecting its tendency, which has played a fundamental role reducing a big part of the exchange market surplus of foreign currency. In effect, during the 2016-2018 period the participation rule of the Banco de Guatemala in the exchange market, it has been fundamental in moderating the flow of foreign currency that generated volatility in the nominal exchange rate (in 2018 it has made purchases for US\$1,147.5 million and sales for US\$446.0 million). Whereas the mechanism of the accumulation of international monetary reserves (implemented between January and May and between August and October, of the current year) proved to be effective in reducing the aforementioned surplus of foreign currency (accumulation of US\$455.9 million in that period).

**Chart 2**  
Share of Banco de Guatemala in the Exchange Market by auction of  
Purchase and Sale of Foreign Currency  
(Million of US\$)



(1) Up till November 15th

(a) Includes US\$1,147.5 million for the activation of the participation rule and US\$455.9 for the accumulation mechanism of international monetary reserves

Source: Banco de Guatemala



## II. Credit terms

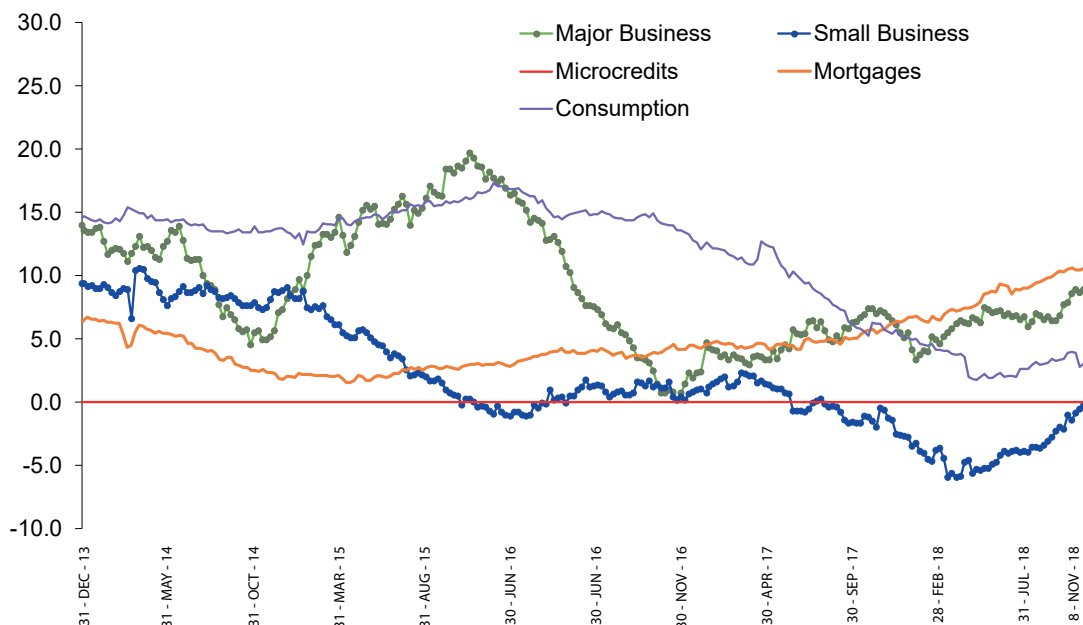
Banking credit to the private industry represents one of the main sources of financing for economic activity. To November 8, 2018, their created an inter-annual growth of 6.0%, driven by the growth of credit in foreign currency (9.7%) and to a lesser extent, in national currency (4.1%).

By debtor type, the evolution of credit towards the private sector shows the recovery of credit to the larger business sector and consumption, the prevailing upward tendency in mortgage credit and

the improvement in credit to the smaller business sector, although the latter still registers some negative growth rates.

From the economic perspective, the economic industries behind the evolution of credit are, in order of influence, consumption, financial establishments and manufacturing industries. On the other hand, the main sources of resources used in the overall credit activity are the banking fund-raising with the private sector and, in case of foreign currency credit, the credit lines arranged with foreign banks through the national banking system.

**Chart 3**  
Loan Portfolio by Borrowing Type (1)  
(Percentages)



(1) With information up till November the 8th 2018.  
Source: Superintendency of Banks

## III. Banking system

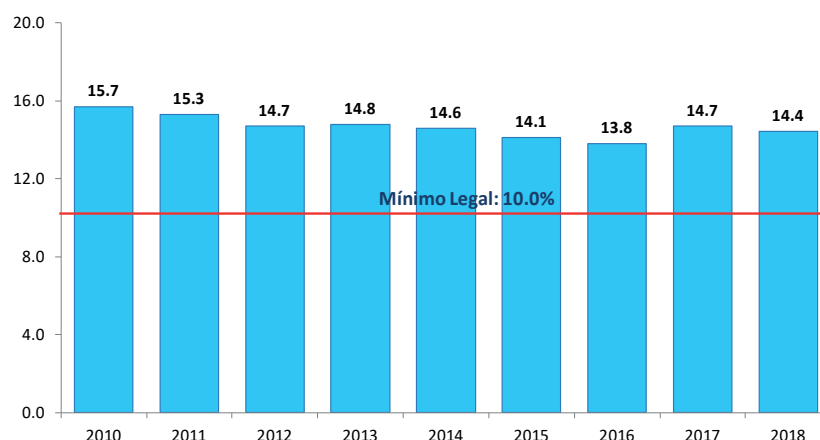
In Guatemala, the banking system is a fundamental part of the financial system and is the third largest in Central America (after Panama and Costa Rica), with 17 banks, an increase in the number of banking agencies and a greater number of local banks. The Guatemalan banking system, according to information from the Superintendency of Banks, is well regulated, solid, fluid and

solvent. In fact, banks are properly funded, have enough liquidity and have low credit default, in addition to their credit portfolio being properly diversified; which all demonstrates their resilience to stress scenarios.

To October 2018, the banking system shows a Capital Adequacy Index (IAC, by its acronym in Spanish) of 14.4%, higher to the established by Law (10.0%); the return on equity (ROE) remains steady around 14.2%;

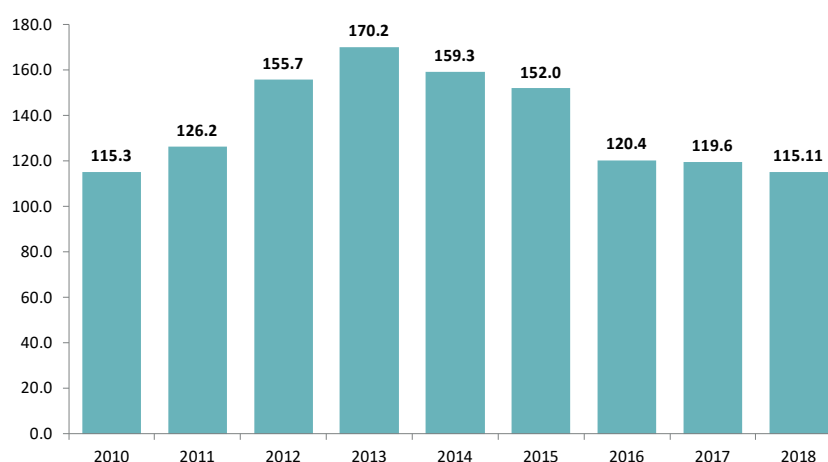
and the levels of non-performing loans, although they have increased in recent years, remain low (2.4%), while the coverage of provisions for losses on non-performing loans continues at levels above 100%.

**Chart 4**  
Banking System  
Capital Adequacy Ratio (CAR) (1) (2)  
(Percentages)



(1) CAR = computable capital - deferred charges / risk-weighted assets  
(2) With information up till October 2018  
Source: Superintendency of Banks

**Chart 5**  
Banking System  
Hedging Overdue Portfolio (1) (2)  
(Percentages)



(1) Hedging of overdue portfolio = specific provisions + general provisions / overdue portfolio  
(2) With information up till October 2018  
Source: Superintendency of Banks

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# LEGAL FRAMEWORK FOR DIRECT FOREIGN INVESTMENT

Guatemala is a developing country in Central America bordering Mexico, Belize, Honduras and El Salvador, and with both Pacific and Caribbean coastlines. It has mountainous forest highlands, lowland jungle and tropical coastlines. Guatemala is often referred to as the Land of Eternal Spring (*El Pais de la Eterna Primavera*).

The country has many assets: its strategic location, abundant natural resources, strong performance in logistics, interest in technological development and aspiration to become a regional hub. However, obstacles to foreign direct investment include insecurity, lack of a highly-skilled population, low quality infrastructure, weak legal institutions, and administrative burdens.

Thanks to prudent macroeconomic management, Guatemala has been one of the strongest economic performers in Latin America in recent years, with a real gross domestic product (GDP) growth rate of 3.0 percent since 2012 and 4.1 percent in 2015. In 2017, the country's economy grew by 2.8 percent, according

to the latest estimates, and is expected to grow by 2.6 percent in 2018.

Guatemala ranks as the 97th easiest country to do business in according to the World Bank's 2018 Doing Business report<sup>1</sup>, an eight-spot drop compared to 2017. The Government has developing infrastructure through public-private partnerships. These projects should attract new foreign investors. On Transparency International's 2017 Corruption Perceptions Index, Guatemala ranked 143th out of 176 countries (a seven-spot drop compared to 2016).

In 2017, the country received USD\$1.14 billion in foreign direct investment inflows, while the total stock of foreign direct investment stood at USD\$15.5 billion (21.9% of GDP), according to data from UNCTAD's 2018 World Investment Report<sup>2</sup>. The sectors that attract the most foreign direct investment flows are **electricity, agriculture, mining, commerce, and manufacturing**.

	Guatemala	Latin America & Caribbean	United States	Germany
Index of Transaction Transparency	3.0	4.0	7.0	5.0
Index of Manager's Responsibility	2.0	5.0	9.0	5.0
Index of Shareholders Power	5.0	6.0	4.0	8.0
Index of Investor Protection	3.3	4.8	6.5	6.0

Source: *Doing Business* - Latest available data.

Note: \*The Greater the Index, the More Transparent the Conditions of Transactions. \*\*The Greater the Index, the More the Manager is Personally Responsible. \*\*\* The Greater the Index, the Easier it Will Be For Shareholders to Take Legal Action. \*\*\*\* The Greater the Index, the Higher the Level of Investor Protection.

Guatemala is a country interested in promoting economic and social development, which is reflected in the Foreign Investment Law (Decree No.9-98 of Congress of Guatemala hereinafter referred as Foreign Investment Law), since it promotes and guarantees foreigners with an impartial treatment vis-a-vis Guatemalans, who will have the same treatment regarding rights and obligations.

The Guatemalan market is very competitive. The

country benefits of a very advantageous position due to its proximity to Mexico and the United States on one side and to the rest of Central America on the other side.

The customs union established among the Central American countries and North America facilitates the passage and trade of goods. Main economic sectors of Guatemala are open to both local and foreign investment and ownership; however, some restrictions apply to sectors considered to be of strategic interest,

such as military and limitations regulated in specific laws, such as:

**A)** Guatemalan Constitution establishes that the Government reserves the domain of a strip of land three kilometers along the ocean, starting from the top line of tides, two hundred meters around the lake shores, a hundred meters on each side of navigable rivers, fifty meters around the fountains and springs where populations obtain its water supplies. There are two exceptions to the aforesaid: A.1) if the land is located in urban areas and A.2) if the land was acquired prior to March 1st, 1956. If any of the lands included in the referred exclusions wants to be sold to foreigners it is required to obtain an express authorization from the Executive Branch of the Government to do so.

**B)** Forest Law, Decree No.101-96 of Congress of Guatemala, establishes that only a Guatemalan national can be awarded with Government land concession for the sustainable management of a forest.

**C)** Immigration Law (a foreigner requires to have an immigration permit to stay in Guatemala for more than 90 days), among others that regulate the development of a specific activity. Please refer to the next section called "Other Laws that promote foreign investment".

Foreign Investment Law establishes that no public officer or employee may request any additional requirement, condition or qualification applicable to any foreign investors that are not expressly included in a validly binding law. In addition to establishing full equality for foreign investors, the Foreign Investment Law expressly recognizes the following rights for all foreign investor:

- Private Property.
- Expropriation, only for reasons of collective, social benefit or social interest can be proven.
- Free trade.
- Free access to foreign exchange.
- Prohibition of confiscatory taxation and double taxation.

The Foreign Investment Law establishes the "Investment Office" as a department of the Ministry

of Economy for the attention of foreign investors (through the Government Decision No.532-92).

The financial activities or foreign investors are subject to the general protections granted to any kind of investments carried out in Guatemala. The Foreign Investment Law, Chapter 10 (investment chapter) of DR- CAFTA FTA as incorporated by its Chapter Twelve referring to Financial Services Chapter, and the Guatemalan Constitution clearly provides that foreign investors will receive a treatment not less favorable as national investor.

Guatemala has been promoting the development of infrastructure through public-private partnerships with the **Alliances for Development of Economic Infrastructure Law**, Decree No.16-2010 of Congress of Guatemala, and its Regulation contained in Ministerial Accord No.360-2011 of the Ministry of Public Finances. These projects should attract new foreign investors.

Among other Laws that promote foreign investment in Guatemala:

**1. Drawback Industries Law (Ley de Fomento y Desarrollo de la Actividad Exportadora y de Maquila, Decree 29-89).**

**2. Forestry Law (Decree 101-96) grants economic incentives to Guatemalan persons and companies who engage in reforestation projects of more than two acres, for up to 5 years.**

**3. Incentives Law to Develop Renewable Energy Projects (Decree 52-2003) declares of national interest the rational expansion of renewable energy resources.**

**4. Hydrocarbons Law (Decree 109-83) seeks to create the adequate mechanisms to stimulate investments in petroleum operations, to rationally use such natural resource.**

**5. Law of Free Trade Zones (Decree 65-89).**

Boosting growth will depend upon continued efforts to have a secure legal framework to increase private, national and international, investments in infrastructure and human capital. It is essential to have infrastructure for Guatemala's competitiveness and development!

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# LABOR RELATIONS AND THEIR LEGAL REGULATION

The arrival of new capital is desirable for our country, such as through the establishment of foreign companies in our territory, which in their operation must adapt and observe our legislation in their different areas. Without a doubt, one of the most relevant areas belongs to labor legislation, which regulates labor relations between employers and workers.

Guatemalan labor legislation establishes that an employment relationship or contract is the economic-legal bond by means of which an individual (worker), is legally required to render his personal services to another (employer) to perform a work, personally, under the ongoing dependence and immediate or delegated direction of this latter, in exchange for payment of any kind or form.

This bond takes the shape of an agreement of wills between worker and employer and becomes a reality or becomes a legal reality, upon the beginning of the rendering of such services by the worker.

In Guatemala, labor law is a public right and workers' protection. This means that both national and foreign employers must comply and abide by the provisions contained in the Labor Code, and it is understood that labor relations include, at the very least, the guarantees and rights granted to workers by the Constitution, the Labor Code, its regulations and other labor and social security laws.

Among these guarantees and rights that the law grants to workers we can mention, among others, the minimum wage, the right to fifteen days of annual vacations, the maximum limit of ordinary working days, as well as the right to receive payment for hours worked overtime, a year-end bonus and an annual bonus (each of them is an additional salary) and compensation for unjustified termination... etc.

Two facts arise from this, the first that the labor law protects the worker and not the employer, and the second that such protection operates automatically by virtue of the law.

The aforementioned does not necessarily mean that the employer has a disadvantage in relation to its workers. The law itself gives the necessary tools for it to even out, starting with the drafting of work contracts written clearly, the activity the worker must carry out: the structuring and regulation of working hours and their schedules, the salary structure, the duties acquired by the worker in relation to the performance of his activity. In addition, it is necessary to draw up an Internal Work Rules that clearly establishes and regulates the conditions and procedures in which workers must render their services, the disciplinary actions in case of non-compliance by them, and the fulfillment of legal labor duties such as wage books, payment receipts and certificates of any other nature.

In Guatemala, international companies have been successfully established, and are successfully consolidated, performing as excellent employers. They manage to organize and direct their human capital, balancing their power of direction and discipline with goals and encouragement to their employees. This generates healthy and revitalized labor relations, leading to a lower level of confrontation, a good labor climate and, therefore, excellent functionality and performance.

It is beneficial that the company with plans to settle in Guatemala, prior to establishing labor relations, has the advice of a local partner: the labor lawyer with a business approach, who will guide the process of harmonizing business policies with local custom and national legislation, to ensure that both workers and employers meet their own and common targets.





# BUILDING PERMITS

The region of Latin America and the Caribbean is characterized by heterogeneous economies in business climate, this stands out even more in the indicator of obtaining construction permits for Doing Business, where the economies occupy very varied positions, being among the best 40 in the world or among the worst 20. Guatemala is ranked 19th out of 32 economies in the region, with costs and times very close to the average.

**Building in Guatemala can be a challenge if we do not know the institutional framework and the role that each of the 9 government offices plays within the process of obtaining a building permit**, so in this article we will discuss the functions of each of them.

1. **Real State Registry (RGP by its Spanish acronym):** Anyone who wants to build will have to obtain a certificate of ownership, this must be requested from the RGP, which will be delivered in a timeframe of 3 days maximum with a charge of \$6.50.

2. **Ministry of Environment and Natural Resources (MARN, by its Spanish acronym):** MARN carries out a study to evaluate the environmental impact of the construction and grants an Environmental License. It is

important to check the taxative list to know in which category the project is placed. Category A is the most complex one with a procedure that takes about one to two months and with a cost up to \$5,000.00. Then there are categories B, C and CR, the last one being a 24-hour procedure and with a cost of \$10.00.

3. **National Coordinator for Disaster Reduction (CONRED, by its Spanish acronym):** CONRED is the state institution that regulates the minimum safety requirements in buildings and facilities for public use, issuing a permit without no cost and in a period of one to six weeks. It is important to verify that the building's plans and design meet the Disaster Reduction Standard Number Two (NRD-2, by its Spanish acronym).

4. **National Forest Institute (INAB by its Spanish acronym):** INAB is the institution in charge of forest control. In construction matters, it oversees granting land-use change licenses, which can be a complicated multi-stage procedure, with a timeframe of about two months and a cost around \$25.00.

5. National Council of Protected Areas (CONAP, by its Spanish acronym): CONAP oversees the preservation of protected areas and issuing a location report to confirm whether the construction is outside or inside one of them. This procedure takes about a week and has a cost of \$6.50.

6. Ministry of Public Health and Social Assistance (MSPAS, by its Spanish acronym): MSPAS implements a health code standard and has a procedure of about two to three weeks to issue a health report on projects for the construction, repair and/or modification of wastewater treatment plants. The procedure is free.

7. General Office of Civil Aeronautics (DGAC, by its Spanish acronym): DGAC is required to know the construction records and establish if the height of the building is allowed in the geographic area of its location. DGAC issues a report of maximum permissible height in a timeframe of one to two weeks, and with a cost around \$110.00.

8. Ministry of Energy and Mines (MEM, by its Spanish acronym): MEM participates by granting licenses for the installation and operation of construction projects related to the energy industry, so its participation is special, and it's not involved in most of the processes in the construction industry. If you need to go to MEM, you will face a process of 3 to 4 months without direct costs.

9. Ministry of Culture and Sport (MCD, by its Spanish acronym): MCD has two units, IDAEH and DECORBIC. Both of them are involved in projects carried out in historical sectors that could endanger the nation's cultural heritage. Their participation is not necessary in most processes within the construction industry. Procedures before the MCD do not have a direct cost but may take from two weeks to three months.

In addition to the aforementioned procedures, the interested party must carry out a procedure in the municipality of the place where the project is located in order to obtain a municipal construction license. The procedure may vary from municipality to municipality, so it is suggested that you investigate municipal requirements and procedures even before approaching the government offices mentioned in this article.

**The investor must consider, in his work plan and budget, the procedures, cost and time of the different administrative procedures related to the construction, as well as the cost of obtaining the different documents, plans and certificates that the institutions considered as requirements.**

The Government, for its part, must watch over making the sector more competitive, promoting construction through simplified regulations that allow facing the deficit of critical infrastructure and housing faced by Guatemala and considering the positive impact that the construction sector generates in the Gross Domestic Product (GDP).



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# GUATEMALA'S FREE TRADE ZONES: HOW TO WORK UNDER THIS REGIME?

In order to talk about the Free Trade Zones it is necessary to clarify that Investment Promotion is not the same as Investment Enabling. Promoting investments means selling a place as an investment destination.

**Enabling investments means, besides promotion, more information available, more transparency, more efficiency and efficacy throughout administrative and operational procedures. This is what operating in a Free Trade Zone is all about.**

## FREE TRADE ZONES IN GUATEMALA

Free Trade Zones are physically delimited, planned and designed areas of land, subject to a customs regime, where industrial, commercial or service companies are engaged in the export or re-export of goods and services linked to international trade. (Article 2 of the Free Trade Zones Act.)

Free Trade zones in Guatemala have the following targets:

- Reinforce foreign trade activities
- Employment generation
- Technology transfer

Guatemalan Free Trade Zone exports have been growing consistently by 9% annually in the last 15 years, (2002 to 2016) increasing from US\$ 186 million in 2002 to US\$ 703 million in 2016 and exporting goods and services to more than 35 countries from Free Trade Zones, with United States, Central America, Caribbean and Mexico being the main destinations. The chain to local economies has also been important, achieving in 2016 and 2017 exports of local companies to Free Trade Zones for about US\$ 6 million, in products such as packaging material, wrapping, advertising, lubricants, paints, chemicals, clothing, machinery and spare-parts. However, more integration with the local economy is needed, not only in Guatemala, but in all countries that have Free Trade Zones tools. Likewise, Free Trade Zones currently generate around 3,500 jobs directly and an estimated about 10,000 indirectly.

## THE MAIN INCENTIVES OFFERED BY FREE TRADE ZONES IN GUATEMALA ARE:

- Import Duties and Value Added Tax waiver (VAT) on all imports into the Free Trade Zone.
- Value Added Tax waiver (VAT) between the different Free Trade Zones and between its users.
- Income Tax Waiver for 10 years
- Real Estate Tax Waiver for 5 years.



Guatemala's Free Trade Zones face competition against the entire Central America region, the Caribbean and Mexico, regarding Foreign Investment attraction. *See table 1*

FREE TRADE ZONES CENTRAL AMERICA								
COMPARATIVE ANALYSIS					TAX BENEFITS			
	ISR	VAT	INPUTABLE TAX	MUNICIPAL TAXES	WAIVER INCOME TAX DIVIDENDS	WAIVER VEHICULAR TAX	WAIVER OF FOREIGN REMITTANCES	EMPLOYER SOCIAL SECURITY EXONERATION
Guatemala	YES, local sales no	Yes	Yes	No	No	No	No	No
El Salvador (1)	10 and 15 years	Yes	Yes	Yes	Yes	No	Yes	No
Honduras	10 years	Yes	Yes	Yes	No	No	No	No
Nicaragua	10 years + 10 prorated	Yes	Yes	Yes	Yes	Yes	Yes	No
Costa Rica	8 and 12 years 0% + prorated 50% for 4 and 6 years	Yes	Yes	Yes	Yes	Yes	No	No
Panamá	10 years	Yes	Yes	Yes	Yes	Yes	Gravado 2%	No
República Dominicana	Yes	Yes	Yes	Yes	Yes	No	Yes	No
México (2)	100% 10 years and 50% for the following 5 years	Yes	Si 2% anual agrícolas, 7.5% anual el resto	No		No		Yes

At this moment, Guatemala has 12 Free Trade Zones located all over the country. Mainly in the Guatemala Department, there are nearly 200 companies operating within Free Trade Zones for different industrial, commercial or service economic activities, among them: clothing and

textiles and its accessories, plastic and its manufactures, cardboard boxes, cosmetics, machinery, electrical, pharmaceutical, agrochemicals, logistics, call centers, footwear among others.

## AUTHORIZATION TO OPERATE IN A FREE TRADE ZONE

To operate in a Free Trade Zone it is necessary for the local or foreign company to have the Ministry of Economy approval, through an Authorization Resolution, so that it operates in the Free Trade Zone and has the SAT authorization to import and export without any import tax. The Resolution issued by the Ministry of Economy includes the customs duties that may be imported and exported from the Free Trade Zone, as well as the benefits which the company is entitled and the liabilities it is subject to.

In order to be authorized as a Free Trade Zone user, it is necessary to provide the legal documents of the company, its legal representative and the financial statements of SAT, IGSS and Ministry of Labor.

## IMPORTS AND EXPORTS IN FREE TRADE ZONES

From the moment the company is authorized and qualified to operate in the Free Trade Zone, you can start with its import and export process. The imports arrive through any customs of the country (Airway, Waterway or By land) with a Customs

Import Declaration (DUA, by its Spanish acronym) through a Customs Agent. This declaration has the ZI key in the Guatemalan customs system. Once the merchandise arrives at the Free Trade Zone, it is authorized to entry through the Customs Delegation located in the Free Trade Zone. The merchandise stored in the Free Trade Zone has no time limit to stay in it, since they are considered as merchandise in-transit. In the Free Trade Zone they can be stored, transported, sold, used as raw material in other products without any limitation. In order to be able to export the merchandise stored or the products manufactured in the Free Trade Zone, an export bill is prepared in US\$ and a Customs Export Declaration is prepared: ZR, ZE, ZT, ZC according to the destination of the merchandise. ZR merchandise to other countries; ZE merchandise manufactured in the Free Trade Zone to other countries; ZT: Transfer of merchandise between Free Trade Zones; and, ZC merchandise sold to the local market. In the latter case, the merchandise must pay the corresponding import taxes and the sale will impact the Income Tax.

Local market companies can sell merchandise and services to companies in the Free Trade Zones and this activity is considered an export from Guatemala to countries outside the Central American area.

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# CUSTOMS AGENTS

One of the crucial keys to the success of a company is its human talent, because this delivers a great impact on the strategic planning of the company. A human talent from any level (operational, middle or management), with knowledge, experience, career and integrity can make the difference in the market for a company.

The current customs legislation establishes that a customs agent is the legal representative of the companies, as well as an assistant of the public function for the Customs Office. It turns out that a Customs Agent is more than a “representative”, a “supplier”, or someone from outside the company.

By choosing a customs agent, I am choosing the legal representative of the company (what qualifications should he/she have?). A person is also chosen to translate the company’s particular needs into technical and legal language to inform the customs authorities (how much should that person know about the company?). Finally, the customs agent is the one who assists the Customs Office by facilitating trade, with proper and, of course, correct declaration and collection (what is the effect of the person chosen before the Treasury?).

A company aware of the role played by the customs agent could consider that, in addition to the leading roles he/she plays, it could be an opportunity for the effectiveness of its foreign trade operations. Why settle for just being the one who “processes” my imports through customs?

Companies know their business. They perform daily operations that allow them to specialize more and more every day. But how specialized is in customs classification of goods, duty classification, determination of customs value, all the free trade agreements that Guatemala has signed? When selecting a customs agent, there should be a moment to consider that besides hiring a supplier, a professional is being recruited to oversee and communicate the interests of the company, because the working capital will be entrusted to this person. We can say that when selecting a customs agent, the following must be considered:

## Technical and legal knowledge

Only a correct declaration of goods will allow an effective management of customs clearance that will reduce time and costs, thus increasing the company’s profitability, without generating customs tax risks.

## Experience

Knowledge isn’t enough. It requires a professional person with skills and experience that can offer solutions to problems that arise in daily operations. Only a person who knows the internal aspects of customs management, achieved by practice, can be an effective advisor to the company. The experience of a professional person allows a wide vision that will support the decision making. A decision customs management makes could later affect in the payment of additional internal taxes or fines, in commercial



competitiveness, commercial image and even in matters that must be solved in a criminal court.

## Career

When evaluating the career of who will be chosen as the representative at the Customs Authorities, allows us to confirm that their management is aligned with the management of the company. So, it can also be a commercial ally that allows to be the distinguishing factor in the strategy of company competitiveness. It is part of the company's corporate image to select a professional person with an impeccable career background.

## Integrity


An honest customs agent builds trust for both the company and the authorities. This integrity will allow an accurate translation and communication between company - customs / customs - company. This is how such efficient cooperation will be achieved so the country could be an innovator in trade facilitation efforts.

When the patent number is added to the importers list, the main question at this point should be: Who

am I nominating to be my representative? By selecting a customs agent with knowledge, experience, career background and integrity at the time of management, you are also enhancing the image of the company before the authorities and the business sector.

**A customs agent is more than just a signature on a declaration**, this person is a commercial ally, an advisor, a high-level representative who oversees the interests of the company and reduces legal, tax and economic risks. The customs agent is not the one who seeks to pay less tax but rather to apply the regulations correctly by paying the applicable taxes. A customs agent can be a human talent for the company that represents the link in the value chain that makes the difference to establishing a competitive advantage in the market.

Do you  
know your customs  
agent?







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**Sandra Iriarte**

*Chairman of Intellectual Property Committee in  
AmCham*



# THE IMPACT OF NEW TECHNOLOGIES ON SOCIETY

Amcham's Intellectual Property Committee held an event in October to highlight the importance of Intellectual Property as an asset in the business of any entrepreneur. For this, we have participation from UBER and FOX, as well as representatives of the Universidad del Valle. We do not pretend to become a specialized forum of Lawyers, on the contrary, we focus on warning about the lack of appreciation that exists in Guatemalan businesses regarding activities with Intellectual Property assets their businesses.

As a thought about the impact of new technologies on society, we invite attendees to make a brief comparison of the number of contacts with technology and intellectual property during their day-to-day life an ordinary individual today, compared to just ten years ago, determining that some of their experiences are now made possible only through technology.

To mention a commonly used invention in use, the cell phone, it allows us to access social networks, read news through an application, read our work or personal emails, chat or receive a call... Behind each of these features there is not only one, but millions of contributions through small, medium or giant innovations that thanks to the risk taken by some businessperson to believe and bet on them, were developed until they became something available to the general public, literally within finger's reach.

The innovation is precisely the technology that has allowed the entrepreneur to reach an increasingly large or diverse audience, without necessarily investing in traditional resources such as more stores, more staff or more stock. These are the resources an entrepreneur today can save in their business,

whatever it may be and it is our proposal that these resources should be reinvested in protecting the intellectual property of the company. Because this will be the most valuable and will keep it well positioned in front of its consumers, who are every day becoming less "traditional" consumers and will depend more on facilities given by this technology.

As a clear example of a successful case, we present the UBER company, which already has businesses in Guatemala, and FOX company. They both explained how they rely on technology as their main tool, giving them the value owed and protecting its inventions, creations, trademarks and intellectual property in general.

Any company usually seeks to stand out from the others in the market by means of its own characteristics that give greater comfort and quality to the service or product in front of the rest of the market. All the efforts to innovate and achieve these features are protected and distinguished with Intellectual Property assets.

Intellectual Property is an asset protected according to the nature of the intellectual creation and its application. For instance, one does not protect an App in the same way as a trademark, therefore any merchant should get advice. But, it is common that until you have a specific need or legal dispute one does not think of intellectual property as an asset and then resources pour into lawsuits or legal processes, instead of growing the company. During our event it was determined that it is not necessary to start with a great capital committed to the protection of these inventions, but instead be considered from the beginning of the project and make a growth plan.

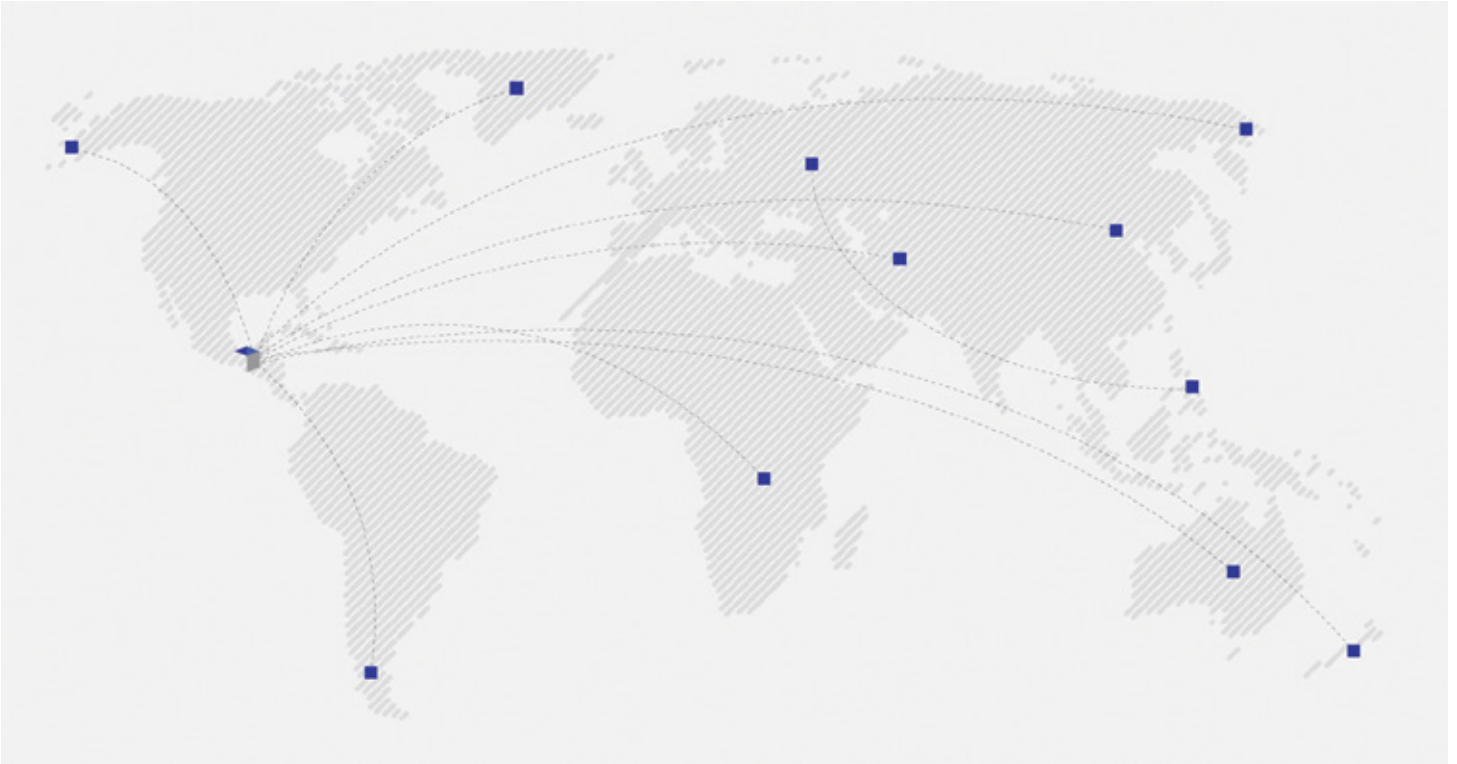


Above all, we seek to convey the message that technology is a tool for innovation. Without it, many of the “traditional” businesses will cease to exist as we know them. By this we mean that if a restaurant does not have home delivery services, it will be out of the market if it does not partner with a technology supplier like UBER EATS. We consider it important that entrepreneurs and innovators, creators, advertisers and all market players be educated about the rights that arise with their inventions, creations, innovations and other works, and especially to value the protection of those rights.

In summary, we invite you to consider that there is no businessman who pitches an idea to an investment

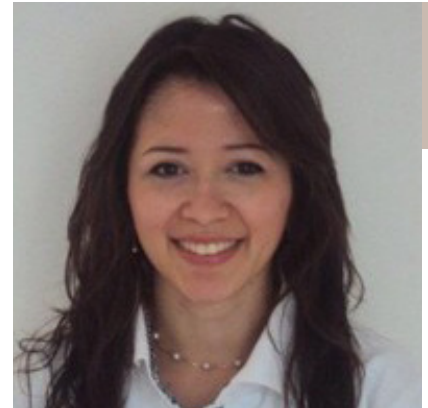
fund, who is not asked if he has protected his invention patent, his utility model, if he registered his trademark, if he made sure that his business secrets are safe, that he is asked if his know-how is protected by a contract, among others. Not having the protection will often represent a delay in the launch of your company, or at least in the financing of the project. It's also important to be informed and educated about the protection you will have or should have according to the territories your business is going to reach. Even though one's idea is great and innovative for one country, it may be the case that someone else already has those rights, and one's desire to expand will be destroyed.





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# RELOCATION SERVICES

Nowadays foreign transferees relocated to a new country bring to companies around the world unique perspectives and experienced, which makes greater value to their business.

Mobility Management gives a right-size customized package that accommodates transferees, with consistency and flexibility, making them and their families feel not only guided but also confident that most of the details of the new environment have been considered, in other words the relocation transition, are been recognized and coordinated.

This can only be provided with a trained, dynamic and certified team with expertise in the relocation field, which turns into efficient, strategic, consultative and professional assistance, seeking stability in the “new life” not only for the company’s best interest but also for the assignees happiness and productivity and for their families as well.

Intermud’s professional team can help with the international moving process, home search, school search, of visa services, banking and transportation solutions, etc.; basically coordinating every detail that the assignee and the family will need in this new environment.

**When relocated, plan to learn as much as possible about the destination country, the following tips will help on this transition:**

**Discover the location of services/business that is relevant for you and your family, i.e., hospital, banks, gas stations, restaurants, supermarkets, etc.**

**Take climate variation into consideration; some clothing, books and family treasures can be affected by moisture or extreme temperatures in your new destination.**

**Learn what appliances will work in the destinations country.**

## Understand the following:

- Culture
- Laws
- Immigration
- Insurance coverage
- Taxes

## Pre-Move visit

- When you are looking at housing option let a professional broker guide you through pre-selected properties. Take pictures of homes, rooms, schools, city and places of interest to show your family.
- Check electric compatibility for your home appliances if you are considering using them abroad.
- Locate emergency medical care providers and facilities and ask if they accept your company/family medical insurance.
- Understand the schooling cycle
- Locate your home country’s embassy
- Survey supermarkets and shopping areas

## Arrival Action List

- When you arrive to the new county, take time to get familiar with the area.
- Places to locate
- Schools and bus stops
- Doctors' and dentists' offices
- Nearest hospital's location
- Local fire and police departments
- Museums, zoo and parks
- Pharmacies
- Veterinary office/pet hospital and pet food store
- Churches
- Shopping centers
- Restaurants
- Markets
- Banks
- Beauty and barber shops
- Dry cleaner
- Transportation Services

## Procedure:

1. Intermud makes an introductory call with the assignee, in which we ask the assignee to fill in a Need Assessment Form, where we get all the details of the required characteristics of home finding, school, special needs, emigration procedures, etc.
2. We schedule a phone call, in which we validate the information of the Need Assessment Form, and ask for specific details.
3. We send the Phone Call Summary to the assignee to confirm all the details.
4. With the information, we search properties, schools, special needs, special information about Guatemala, etc.,

## Intermud's Commitments:

- Provide tools in relocation services consulting and customized client solutions.
- Been a global network with a local home touch.
- Understand the value of the mobile workforce; the people we move typically represent a company's "special forces".
- Creating a positive impact in people's careers and business.
- Assuring growth and profitability for company's relocating their assignees in an easy non stress environment.

## Our Relocation services include:

- Familiarization Program
- House Search Program
- School Search Program
- Legal Counseling (Work permit, residence permit, driver's license, and other specific documents that your new destination requires)
- Temporary Accommodation
- Furniture rental
- Cross Cultural Training
- Pet importation
- Departure Package

5. We elaborate an Agenda, in which we detail the properties, schools, hospitals, malls, routes to be visited, etc.
6. Our Relocation Consultant will accompany the assignee to the entire specific places schedule in the agenda.
7. A Welcome Package will contain a Guatemala Guide Line, which will explain all the basic information about our country.
8. After the program is finished the assignee and family will be happily accommodated in their new environment.

Our succeed is based on accomplished the assignee's expectations and our gold is to make them feel welcome and comfortable in Guatemala.

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PISOS  
LOSAS**

## CEMENTO 5,800

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VIGAS  
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PREFABRICADOS  
COLUMNAS  
BLOCK  
LOSAS**



**Cemento Regional 5,800 PSI**, puede ser utilizado en todas las actividades de la construcción, el cemento se caracteriza por la alta solidez inicial que lo convierte en un cemento de excelente aplicación para edificar estructuras con mayores resistencias metálicas o bien cuando se requiere un aumento de fuerza a edades tempranas. Es compatible con todos los materiales de construcción.

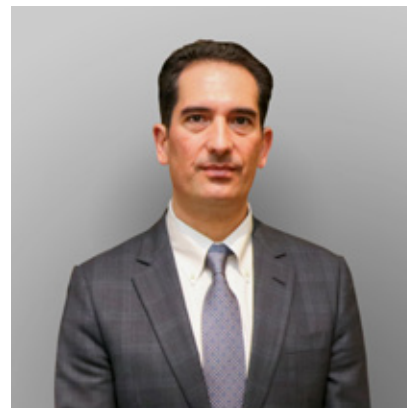


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**Victor Manuel** Asturias Córdón

*Presidential Commissioner for Competitiveness  
and Investment National Competitiveness  
Program - PRONACOM*

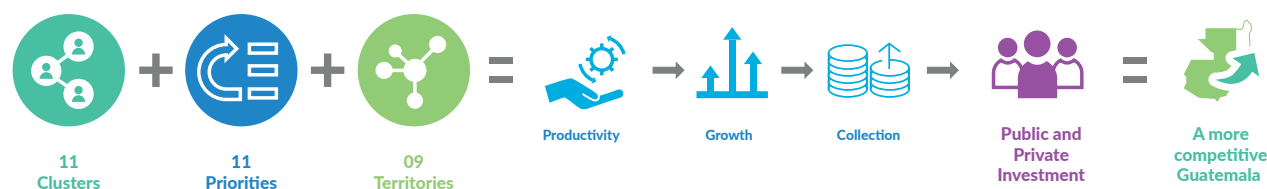


## NATIONAL COMPETITIVENESS POLICY 2018-2032, AN OPPORTUNITY TO INCREASE THE ATTRACTIVENESS OF INVESTMENT AND GENERATE GREATER ECONOMIC GROWTH

The National Competitiveness Policy is a coordinated effort between the production sector, civil society, the academy, the trade union sector and the public sector. It aims to address three compelling demographic phenomena: the population growth, by 2032 the Guatemalan population will be around 22 million people. Then, there will also be the demographic dividend phenomenon, which will be when the workforce will outnumber the retired, and this will cause an extraordinary increase in the employment demand. Finally, there will be a transition from rural to urban. By 2032, it is estimated that **79% of the population will live in the urban centers.**

It is organized under three strategic guidelines called 11-11-9: 11 clusters -11 competitiveness priorities - 9 suitable territories to be established as intermediate cities. The foundations are located in the 12 pillars of World Economic Forum, incorporating two additional cross pillars: social and environmental sustainability. This thereby increases productivity and creates greater economic growth for the country.

Figure 1 shows the relationship between the 3 guidelines.





Guatemala is currently at a defining moment in creating conditions that will allow the Guatemalan population to have greater access to employment opportunities and, consequently, higher levels of well-being and prosperity. In order to enhance this opportunity, this policy suggests the development of cluster structures. These help strengthen the productive and economic dynamics generated from the territory. In addition, it makes it possible to take into account the differentiated social and productive characteristics of clusters, promoting inclusive economic development. The Policy defines actions to consolidate the economy between agglomerations of people with better productive and purchasing capacities, promotes increased productivity, allows the generation of scale and operational efficiency, while stimulating innovation and facilitating marketing, and the development of new businesses and resilience.

The eleven main clusters are:

1. Forest, furniture, paper and rubber
2. Fruit and vegetables
3. Processed foods
4. Beverages
5. Textiles, clothing and footwear
6. Metal Mechanics
7. Tourism and health services
8. Transport and logistics
9. TIC's, software and call centers
10. Construction
11. Light manufacturing

By 2032, these are capable of creating more than five million production jobs in high demand industries both nationally and

internationally. Plus, they remain quality products and services provided.

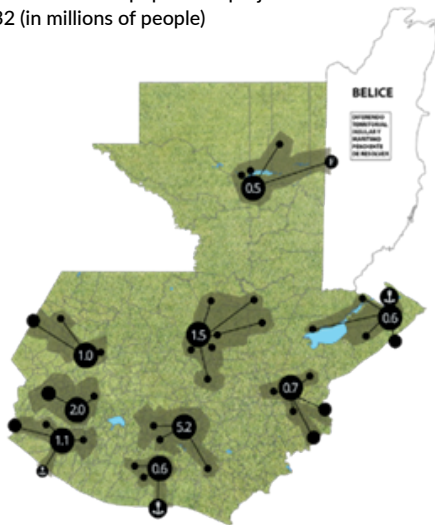
The development of clusters requires different productive sectors to overcome gaps that restrain competitiveness. That is why the Competitiveness Policy develops the Priorities, divided into two agenda. The first addresses issues that impact at the national level (Horizontal Agenda): to eliminate corruption, increase legal certainty, increase security, improve educational quality, end chronic malnutrition. The second addresses local and sectoral levels (Vertical Agenda): to reduce the costs of bureaucratic processes, improve infrastructure and logistics, sustainability of the electricity subsector, boost research, development and innovation, strengthen the entrepreneurial ecosystem and increase the attractiveness of foreign investment.

Guatemala is a perfect investment destination because it has an excellent geographic location to access booming markets, outstanding macroeconomic stability, free currency negotiation and financial resources under optimized conditions. The Competitiveness Policy advocates for the generation of greater political stability, institutional strength, legal certainty, flexibility in labor laws, private property respect, skilled labor and good infrastructure, among others.

The Competitiveness Policy actions include: the process simplification through the *asisehace.gt* tool, the regulations update such as the Code of Commerce amendments which reduces costs and time in the companies' registration, the amendments to movable guarantees law which gives access

to credits to people who do not have real estate guarantees, the factoring law and a legislative agenda aimed at encouraging investment and employment generation. They also support actions to improve the population's skills, including educational programs, entrepreneurial ecosystem promotion and innovation through business training, innovation encouragement. Plus, it supports strengthening local economic development by providing competitive tables.

Each node shows the population projection for 2032 (in millions of people)



The National Competitiveness Policy enables an appropriate approach to interventions and investments required to address competitiveness gaps and enhance the productive activity of clusters identified in territories suitable for urban development. It represents a greater degree of detail regarding analysis, the actions to be executed and the interinstitutional and intersectoral coordination as strategic planning tools, in order to unify the efforts towards the fulfillment of the same goal:

The identification of nine territories suitable for development established as Intermediate Cities would improve the coverage of basic services, provide a response to the economic, political and social dynamics between the city and the countryside and would guarantee the flow of people, goods, capital and knowledge. The following map shows the location of these territories.

#### Metropolitan Area (9)

Guatemala, Sta. Catarina Pinula, Chinautla, Mixco, Fraijanes, Amatitlán, Villa Nueva, Viella Canales, Petapa

#### Los Altos City (9)

Quetzaltenango, Salcajá, Olinstepeque, San Juan Ostuncalco, San Mateo, Almolonga, Cantel, La Esperanza, San Cristóbal Totonicapán

#### Cobán City (5)

Cobán, Santa Cruz Verapaz, San Cristóbal Verapaz, San Pedro Carchá, San Juan Chamelco

#### Guatemagica City (9)

Coatepeque, Mazatenango, Retalhuleu, San Sebastián, S.C. Muluá, S. Martín Z., San Felipe, Champerico, El Asintal

#### Eastern City (5)

Zacapa, Estanzuela, Río Hondo, Teculután, Chiquimula

#### Northwestern City (2)

Huehuetenango, Chiantla

#### Puerto Barrios Port City (3)

Puerto Barrios, Livingston, Morales

#### San José Port City (6)

Escuintla, Santa Lucía Cotzumalguapa, Masagua, La Gomera, San José, Iztapa

#### Antigua Guatemala Tourist City (9)

Antigua, Jocotenango, Pastores, S.M. de Jesús, S.M. Dueñas, Alotenango, S.A. Aguascalientes, S.C. Barahona

#### Peten Tourist City (2)

Flores, San Benito

Improve competitiveness to increase national productivity and thus generate inclusive, accelerated and sustainable economic growth.

**Nicholas** Virzi Arroyave  
*Chairman, Investment Promotion Committee  
AmCham*



## IMPORTANCE OF ECONOMIC AND TRADE RELATIONS BETWEEN THE UNITED STATES AND GUATEMALA

Trade relations with the United States is the most important for Guatemala. This is followed by trade relations with the countries of Central America, the Dominican Republic, and Mexico. This article will focus on these countries/regions.

Chart 1 shows how the two economies of the United States and Guatemala have moved together since 1980, with projections from the International Monetary Fund (IMF) until 2023. We can see that when the U.S. economy weakens, so does the Guatemalan economy. This happened dramatically in the major crises of 1982 and 2008-2009. It is remarkable that over time the Guatemalan economy somehow has become independent. After 1982, when the U.S. economy fell, Guatemala's economy slowed down, but it didn't fall as badly as the weaker U.S. economy, as was the case with the great recession of 1982.

The IMF expects that the US economy will slow down from 2019. That fact is questionable. Now, thanks to the Trump Administration's lower taxes and regulations, the U.S. economy is in full employment, growing in the last two quarters at rates not seen in decades, from 4.2% in the second quarter to 3.5% in the third quarter of 2018, according to the U.S. Bureau of Economic Analysis (BEA). The chart has broken lines to show what would happen if the U.S. continues to grow at the rates projected for 2019 in forthcoming years and what the effect could be for Guatemala (slightly higher economic growth). Because of the importance of the U.S. economy to Guatemala, it is good news for Guatemala that the regulatory reforms and tax cuts that have occurred under the Trump Administration have had positive effects. In the third quarter of the last 4 years, economic growth has been 1%, 1.9% under Obama, and 2.8% and 3.5% under Trump. Entrepreneurial and consumer confidence are at high levels. Labor participation levels are rising, as people are leaving welfare; and unemployment levels are at their lowest levels in decades, mostly for African Americans, Latinos and women. According to Bloomberg, the consensus is that the U.S. economy is in full employment. Data from the Bureau of Economic Analysis confirm this information. Gross domestic investment, fixed investment, non-residential investment, structures and equipment all of them showed strong rises in 2017 compared to 2016, and good economic figures are expected for 2018.

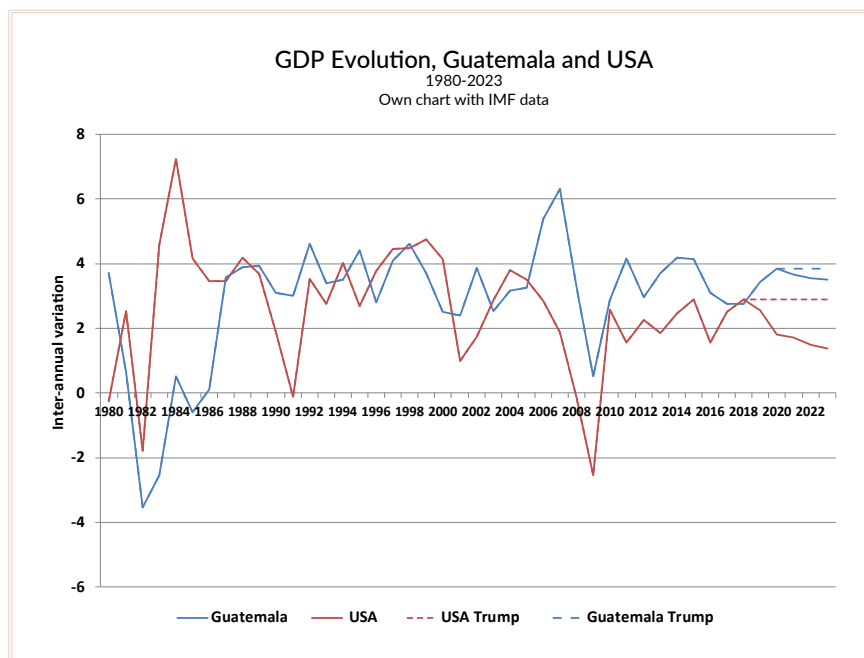


Chart 1: Evolution of economic growth in Guatemala and the U.S.

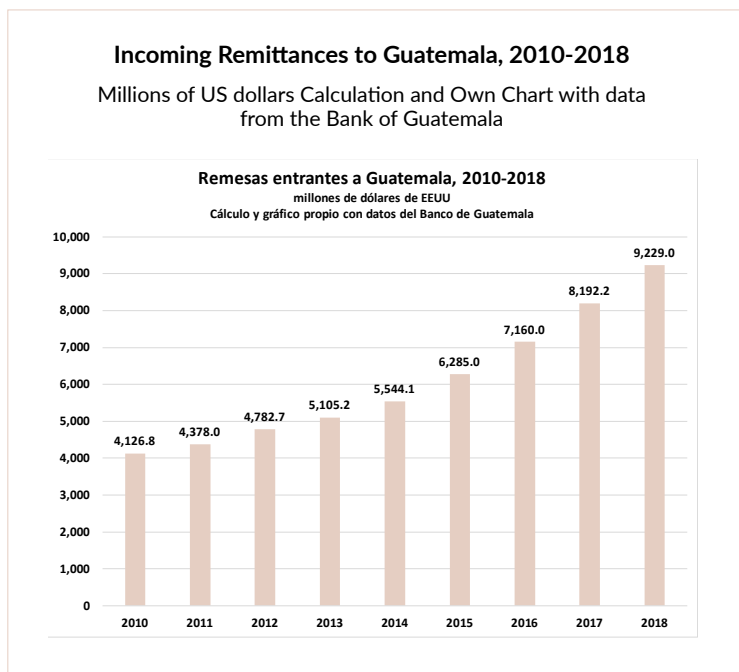


Chart 2: Remittances to Guatemala, 2010-2018

Remittances continue to make an important contribution to the Guatemalan economy in a short term. Most of these come from over the million of Guatemalans who live in the United States and send remittances to Guatemala. By October 2018, around \$7,687.3 million in remittances had been sent to Guatemala. Typically in October, they have received 83.3% of the remittances that will come in the year, taking the 2010-2017 average. If that tendency continues, it could be expected to close the year with \$9.229 billion in remittances to Guatemala. As shown in Chart 2, this would be the eighth consecutive year of remittances increase in nominal terms. The annual growth in remittances has been double-digit since 2015.

All of the above suggests that Guatemala has to find a way to take advantage of the U.S. economic upturn. Particularly, this is important because the Guatemalan economy has been slowing down in recent years for several reasons, as shown in Chart 3. While in 2014

the Guatemalan economy grew at 4.2% annually in real terms, Banco de Guatemala [Bank of Guatemala] low estimate for 2018, is that Guatemala's economic growth could be mirrored by only 2.7% by 2018.

<sup>2</sup>Bureau of Economic Analysis. 2018. <https://www.bea.gov/>

<sup>3</sup>Crook, Clive. July 2018. Full Employment. Bloomberg. <https://www.bloomberg.com/quicktake/full-employment>



Guatemala's GDP Evolution, 2014-2018

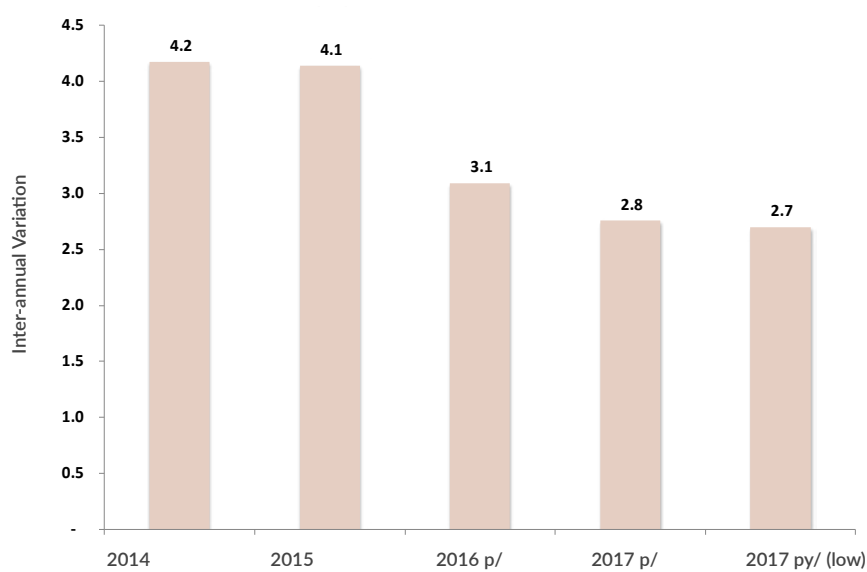


Chart 3: Evolution of Guatemala's GDP, 2014-2018

This is mirrored in several indicators. Chart 4 shows how economic confidence in Guatemala has fallen significantly, according to the group of experts asked on a regular basis by Banco de Guatemala.<sup>4</sup>

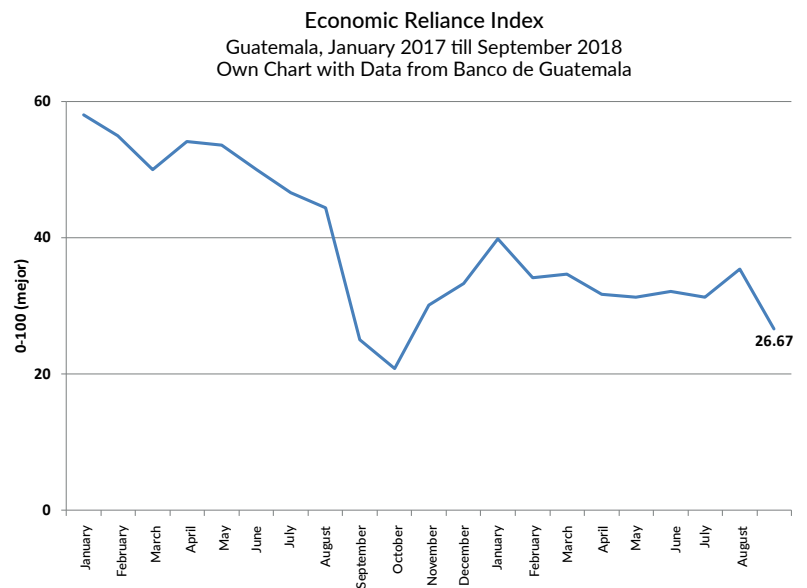


Chart 4: Index of Economic Reliability in Guatemala

Chart 5 shows direct foreign investment in Guatemala for 2014-2018. The estimated data for 2018 is the reworking of direct foreign investment in Guatemala from January to June of this year, using data from

Banco de Guatemala, shown in millions of ordinary dollars. In 2018 will be the fourth consecutive year in which foreign direct investment in Guatemala will decrease regarding the previous year.

<sup>4</sup> <http://www.banguat.gob.gt/publica/EEI/>

## The lack of legal certainty

There are many reasons why the Guatemalan economy is slowing down. First, the prices of goods in its export niches are not seeing their best times, according to the exporters' perspective. Also, damaged roads and infrastructure discourages investment in the countryside. On the other hand, inconsistent decisions made by the Constitutional Court, regarding the suspension and subsequent unequal treatment of major investment projects such as the Oxec hydroelectric plant and Minera San Rafael, have generated a tremendous uncertainty about the investment and business environment in Guatemala.

The cases of Oxec and Minera San Rafael highlight the lack of legal certainty in Guatemala and its effects on foreign direct investment. Both cases stem from complaints of non-compliance by Guatemala's government (not the companies) regarding Convention 169 with the International Labor Organization, which consults indigenous communities about investment projects. In Oxec's case, the Constitutional Court suspended Oxec's operation, then allowed it to operate while its case

was being resolved. In Minera San Rafael's case, the Constitutional Court did the same, then they did not allow the Minera [mine] to continue operating while its case was being resolved. As economic data shows, these inconsistent decisions scare away investment.

## Political conflict against entrepreneurship projects

There are also cases of real concern, such as the assaults on Finca Bremen in Baja Verapaz and the hydroelectric company Energía y Renovación in Huehuetenango. The San Mateo Ixtatán project in Huehuetenango has suffered violent assaults, twice in the last year. In the Finca Bremen's case, it is a case of terrorism against entrepreneurs without any excuse. In San Mateo Ixtatán's case, there are parallel groups that want to displace the Guatemalan state and private sector, in order to completely dominate the countryside region. These incidents make it clear that in Guatemala there is an absence of State and authority within the country, a situation taken advantage by parallel groups that displace the state to encourage illegal businesses at the cost of legitimate private investment and national development.

**Direct Foreign Investment in Guatemala, 2014-2018**  
Own Chart with Data from Banco de Guatemala

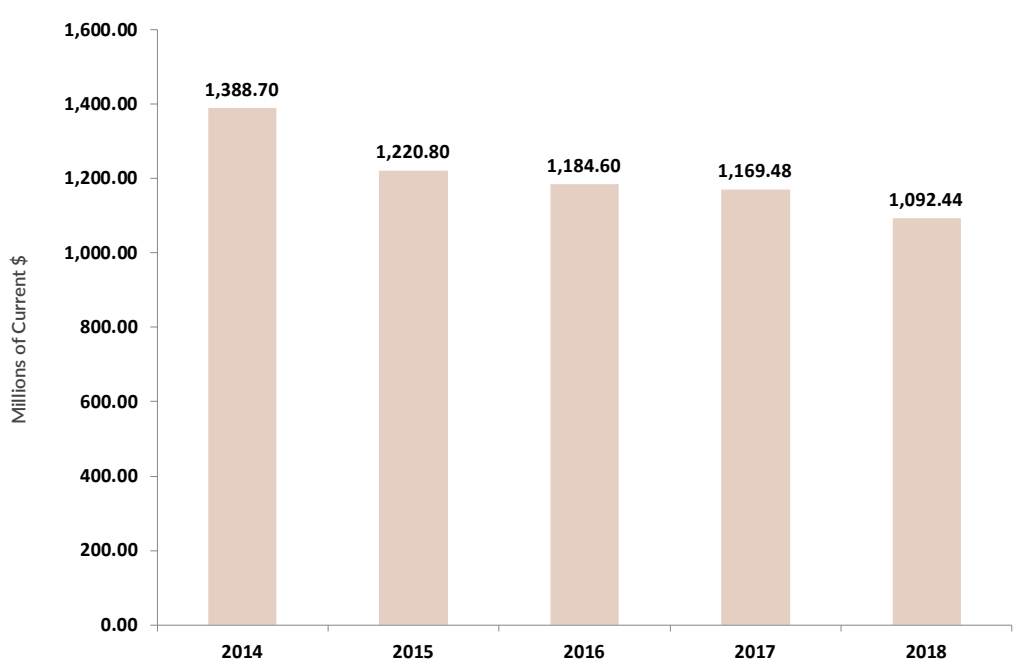


Chart 5: Foreign direct investment in Guatemala, 2014-2018.

<sup>5</sup> <https://www.prensalibre.com/ciudades/baja-verapaz/retienen-a-trabajadores-de-finca-en-purulha-baja-verapaz>

<sup>6</sup> <http://miningworks.gt/actualidad/denuncian-nuevo-ataque-en-san-mateo-ixtatan-huehuetenango/>

Chart 6 shows data from Banco de Guatemala on the FDI flow to Guatemala, according to countries and regions in 2010-2018. The estimated data for 2018 is the reworking of direct foreign investment in Guatemala from January to June of this year, for the United States, Mexico and Central America/Dominican Republic, Guatemala's main trading partners. The chart shows how, from 2014 to 2017, foreign direct investment from the United States decreased, and how investment from the Central American region/Dominican Republic and Mexico grew from 2015 to 2017. In 2018, foreign investment from the United States increase, but to levels like those of the two previous years, and it is estimated that foreign investment from Central America will fall in 2018, while Mexican investment will slightly increase.

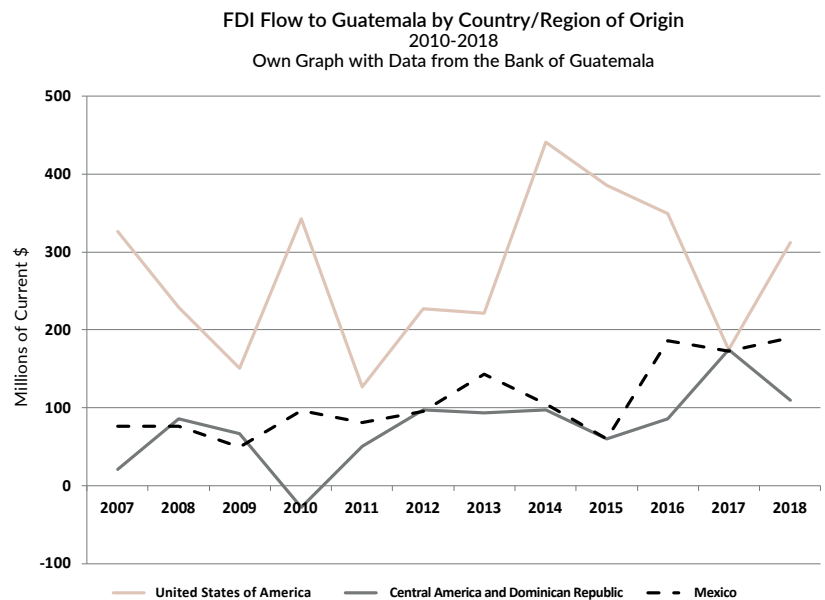


Chart 6: FDI flows to Guatemala by country/region in 2010-2018

Chart 7 shows the data of Banco de Guatemala about the exportations of Guatemala, according to buyer country/region in 2007-2017. The data are displayed as a percentage of total exports, to show the importance of these trade partners of Guatemala, United States, Mexico and Central America and the Dominican Republic (CARD). Since 2011 it can be seen that the participation of the United States as buyer of Guatemalan exports decreases in related terms, while the share of the CARD region increases.

In 2011, the U.S. structural share of total Guatemalan export purchases was 41.41% of the total, which dropped to 33.76% in 2017. The CARD region's structural share of total Guatemalan export purchases was 30.62% of the total, which increased to 33.6%

in 2016, and 32.79% in 2017. For Mexico, the data remains basically the same, going from 4.93% in 2011 to 4.65% in 2017, having been at 6.73% of the total in 2007. It shows that there is a lot of room to improve exports from Guatemala to Mexico. Likewise, it is considered healthy that Guatemala has diversified its client portfolio of exports to the other CARD countries, in order not to excessively rely on the U.S. economy.

Overall, the United States, Mexico and the CARD region represent 71% of Guatemala's exports, showing once again the importance of Guatemala's commercial relationship, not only with the United States, but with the CARD region and Mexico.

**Guatemala Exportations, According to Buying Country**  
2007-2017  
Own Chart with Data from Banco de Guatemala

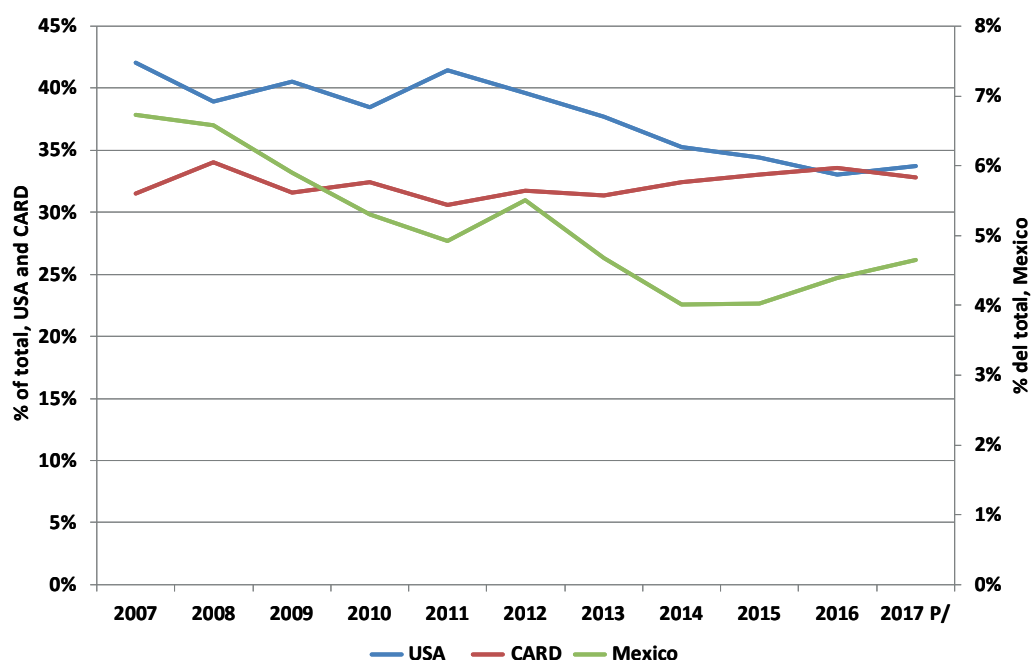


Chart 7: Guatemala's exports, according purchasing country/region, 2007-2017

Chart 8 shows the figures of Banco de Guatemala about imports from Guatemala, according to selling country/region, for 2007-2017. It shows that the United States continues to be Guatemala's most important trading partner in terms of its structural share of the total imports that Guatemala buys. In 2007, the United States accounted 34.20% of Guatemala's total imports, and by 2017, this figure

increased to 39.79% of the total. The CARD region went from 13.34% in 2007 to 14.54%, and Mexico went from 8.72% of the total in 2007 to 10.68% in 2017. Overall, the United States, Mexico and the CARD region account for 65% of Guatemala's imports, again showing the importance of Guatemala's trade relationship, not only with the United States, but with the CARD region and Mexico.

Exports	2007	2009	2015	2016	2017
TOTAL	6.898	7.214	10.675	10.449	10.982
USA	2.904	2.924	3.677	3.453	3.707
CARD	0.173	2.281	3.528	3.511	3.601
MEXICO	0.464	0.426	0.430	0.459	0.510

% OF TOTAL	2007	2009	2015	2016	2017
EEUU	42.1%	40.5%	34.4%	33.0%	33.8%
CARD	31.5%	31.6%	33.1%	33.6%	32.8%
MEXICO	6.7%	5.9%	4.0%	4.4%	4.6%

Table 1: Exports from Guatemala, according purchasing country/region, 2007-2017, \$



## Guatemala Exportations, According to Buying Country 2007-2017

Own Chart with Data from Banco de Guatemala

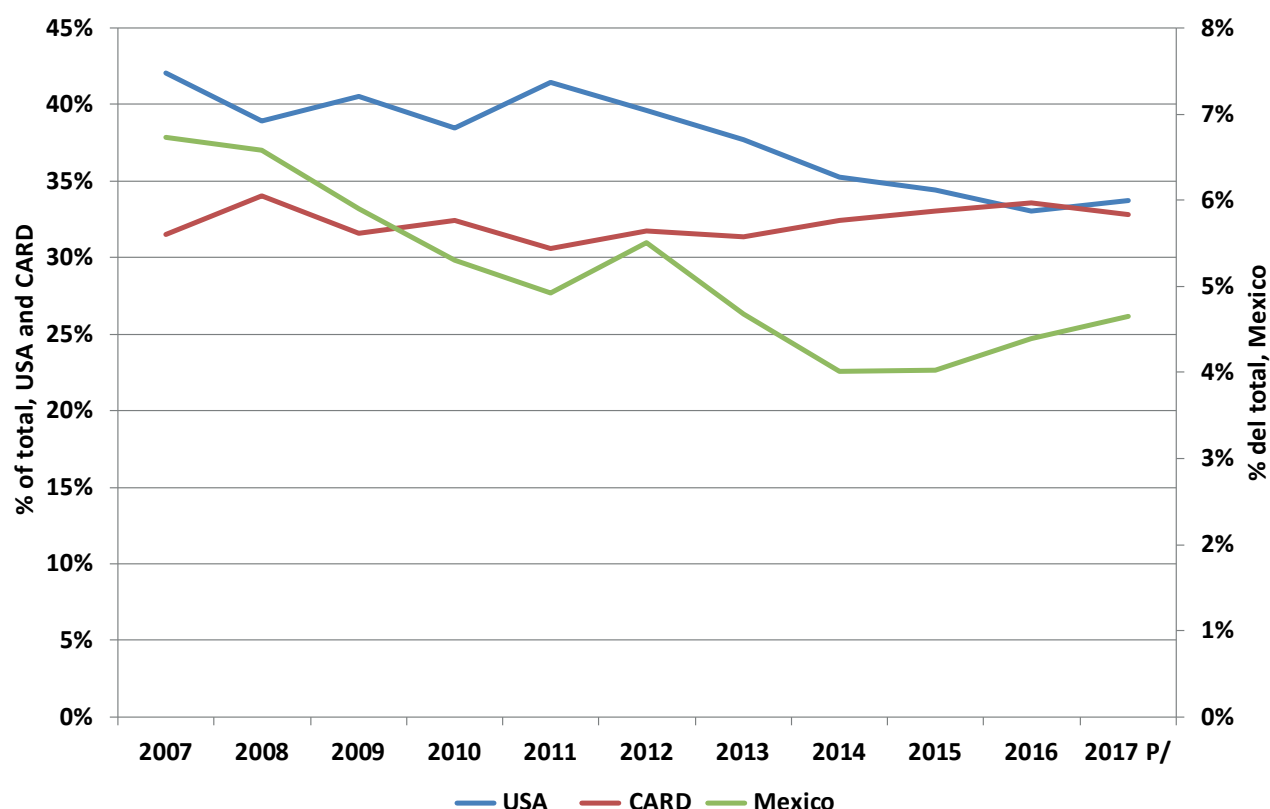


Chart 8: Imports from Guatemala, according to selling country, 2007-2017

Imports	2007	2009	2015	2016	2017
TOTAL	13,576	11,531	17,641	17,003	18,390
USA	4,643	4,212	6,513	6,521	7,317
CARD	1,811	1,708	2,647	2,538	2,673
MEXICO	1,184	1,186	2,040	1,943	1,965
% OF TOTAL	2007	2009	2015	2016	2017
USA	34.2%	36.5%	36.9%	38.4%	39.8%
CARD	13.3%	14.8%	15.0%	14.9%	14.5%
MEXICO	8.7%	10.3%	11.6%	11.4%	10.7%

Table 2: Imports from Guatemala, according to selling country/region, 2007-2017, \$ millions

## CONCLUSIONS

The Guatemalan economy is slowing down while its main trading partner is increasing to levels not seen in decades. Foreign direct investment into the country is declining, as is economic confidence. The lack of legal certainty and the absence of the State, along with political conflict against investment projects in countryside, results in less investment than the country needs.

The economic upturn in the United States gives many examples for Guatemala and does not stop having its greatest significance as always. Remittances continue to grow at a double-digit annual rate. The United States remains Guatemala's largest trading partner, and the largest trading partner of its other important Central American and Mexican trading partners. Guatemala must seek ways to leverage its strategic relationship with the United States for its people's benefit.

**Abel Cruz**  
Superintendent of Tax Administration



# TOWARDS A RENEWED, TRANSPARENT AND AUTOMATED SUPERINTENDENCY OF TAX ADMINISTRATION

This year, the SAT Board of Directors approved a new Institutional Strategic Plan (PEI, by its Spanish acronym) 2018-2023, which is ruled by four fundamental principles: 1) Increase collection in a sustained manner, 2) Reduce tax compliance gaps, 3) Increase the efficiency of the customs service and 4) strengthen institutional management abilities; all of them focused on one Essential Risk axis.

The purpose of all this is to reinforce the institution so it can develop the determining role it plays in the country's tax system, promote national competitiveness, promote equity in the tax system, promote guidance towards a quality service and recognize in the taxpayer and interested parties the strategic allies to consolidate a tax culture of compliance.

The innovation of the Superintendency of Tax Administration (SAT) is an institutional change of reengineering procedures, where innovation guided by analysis of value for the institution must prevail.

The Strategy for Innovation includes several elements of vital significance, including, but not limited to: the technological platform, procedures and systems and human resources.

- **Technological Platform:** The use of cloud services stands out, which will allow the tax administration to have a

flexible infrastructure, with the latest technology, large storage capacity and most importantly, higher information and security standards.

- **Redesign of Procedures and Systems:** It involves the redesign and development of SAT systems with the latest technology, with access from any device, based on the innovation of the institution's functional procedures. This includes the addition of artificial intelligence, management of high volumes of information and analytics tools.
- **Specialization of Human Resources:** New technologies bring with them the need for new roles and capabilities that need to be developed through the training and qualification of coworkers.

The current tax administration has focused its efforts to advance especially in the following projects that seek to innovate the service to taxpayers and users, and also to have better control tools that allow a safer audit.

- **New Unified Tax Registration:** Renew the Unified Tax Registry based on process modeling, including analysis of the operation risk, allowing the creation of a reliable database with enough taxpayer



attributions to allow SAT to properly identify them.

- **Online Electronic Bill:** Introduce a new system for Online Electronic Bill (FEL, by its Spanish acronym) which allows SAT to have the information a few seconds after the bill is issued. It will also have a system of advanced queries for taxpayers, who will be able to access online information on bills issued and received. This will allow in the future to automatically generate sales and purchase books.
- **Definition and implementation of the Tax Compliance Risk Management Model:** Introduce a tax and customs compliance risk management procedure to identify, evaluate, classify, quantify, prioritize and mitigate risks in a systematic and comprehensive manner.
- **Value Base:** Creation of a new price verification system or value base to provide those involved in the merchandise valuation process with standardized values through price analysis.
- **Dynamic Audit:** This project starts from the redesign of the Auditing process in such way as to reach the conceptualization and development of an Auditing System that allows prioritizing, planning, programming and assigning the cases, as well as the control and observation of the results in an automated way. All of this is based on appropriate risk management.

- **Electronic Customs Seal:** It will make it possible to track movements through traceability from the entry customs office to the destination customs office. It consists of implementing technological GPS tracking devices of containers or storage media to carry merchandise, which allow them to give, in real time, the position of the shipment, until the arrival to its destination.
- **Redesigning of customs processes and implementation of new technologies:** Project aimed to Modernize Customs Management through the redesign of procedures that consider the application of the latest technology for automatization and control.

In addition, SAT has deployed several online services such as obtaining proof of registration with the Unified Tax Registry, the enquiry of Tax Breaches, the registration of administrative Taxpayer Identification Numbers (TIN), among others. Also, this year the first phase of the Taxpayer Service App was introduced, and the free version of electronic billing will be available soon.

In order to achieve a renewed, transparent and automated SAT, the management, technical and professional team of the Guatemalan tax administration works day by day, allowing the country to have the necessary resources to be competitive and achieve complete development, so they can offer better opportunities and life quality to the Guatemalan population.





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# INFRASTRUCTURE CHALLENGES AND OPPORTUNITIES IN GUATEMALA

For this year, according to the latest adjustments of the Monetary Board, the country will grow in a range of 2.8% to 3.2%. These values are lower than projected at the beginning of the year where growth rates were believed to be around 3.8%. The economic slowdown in the country can be explained by several factors. However, there is one that, when resolved, could improve the economic growth of the country. In this case, investment in infrastructure is a true opportunity to bring development in Guatemala.

In 2017, according to Banco de Guatemala's data, the construction sector represented 2.7% of the Gross Domestic Product (GDP). According to projections, it is estimated that this year's growth rate will be slightly higher. Specialized literature and experiences from several countries around the world have shown **that investment in infrastructure is essential for economic and social development.**

According to Huella Económica del Sector Construcción [Economic Footprint of the Construction Sector] conducted by Central American Business Intelligence (CABI) for Cámara Guatemalteca de la Construcción [Guatemalan Chamber of Construction], **the economic impact of the**

Low investment in infrastructure over the last few years means private investment in infrastructure is more than necessary. This is why the idea of Public-Private Partnerships is an opportunity for investors and a key element for economic growth.

## **construction sector on other industries is 9.7% of the GDP.**

Guatemala's public investment in infrastructure is among the lowest in Latin America. Currently, the road network in the country has several deficiencies, so it is very important to modify the current model of investment in infrastructure, in order to be more competitive and achieve better rates of economic growth. **According to the 2018 Global Competitiveness Index of the World Economic Forum (WEF), Guatemala ranks 96th out of 137 countries in infrastructure.**

On the other hand, the Secretariat for Central American Economic Integration (SIECA, by its Spanish acronym) establishes that one of the factors determining the high logistical costs at the regional level is the deficient infrastructure and logistical

management. The need for urban infrastructure is increasing and represents a major challenge for improving the mobility of people and goods. According to World Bank (WB) projections, logistics costs **in Guatemala reach 29%, and for Small and Medium Enterprises (SMEs), they can exceed 40%.**

### Infrastructure development opportunities

The opportunity that the private sector has to revert these indicators and not very encouraging figures is found in the participation of contractual figures of Public Private Alliances (APP). In Guatemala, the managing institution of this entity is under the National Agency of Alliances for the Development of Economic Infrastructure (ANADIE, by its Spanish acronym), an institution that supports public entities to structure and contract economic infrastructure projects under this category.

The first project awarded in this category is the highway from Escuintla to Puerto Quetzal, which will have an investment of about US\$ 80 million. It is expected that the highway will have an average traffic of more than 15,000 vehicles, which will improve accessibility to the logistics corridors of the southern region of the country.

Other projects that aim for mobility solutions is the Circunvalación Eje Norte - Oriente, which will try to avoid commuters crossing through Guatemala City to reach their destinations. The estimated investment for the project is US\$ 180 million and is currently in the phase of previous studies.

Guatemala is the gateway to Central America. Therefore, in port matters, another of the projects promoted by ANADIE is the Intermodal Logistics Port Tecún Umán, which will contribute to the mobilization of products in the region. This project seeks to be the access point to the railway network of Mexico and North America. **The Intermodal Logistics Port Tecún Umán will improve the country's competitiveness, generate jobs and position San Marcos as a logistics center.** The investment is estimated to be US\$ 40 million and today, this project is also in the preliminary study phase.

There are several proposals to improve the current condition of productive infrastructure that seek to enhance accessibility to corridors and logistics ports. Therefore, it is a good opportunity for investors to participate in the development of these projects.

Better infrastructure also means bringing public goods closer to citizens such as health, education and trade centers. It also reduces inequality, especially in such centralized countries as ours. It also helps towards meeting the Sustainable Development Objectives (SDOs), since the development of infrastructure is aligned with several of these targets, including SDO 9 Industry, Innovation and Infrastructure, SDO 10 Reducing Inequalities and SDO 11 Sustainable Cities and Communities.

Therefore, investments in infrastructure production is a great opportunity for economic growth, to be more competitive, creating new sources of employment and achieve the economic growth that we need as a country.

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# COMPETITIVENESS AND OPPORTUNITIES IN THE CUSTOMS FIELD

It is important to mention that the Guatemalan Customs Service understands its main role in strengthening Guatemala's competitiveness, which is why it's important to tell you about the existence of a series of global and local efforts, leading us to the path that we must follow to achieve this target:

- Trade Facilitation Agreement (TFA) of the World Trade Organization (WTO).
- SAFE Standard Framework of the World Customs Organization (WCO).
- Central American Strategy for Trade Facilitation and Competitiveness focus on Border Coordination Administration.

From the aforementioned efforts, we are aware that the TFA of the WTO, is what creates more expectations and about which I would like to share with you that all the topics mentioned to a lesser or greater extent are related to the activities carried out by the Customs Services. For this reason, although implementation coordination of the WTO TFA is the responsibility of the Ministries of Economy of each country, it is up to Customs Services to be the technical entities that, through agreements with the other border control entities and the Private Sectors,

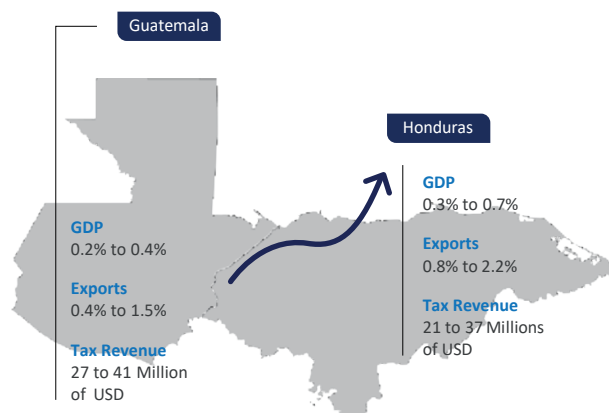
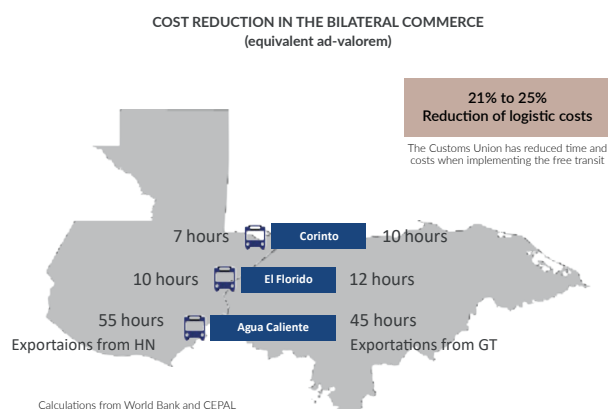
establish the road map that must be followed for its implementation.

As a result of the aforementioned, the Guatemalan Customs Service is seeking to have a strong leadership within the Guatemalan National Trade Facilitation Committee, which is responsible for the implementation of WTO TFA. Therefore, the technical support of the WCO Mercator Program was required, from which we already have a report of actions that we are moving forward to support the implementation of the WTO TFA.

It is important to mention that the Guatemalan Customs Service, following a strategic national vision, is moving forward with several subjects included in the WTO TFA as well as others of major interest, such as competitiveness, observation, collection and facilitation of International Trade, which allow us to be a good worldwide reference:

## Customs Union Guatemala - Honduras

On June 26, 2017, the "Deep Integration Process towards the Free Transit of Goods and of Natural Persons, between the Republics of Guatemala and Honduras" was established.





To date, a tangible and significant effect has been the application of the Central American Single Bill and Declaration (FYDUCA, by its Spanish acronym), an instrument that allows to protect the “free transportation of community merchandise” . According to recent World Bank research, the shipment of this type of merchandise is between 5 and t **15 minutes average**.

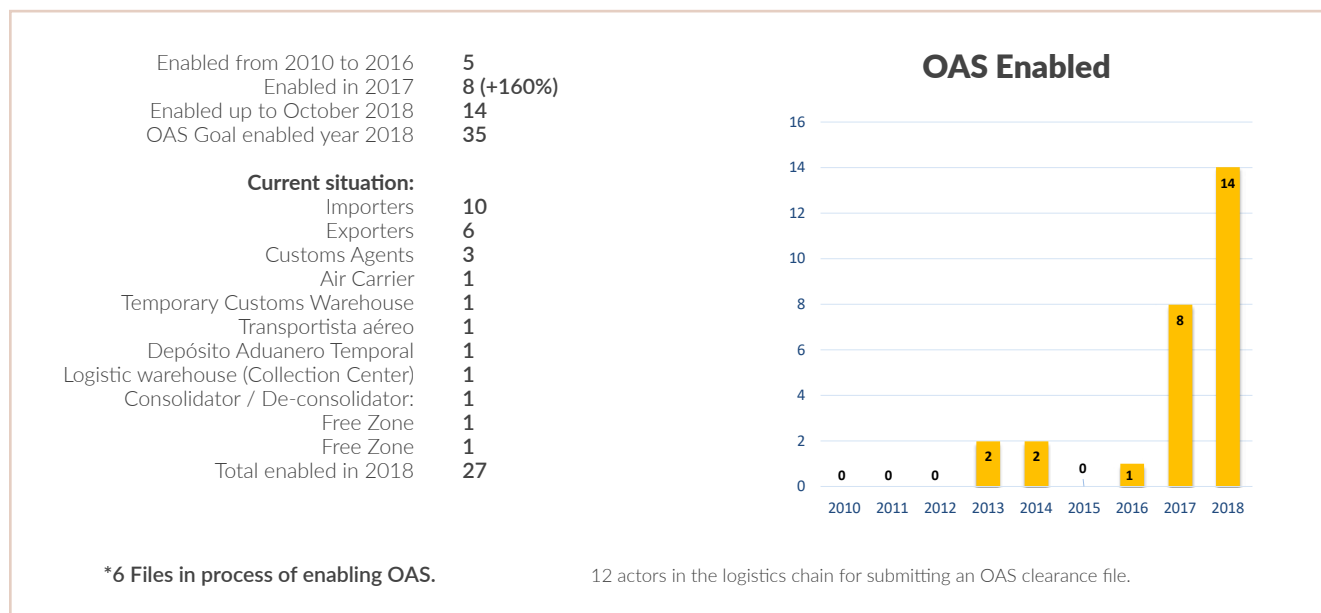
In terms of economic growth opportunities for Guatemala, the use of the -FYDUCA- has allowed an increase in the collection of internal taxes, particularly the VAT, according to information analyzed by the tax administration as of June 2018.

**In 2017 a collection of Q0.23 million was registered, while between January and June 2018 a collection of Q17.8 million was registered. In foreign trade there was a reduction of Q6.23 million, however, it was compensated with Q11.6 million collected with FYDUCA.**

On August 16, 2018, El Salvador fully adhered to the Customs Union already established between Guatemala and Honduras.

### Authorized Economic Operator:

The Guatemalan Customs Service is moving forward with an Authorized Economic Operator (AEO) and thanks to the support of Chambers and Guilds of the Private Sector of Guatemala, several activities have been carried out that have allowed the increase of qualified logistics chain actors such as the AEO. It is important to mention that this entity is part of the TFA and is encouraged by the WCO. As part of the local actions, there has been further development of a mutual recognition on the AEO between the Customs of Guatemala, El Salvador, Costa Rica and Panama, as well as the development of Action Plans to move forward with mutual recognitions with the Customs Services of the United States of America, Mexico and the Dominican Republic.



### Update of local regulations.

It should also be mentioned that due to the leadership of the Guatemalan Customs Service, the customs administrations of the Central American region are working to update the regional customs regulations (Central American Uniform Customs Code and its regulations). [CAUCA and RECAUCA, by its Spanish acronym] Likewise, important projects such as the Electronic Customs Seals and the Anticipated Declaration are moving forward.

As you can see, the Customs Service of the Super Intendancy of Tax Administration (SAT, by its Spanish acronym) is moving forward steadily to become the Customs of the XXI Century, which is why **the Private Sector has been encouraged to make use of the new competitiveness tools** in Customs Matters that are currently available and therefore, together we can strengthen Guatemala’s competitiveness.

By **Rafael** Briz Méndez,  
**Rafael** Pinto Ortega  
 and **Juan Pablo** Gramajo Castro  
*Associated*

MAYORA & MAYORA S.C.  
 ABOGADOS



## THE ILO CONVENTION 169 AND ITS IMPACT ON THE GUATEMALAN BUSINESS ENVIRONMENT

The International Labor Organization Convention on Indigenous and Tribal Peoples of 1989, better known as the ILO Convention 169, was approved by the Guatemalan Congress in 1996.<sup>1</sup> The Convention protects Indigenous and Tribal Peoples' rights in ILO member states, although its provisions cover much more than aspects related to labor law.

The Convention's recognition of the right of Indigenous People to prior consultation on proposed projects or administrative measures that directly affect their lands, environment, or way of life (the "Consultation Right"), is perhaps its most controversial aspect, and, certainly, the one that, in recent years, has been the focus of intense debate in Guatemalan Courts.

**This debate has centered around two basic questions: what is the content and nature of the Consultation Right and how should it be applied?**

We should start off by stating that currently there is a lack of legislation that properly regulates the Consultation Right in Guatemala. To this date, the Guatemalan Congress has failed to pass appropriate legislation that would allow the correct application of the Consultation Right in Guatemala. Attempts have been made by the government and some municipalities to regulate this matter; however, these regulations have been struck down by the Constitutional Court on grounds of unconstitutionality due to procedural errors<sup>2</sup> or lack of jurisdiction<sup>3</sup>, respectively.<sup>4</sup>

Fortunately, there is extensive jurisprudence on the matter at both local and international levels that provide an answer to this question. The Constitutional Court has defined the Consultation Right as the fundamental right that indigenous communities collectively have to influence and express their legitimate concerns before any project or administrative measure takes place that could directly affect their way of life, with the goal of achieving an agreement between the affected communities, the government and the stakeholders, for mitigating these risks.<sup>5</sup>

It is equally important to state what the Consultation Right is, as well as what it is not. Both local and international authorities agree that the Consultation Right is not a veto right given to the indigenous communities to prevent any project that they deem to have a negative impact on their lands, environment or way of life. This would leave to their arbitrary collective will the fate of any project that is deemed to affect these communities in any way. The ILO's own Expert Committee has commented that a consultation should be carried out, in good faith, with the objective of reaching an agreement with the affected communities, though the result of the consultation may not necessarily be consent from these indigenous communities. In other words, the consent or agreement from the affected communities is not required for the consultation to be valid.<sup>6</sup>

Having a clear concept of what the Consultation Right is, the second question then arises of how it is actually applied. Due to the legislative vacuum created by the Guatemalan Congress' inaction, it has unfortunately been up to the judiciary to fill that gap, with its unpredictability and unintended consequences having a negative effect.

The Constitutional Court is—without a doubt—the final authority on matters of interpreting the Convention's provisions along with the Guatemalan Constitution and other applicable law. The Court has a long, at times inconsistent, line of precedent that provides a basic legal framework for the application of the Consultation Right in Guatemala. In general terms, this framework is based on three landmark cases, which are:

- a. Case No. 3878-2007<sup>7</sup>
- b. Case No. 90-2017 (Oxec)<sup>8</sup>
- c. Case No. 4785-2017 (San Rafael Mine)<sup>9</sup>

The first case regards the mining license for a cement production project. In this case, the Court put an end to the discussion on whether the ILO Convention 169 was constitutional. The Court held that the Convention's

<sup>1</sup>Congressional Decree 9-96.

<sup>2</sup>See Case No. 1072-2011, Guatemalan Constitutional Court.

<sup>3</sup>See Cases No. 1179-2005, 1408-2005, and 1643-2005, among others. Guatemalan Constitutional Court.

<sup>4</sup>In 2017, the Guatemalan Government, through the Ministry of Labor, published an Operative Guide for the Consultation Right of Indigenous People under ILO Convention 169. This Operative Guide is not intended, and does not have the effects, of a proper regulation issued by the Executive Branch. According to the Ministry of Labor, the Operative Guide is intended for indicative purposes only and prepared for all government agencies to consider.



provisions are clearly constitutional, as they expand on fundamental rights recognized by the Constitution and are thus part of the so called “constitutional block”. The Court also mentions that, although the Convention’s provisions are constitutional and legally binding to the Guatemalan State, it is up to the Legislative Branch to properly regulate it, urging Congress to pass legislation on the matter.

From this point onwards, the Constitutional Court upheld this precedent (with slight variations), holding in subsequent cases that the Convention’s provisions, especially the Consultation Right, are constitutional and binding to the Guatemalan State, but urging the Guatemalan Congress to regulate the matter before the Consultation Right could be applied.

All this changed with Case No. 90-2017 (better known as the Oxec case), that involves the construction and operation of a hydro-power plant. In this case, the Court went beyond urging Congress to take legislative action, and instead, ruled that it should “innovate”, instructing the Government to apply the Consultation Right, following a series of principles and procedures they outlined, effectively regulating this right. These basic principles call for the consultation to be:

- **Prior**
- **Free**
- **Informed**
- **In good faith**
- **Culturally adequate**
- **Flexible**

A key aspect of this ruling is that the Court allowed for the operation of the hydro-power plant to continue while the consultation took place, giving the government a one-year term to carry it out following the Court’s principles and procedures.

Finally, Case No. 4785-2017 (better known as the San Rafael Mine case) is the latest and probably the most

controversial of the Constitutional Court’s rulings on the application of the Consultation Right. This case involves the operation of a mineral mine in a region inhabited by the Xinca people. The Court confirmed the precedent of the Oxec Ruling, ordering the Government to carry out the consultation following the same principles and procedures mentioned before. Nonetheless, the Court suspended the mine’s operations while the consultation took place, without giving any specific reason for making this distinction between the Oxec case and the one at hand.

It is undeniable that the ILO Convention 169 has had a profound impact on the Guatemalan business environment since its ratification, especially on investment projects regarding natural resources.

The legislative vacuum derived from Congress’ inaction in this matter creates a series of problems for courts and stakeholders alike, as indigenous communities are increasingly

demanding to exercise this right for any project that is deemed to be affecting their lands, environment, or way of life. This is especially relevant and worrisome for investment projects in the extractive industries.

Considering that the Consultation Right has been defined by local and international courts as a genuine dialogue, in good faith, between the indigenous communities involved, government and stakeholders, and not a veto right or a consent requirement from the affected communities, its proper regulation at the legislative level creates an opportunity for providing a clear legal framework for this genuine dialogue to take place, for the benefit of all.

If this matter continues to be unregulated and left to the Guatemalan courts to fill this gap, it will breed legal uncertainty and insecurity towards Guatemalan institutions and cause countless negative effects for the local business environment.

<sup>5</sup> See Case No. 3878-2007, Guatemalan Constitutional Court.

<sup>6</sup> See General Observation 2010/81, ILO Committee of Experts on the Application of Conventions and Recommendations.

<sup>7</sup> See Case No. 3878-2007, Guatemalan Constitutional Court.

<sup>8</sup> See Case No. 90-2017, Guatemalan Constitutional Court.

<sup>9</sup> See Case No. 4785-2017, Guatemalan Constitutional Court.

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## FIGHT AGAINST CORRUPTION AS AN ENCOURAGEMENT TO COMPETITIVENESS

Beyond the citizens' movements of 2015 and the role that the United Nations Commission against Impunity in Guatemala (CICIG, by its Spanish acronym) has played to unravel organized crime and corruption networks, Guatemala has been on a long path that seeks to align itself with the international anti-corruption agenda. It is becoming more and more clear that in order to achieve sustained economic growth, bring investment and be competitive, the key to change lies within institutional strength and public power's level of social audit. In order to promote this competitive and productive infrastructure, it is relevant and necessary to fight against corruption.

Corruption - the abuse or misuse of power for private purposes - is one of the problems that remain throughout the world, affecting legal certainty and credibility within public institutions. The fact that only a few get benefit through preferences, results in a widespread sense of mistrust affecting a country's productivity. This mistrust is responsible for keeping institutions weak and unable to function as they should, since the citizen does not see an incentive to demand accountability or participate in fair play; moreover, some find it convenient that the system fails. If we have weak institutions, rules are easier to break, the lack of institutional credibility and disapproval increases and each time we do less to recover them.

This vicious circle of institutional weakness and citizen apathy makes it difficult to achieve sustainable economic growth and development, distorting competition and the free market, since some groups, companies or individuals will be artificially benefited. Moreover, it is a waste of economic and social capital that affects growth and increases inequality and poverty, feeding and reproducing mistrust. As Shleifer

and Vishny have suggested, **corruption takes the form of a tax on economic activity that becomes even more expensive (and of course harmful) than legal taxes, adding an additional financial cost of approximately 10%.**

The most recent Global Competitiveness Index (2017-2018) published by the WEF measures the national competitiveness of 137 economies; that is a group of institutions, policies and aspects that determine the level of productivity. The social infrastructure which includes education, health and political institutions (including fiscal and monetary policies), establish the context in which productive activity takes place.

**In the last five years, Guatemala has not changed much its rating. It currently ranks 84th, with an index of 4.1, being 7 the highest rank and 1 the lowest.**

Like most Latin American countries, Guatemala has low productivity, high informality and low export diversification, as well as insufficient growth to create jobs or finance which is a growing demand for quality public goods. Therefore, it is necessary to strengthen their capacity to meet changing international conditions and seek new ways of sustainable growth through a competitive agenda to encourage entrepreneurship and allow the rise of new innovative businesses.

Currently, standard international compliance rules are developing and being applied that force companies to pursue anti-corruption policies in order to remain competitive, strengthen their reputation and protect the interests of their shareholders. Aware of the economic and social impacts of this

disruptive behavior, international organizations such as the United Nations Office on Drugs and Crime (UNODC), the Organization for Economic Cooperation and Development (OECD) and WEF continue to promote policies to prevent, detect and control corruption in countries, in order to facilitate their economic development and growth, rather than end up isolating themselves from the new way of exchanging and investing.

The current consensus is now that economic growth, needs to focus more on human well-being, with coordinated action by the state, the business community and civil society. These actors contribute to all aspects of competitiveness at the same time, in order to achieve long-term results, achieving economic policy spaces where all sectors are able to win. The distortions caused by corruption can be effectively addressed through public-private partnerships focusing on strengthening political institutions and providing a counterweight through accountability, performance evaluations and encouragement of pending reforms. Guatemala is, in fact, already engaged in this process of change towards a different way of doing things.

Fight against corruption increases willingness to do business and invest, not the other way around. Economic growth and productivity based on appropriate social and institutional infrastructure improves competitiveness in due time, because legal certainty and social trust is recovered, establishing a new order of incentives that make up a fair play. Under this new scenario, competitiveness contributes towards a wider target of human-focused economic growth, enabling the creation and distribution of resources invested in education, health, security and higher per capita incomes.



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# DIGITAL TRANSFORMATION: AN OPPORTUNITY FOR GUATEMALAN COMPANIES

The digital transformation is a great opportunity for Guatemalan industry and a huge change in how we do business. It is an opportunity to increase the productivity and competitiveness of companies, becoming a necessary process for any company who wants to maintain an innovative position in the market.

According to the Ministry of Economy data, in Guatemala, **micro, small and medium companies contribute about 87% of employment and about 40% of GDP.** However, there are several challenges to overcome, one of them is the need to evolve in order to avoid disappearance.

Use of information technologies in the business environment has allowed the different industries to become increasingly digital. The cloud has a key role in this process and has become symbolic for innovation, cost savings and business process optimization. In fact, IDC believes business expenses within the cloud will increase over \$11 billion by 2021. This is partly since the cloud has enabled a large number of new technologies that offer benefits to all kinds of industries such as big data, Internet of Things (IoT), artificial intelligence (AI), among others.

As the digital transformation is evolving, these

technologies will offer new development opportunities to areas such as banking, energy, industry, health, retail, education, among others.

Digital transformation isn't something new, but it has sped up in recent years. How successfully a company adjusts to the digital transformation will directly impact its future competitive level and ultimate survival. No company or industry will be exempt from these changes. Every product and service and, of course, each aspect of everyday operations will be disrupted.

From an impact perspective, digital transformation can be considered the next industrial revolution, since it provides a catalyst for new business models, products, services and experiences that will impact not only companies, but society in general. Today, CEOs are aware that digital transformation is inevitable and mandatory, **86% of CEOs considering it their number one priority.**

Microsoft is not an exception. The digital transformation and the 4th industrial era have been a process that we started years ago and has allowed us to share our experience and innovation and provide some perspective on how our leadership has embraced it.

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**Promote the participation of clients** Create natural and personalized experiences through data providing a complete view of the client, as well as generate useful insights able to provide scale customization and develop segments targeted to each client.

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**Optimize processes** Accelerate your company's responsiveness, improve service levels and reduce costs through smart processes that anticipate the future and coordinate people and assets more efficiently.

By 2018, artificial intelligence (AI) will be incorporated into one half of all applications developed.

**Transform products** To use data into an strategic asset able to change retrospectives for predictions, automate manual processes, offer personalization to customers and innovate with new business models, products and experiences, all to make a difference

and capture new revenue opportunities.gresos—.

77% of business managers believe that IT speed is important to reach new markets and launch new products quickly.

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## DOING INNOVATIVE BUSINESS IN GUATEMALA

When hearing the word “innovation” people’s minds often gravitate towards iconic examples like Apple and Tesla. When they hear the phrase “innovative city or country” they often think of Silicon Valley, Boston, or Israel. While these associations are not completely wrong, they are not completely right either. These companies and geographical locations have specialized in certain kinds of innovation, but there are many other ways to innovate beyond technological innovation. Innovation is a change that generates and captures value across the entire value chain. You can innovate taking existing products into new markets. You can innovate changing the go-to-market strategy of existing products for existing markets. You can innovate implementing new technologies or processes to enable existing products and go-to-markets for existing markets. And you can even innovate simply changing the pricing models for existing value chains. Using a more accurate definition of innovation, there is a lot of opportunity for doing Innovative Business in Guatemala.

A useful place to start is understanding the two major archetypes of “Business in Guatemala”—the first is a businesses where the paying customer is buying a product or service being offered by Guatemala, the second is a business where the paying customer is in Guatemala. In both archetypes, there are two north stars that help us identify business opportunities: unmet human needs and trends. Let’s start with Guatemala as a supplier to the market. Here we can break down Guatemala’s offerings into three major categories: agricultural products, manufacturing products and services. Guatemala has a lot to offer, but it is particularly well suited to play a protagonist role in two major human needs that are becoming increasingly more important globally, and whose market sizes are growing rapidly in places like the

United States and Europe. These needs are health & wellbeing, and authentic connection. As the world becomes more and more technological and artificial, the re-appreciation of the natural and authentic has become an irreversible force turning once small, niche markets into scalable business opportunities. Guatemala has many ingredients that could be combined into very successful business models for the era of the “conscious consumer,” including a plethora of micro-climates that generate a vast variety of agriculture products, a claim to fame that hasn’t been leveraged yet as the global birthplace of cocoa, vanilla, old spice, the tomato, amaranth, chia, black salt and several dozen medicinal and food products that have tremendous potential in a world of superfoods, nutritional supplements and organic and functional food products. Guatemala also has strong food processing and manufacturing capabilities that with the right branding and go-to-market could detonate tremendous business growth. These combinations would work not only in the food markets, but also in the cosmetics, furniture, accessories, soaps, creams and oils, and even organic textiles markets—Guatemala has the right combination of ancient wisdom, biodiversity and manufacturing technology to create global health and wellbeing brands. Pulling this off, though, will require visionary leadership to develop a whole portfolio of value-added products (think of facial creams that bring together volcanic rock, cocoa oil, black salt and chia seed, as a hypothetical example), investment in research and development and shared value business models that channel wealth to the communities that participate in the value chain. The conscious consumer demands conscious products created in conscious businesses funded by conscious investors—and we are merely at the tip of the iceberg of this trend.

The second human need we should discuss is the need for authentic connection. While many countries can build out great hotel strips and service-oriented industries like call-centers, Guatemala has a unique heritage that sets it apart. We have an enormous wealth of natural and cultural diversity, and a living history very much worth experiencing. Here we see a lot of momentum around eco tourism, cultural tourism, archeological tourism, food tourism, adventure tourism and medical tourism—though there is still a lot of room for channeling these opportunities more effectively. We also see a lot of momentum around non-tourism services—Guatemalans are culturally friendly, helpful and kind—that genuine kindness goes a long way when building service businesses like call centers (42K employees today), shared services centers, healthcare and retirement offerings, etc. We have the pieces of the puzzle to put together an amazing service economy that combines our unique heritage with world-class customer service, and although there is a lot that we can do now by simply making our service ecosystems more accessible and friendly through digital technologies (think Uber, Airbnb, TripAdvisor, Freelancer, etc.), a true detonator of growth would be infrastructure and education investments—allowing more pockets of the population to provide more authentically great customer experiences to a world looking for meaning and connection.

Let's now move to our second archetype—Guatemala as a market. Compared to larger economies, Guatemala could seem small from a market size point of view, but it is huge from an unmet need point of view. The challenge is finding businesses that combine both unmet needs and willingness and ability to pay to meet those needs. There are tremendous opportunities in housing, transportation, health, education, protection and food—thinking of the B2C market. However, taking into account that the average income (including urban populations) is \$150 per month, successful businesses targeting the Guatemalan mass market have to be very innovative in combining economies of scale and accessible package sizing with credit offerings and product bundlings to succeed in these markets. This means selling shampoo in single-serve packets, televisions in 36-month installments, and selling prepaid solar-power with lightbulbs and radios bundled in. There is still plenty of room to create wellbeing in the

Guatemalan market through innovative business models, innovative technologies, and leveraging economies of scale to bring products and services to price points that are aligned with the Guatemalan's ability to pay. But I would venture to say that the biggest opportunities lie in providing more effective solutions for the B2B market. Much of Guatemala's economy relies on agricultural, manufacturing and commercial practices that are decades (in some cases centuries) old. The level of efficiencies that could be brought into the system through better techniques, practices, processes and machinery is not trivial—and if there are efficiencies, there is likely to be a business case, and if there is a business case, there is likely to be a customer—as long as the pricing model and financing mechanisms are aligned with the cash flow realities of the business. Millions of farmers, hundreds of thousands of small manufacturers and merchants all dream of having better means of production, better techniques and machines—but few companies have focused their energy on innovating the business models by which those solutions are purchased and adopted. There is tremendous room for mechanisms such as leasing, renting, revenue-sharing, profit-sharing, insuring, apprenticing, value chain sharing, pre-purchasing, production pooling, cooperative financing, crowdfunding, peer-to-peer lending, marketplacing, and information de-arbitration—mechanisms designed to de-risk the entire value chain and catapulting the growth of B2B solutions for the Guatemalan market. Those who understand the basic human needs of the Guatemalan small business will succeed—it's not the product, it's the solution—including how the solution pays for itself over time. These opportunities require a long-term vision and the ability to partner in true win-win business relationships that power the growth of particularly the small and medium-sized companies in Guatemala. Under that lens, the market size of Guatemala is large and growing.

So, as we can see, Doing Innovative Business in Guatemala is not an unreachable dream. It is a big opportunity that comes from connecting the dots more creatively—moving from commodities to value-added products and bundled solutions that solve basic human needs: the need for wellbeing, for the authentic, and for turn-key solutions that make people's lives better.



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*Director Corporate Marketing-Sales  
 Government Development 3M*



# CORPORATE COMPLIANCE

The business environment in which we live is dynamic and globalized, and this dynamism offers many opportunities, but also brings new risks. It is also important to understand that we have a rule-based global environment. That is why multinational companies operating in several countries of different cultures, with different socio-economic and political indicators can be a major challenge. As a result, compliance programs are useful to overcome these challenges and consequently the importance of good implementation.

For multinational companies it is very important to understand global and local regulations, in particular, background and impact. It is not a straightforward task to have clear regulations at all levels of the organization, in order to be able to operate in the same way throughout the world.

The level of trust that a multinational company provides is due to a reputation built over many years and thanks to the good management of many executives before the current ones, within an environment and compliance programs that guarantee over the years all the executives that represent them around the world, live and fulfill the same values.

There are important components to good operations management: leadership, risk assessment, procedures, controls, training and communication models, monitoring, audits and action plans on findings that reveal significant disruptions. These components allow the organization, at all levels to make the right decisions, establish and communicate the guidelines that are always up to date and mirrors the reality we live, this helps companies to work in the same way.

Today's business environment is dynamic, challenging and much more transparent in our high-tech world. This makes it crucial and important that all employees take time to learn and be constantly informed about the company's expectations in how to run business. Regardless of where we live or work, the culture

or local business practices, we must demonstrate an ethical approach to every transaction and every interaction between suppliers and customers.

The guidelines are developed in terms of universal ethical principles; to be correct, honest, fair, loyal, precise and respectful, and nowadays, in these environments, they need to be reinforced. There are straightforward rules that must be identified before proceeding in complex situations or compromise any of the basic principles. When some situation in which we are exposed challenges us, we have to think, can I publish the situation on the front page of a newspaper? Can it be exposed to the public spotlight? If the answer is no, hesitate and ask. A compliance committee is a good praxis that can be adopted in companies and every multinational has one. By asking more members of the team, you will make better decisions for your company.

It is essential the success of maintaining compliance programs in multinational companies, in a well-organized manner, and the importance given to the subject from the leadership level through the leadership example and with a compliance committee from different areas at all levels. So I summarize, to have success in good leadership regarding this subject, there must be involvement, risk assessment as a starting point, establishment of processes and operational controls not only a code of conduct, but also clear policies and procedures for the operational processes of the organization, compliance evaluations to business partners and suppliers, training and updated communication, and a calendar that allows a frequent pace and certification on follow-up, a continuous monitoring program with audits, action plans and response to them. In this process of audits and open spaces of conversation with employees and the committee, it may be necessary to investigate a little more about situations that lead us to establish protocols that will result in disciplinary actions or immediate problem solving. Therefore, being aware of these issues and coaching the organization and raising awareness at all levels is a very important aspect.



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## GUATEMALA IN THE FOREFRONT OF THE DEVELOPMENT OF SUSTAINABILITY INDICATORS AND CORPORATE SOCIAL RESPONSIBILITY (CSR) WITHIN THE REGION

CentraRSE (Center for Corporate Social Responsibility Action in Guatemala) was born in 2003 in Guatemala, with the objective of supporting companies, as an engine of investment and economic and social development, so that they can adopt and disseminate a culture of social responsibility that guarantees their sustainability, based on the triple generation of economic, social and environmental value.

One of the main challenges faced by the business community is the inclusion of sustainable strategies in its business model, as a response to market pressures, national and international regulatory frameworks and consumer expectations; as a result of it, CentraRSE has been promoting the measurement of sustainability indicators for more than thirteen years in order for companies to measure and verify their sustainability practices, providing them with results that contribute to identify their strengths and weaknesses for decision making, and implementation of actions within their strategic plans.

As part of the integration of CSR, Guatemalan companies, and the region of C.A. and the Caribbean have access to the self-assessment tool IndicaRSE (Central American indicators for

CSR), a management tool approved at regional level, for the diagnosis of practices, policies and procedures of Corporate Social Responsibility. The results can also help as a basis for companies to prepare their sustainability reports with more accurate data and in full compatibility with the methodology of the Global Reporting Initiative (GRI), which includes economic, social and environmental subjects, with the International Standard for Social Responsibility ISO 26000 and the United Nations Global Compact.

Currently, more than 200 companies in the Central American and Caribbean region use this tool to measure their management in sustainable practices and quantify their impacts, in order to minimize their negative impacts and strengthen their positive ones, and thereby contribute from the business community to the agenda of Sustainable Development Goals. To increase these efforts, it is extremely important to coordinate multi-sectoral and public-private alliances, as established in the 17 SDG, which refers to the establishment of shared alliances and goals.

It has been demonstrated that companies are an important factor in achieving the SDG's, but that sectoral cooperation is needed to achieve country goals; that is why, CentraRSE recently

signed a partnership with the Secretariat Secretary of Planning and Programming of the Presidency (Segeplan, by its Spanish acronym). This is an organization in charge of coordinating the implementation strategy of the National Development Priorities in Guatemala, in order to establish bonds of cooperation, which by 2019 will allow us to report the progress of the private sector regarding sustainability subjects in the Sustainable Development agenda and the country agenda, through the identification and construction of indicators based on the IndicaRSE tool.

Reporting the positive impacts of companies in the management of SDG's is an important element for competitiveness and it also aligns us with global trade agendas. As was recently demonstrated in the session of the

World Investment Forum 2018, where it was established that companies must have base indicators to identify the areas in which they could contribute to the achievement of Development Objectives and make visible the positive effects of the inclusion of SDG's in their corporate strategy.

This alignment of the business community with the SDG's, and therefore with the global agendas reinforces the confidence and competitiveness of the country, due to the establishment of an integrated roadmap, which provides companies with intangible values that provide the connection of their CSR strategy with sustainability and the establishment of indicators to manage their impacts, ensuring their long-term durability.

## Business Ethics and Human Rights

Compliance and Business Management **ODS 8, 16**

Quality of employment **ODS 8**

MIPYMES (ValueChain) **ODS 1,8,12**

International Market Standards **ODS 9,17**

Innovation for sustainability **ODS 7,9, 12**

RiskManagement **ODS 9**

Sustainable and responsible consumption/marketing **ODS 12**

**ECONOMIC  
IMPRESSION**

Welfare in the company (Human Rights, work and family balance, poverty reduction, childhood and youth, community)

**ODS 1,2,3,4,6,8, 13**

Labor inclusion **ODS 5, 8, 10**

Violence prevention **ODS 16,17**

Sustainable Dialogue and Community Relations **ODS 17**

**SOCIAL  
IMPRESSION**

Renewable energy **ODS 7,15**

Risk Management and Climate Change **ODS 13,14,15**

Sustainable use of Natural Resources **ODS 12**

Integral Management of Watersheds **ODS 6**

Comprehensive Disaster Prevention **ODS, 11, 13,16**

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# SUSTAINABLE ENTREPRENEURSHIP FOR GUATEMALA'S MAJOR CHALLENGES

The Sustainable Development Goals (SDGs), supported by the United Nations Development Program (UNDP), are instruments that help developing countries, such as Guatemala, to find a roadmap towards prosperity, allowing them to create decent living conditions for their inhabitants.

Against this background, the entrepreneurship is

known as one of the most important development forces for economic growth, as it creates jobs and satisfies needs for a customer niche, through value-added products and services. However, sustainable entrepreneurship includes, two fundamental foundations for prosperity, besides economic growth: social welfare and environmental protection. But how do you do this?

But **how do you do this?**



## 1. Economic sustainability:

Sustainable entrepreneurship develops business models that create financial benefits by maximizing the value gained in the market (for example, a more efficient product or better quality). Customers find satisfaction in the product that is on sale and they're willing to pay for it.

## 2. Social sustainability:

Sustainable entrepreneurship provides benefits for all "stakeholders" in a business; Investors seek to invest in businesses with higher profitability, higher impact and lower risk. Partners get better profits and satisfaction from having a system that works

effectively. Employees receive salaries that allow them to live with dignity, creating opportunities for personal and economic growth, such as training, recognition and, in some cases, company shares. Consumers receive products and services with high added value, through a correct identification of needs and empathy towards customers.

## 3. Environmental sustainability:

Sustainable entrepreneurship adopts actions to reduce, reuse and recycle raw materials and processes, including production, logistics and distribution. The result is an ecofriendly product or service (for example, products made from recycled raw materials).



Sustainable entrepreneurship needs basic conditions and an enabling environment to be born, grow and reproduce. This environment is often referred to as an ecosystem, which must have a legal framework that allows legal business assurance, appropriate academic training for entrepreneurs and accessibility to resources for investment, both in early and acceleration stages, and scalability.

As an academic institution, the training of entrepreneurs with a vision of sustainability is essential to improve the living conditions and prosperity of the population. This training has to include all Guatemalans, but especially on young people between 18 and 29 years old, who are the people most likely to be entrepreneurs (48 out of every 100 young people, in that age range, have a business idea with the potential to be brought to market, according to the Global Entrepreneurship Monitor).

Currently, several institutions are making important efforts to develop skills and abilities in entrepreneurship, innovation, sustainable development, science and technology in all strata of society. Relationships are being built among several important participants that are creating suitable conditions for entrepreneurs. It is necessary to strengthen the accessibility on funding sources, mainly the one focused on the early stages of a business project.

These efforts, with the population talent, have

led many entrepreneurs to choose the sustainable entrepreneurship model and the results are becoming visible. Small businesspeople of Pastores Sacatepéquez offering footwear in international markets, entrepreneurs in 4 Grados Norte designing technological applications and services, small agricultural producers adding value to their products, micro-entrepreneurs providing service and quality in the tourism industry and academics with a strong technological training are creating innovative solutions for the market. The creative industry is also beginning to fascinate Guatemalans.

The improvement we can generate as Guatemalans, is to work on a common platform of sustainable entrepreneurship projects open to the world, to make these enterprises have greater visibility and exposure to investors, whether family capital, angel investors, funding rounds, and so on. Nowadays, in order to identify a sustainable project, it is necessary to search in the institutions that are part of the entrepreneurship and innovation ecosystem of our country.

Investing in sustainable entrepreneurship in Guatemala, supporting especially the ideas of young entrepreneurs, both urban and rural, it will have a direct impact on the reduction of poverty, inequality, and generate better conditions for economic, social and environmental development.

**Yes, there's a high risk, but it's worth the effort to invest in local talent!**

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[www.sit.gob.gt](http://www.sit.gob.gt)

GUATEMALA CENTRAL BANK

[www.banguat.gob.gt](http://www.banguat.gob.gt)

NATIONAL INSTITUTE OF ELECTRICITY -INDE

[www.inde.gob.gt](http://www.inde.gob.gt)

NATIONAL STATISTICS INSTITUTION

[www.ine.gob.gt](http://www.ine.gob.gt)

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[www.pronacom.gt](http://www.pronacom.gt)

FUNDESA - Fundación para el Desarrollo de Guatemala  
[www.fundesa.org.gt](http://www.fundesa.org.gt)

ASÍ SE HACE - eRegulations Guatemala  
[www.asisehace.gt](http://www.asisehace.gt)

APPAREL AND TEXTILE INDUSTRY ASSOCIATION  
[www.vestex.com.gt](http://www.vestex.com.gt)

GUATEMALAN CONSTRUCTION  
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[www.construguate.com](http://www.construguate.com)

GUATEMALAN CHAMBER OF COMMERCE  
[www.camaradecomercio.org.gt](http://www.camaradecomercio.org.gt)

GUATEMALAN CHAMBER OF INDUSTRY  
[www.industriaguatemala.com](http://www.industriaguatemala.com)

AGEXPORT - Asociación de Exportadores de Guatemala  
[www.export.com.gt](http://www.export.com.gt)

## INTERNATIONAL TRADE

Seadex - Creación del código de exportador  
[seadex.export.com.gt](http://seadex.export.com.gt)

VUPE - Ventanilla Única para las Exportaciones  
[vupe.export.com.gt](http://vupe.export.com.gt)

SAT - Superintendencia de Administración Tributaria  
[portal.sat.gob.gt](http://portal.sat.gob.gt)

U.S. Commercial Service - Get Ready to Export  
[www.export.gov/Export-Education](http://www.export.gov/Export-Education)

International Chamber of Commerce - Incoterms  
[iccwbo.org](http://iccwbo.org)

SIECA - Secretaría de Integración Económica Centroamericana  
[www.sieca.int](http://www.sieca.int)





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