



AMCHAM  
GUATEMALA

AMERICAN CHAMBER OF COMMERCE

# ANNEX 1

Guatemala, February 2023



# Efficient and Flexible Mechanism for Short Supply

## BACKGROUND

- The Free Trade Agreement among the Dominican Republic, Central America, and the United States of America - DR-CAFTA became effective for Guatemala on July 1, 2006.
- U.S. apparel sourcing from DR-CAFTA has played a critical role in supporting the region's economic growth and job creation. A billion dollars of apparel exports to the U.S. could support more than 75,919 – 84,646 apparel jobs for DR-CAFTA members.

**1 billion USD\$ of apparel exports** ➡ represent ➡ **75,919 – 84,646 jobs**

- Data from the Office of Textiles and Apparel (OTEXA) at the U.S. Department of Commerce shows that U.S. apparel sourcing from CAFTA-DR members reached \$8.6 billion in 2019 and stayed at the same level in 2021.
- Among the regulations included in said Agreement is the mechanism called "Short Supply", which foresees those raw materials needed by the apparel and textile industry (fiber/yarn/cloth) to manufacture a textile product or a garment, may be acquired from countries not party to DR-CAFTA, if it is proven that such raw material cannot be supplied by Party countries in sufficient quantities in a timely manner.
- Likewise, this mechanism includes a procedure to add raw materials to the "Short Supply List", which involves several steps that need to be completed to obtain the benefit.

## CURRENT SITUATION

- The current mechanism for adding raw materials to the "Short Supply List" is bureaucratic and tends to take long, affecting the interests of the apparel and textile industry in the Central American region and even forcing companies to search in Asia.
- In theory, this procedure should not take more than 60 business days; however, in practice, it can take up to 6 to 8 months, which leads to the loss of potential customers, all the while incurring in higher costs in a process that must be carried out by a specialist, whose services are borne by the exporter.
- One of the steps to achieve the addition of raw materials to the "Short Supply List" is the review carried out by the Committee for the Implementation of Textile Agreements (CITA). It takes approximately 60 business days for CITA to issue a favorable or unfavorable ruling. In practice, this term can be extended, but that is not desirable as it leads to a lengthy and bureaucratic procedure.
- Companies that export apparel and textiles to the United States have requested support to expedite the procedure; however, efforts have been unsuccessful to date.

## PROPOSED SOLUTION

- To implement a mechanism to simplify the addition of raw materials to the Short Supply List, and limit steps that lengthen the process.
- To seek automation to streamline processes to make the region more attractive for the industry, meet customer demands in a timely manner and take advantage of nearshoring.
- The new procedure should be agreed within the DR-CAFTA Committee on Origin and, to give it legal force, a decision should be signed by the Free Trade Commission.





# Market Access to New Agricultural Products: Avocado

## BACKGROUND

- Avocado (*Persea americana*) is the fruit of a tree native to Latin American and the Caribbean. It is grown in many countries with tropical climates across Asia, Africa, and Latin America, as well as in Florida and California in the United States.
- A ban on the import of avocado had been in place since 1914 to protect against agricultural pests and diseases (especially avocado seed weevils). These restrictions began to be eased in 1997, and by 2007 all restrictions had been removed. Since then, the U.S. has grown into the largest global importer of avocado. U.S. imports now account for around 12 percent of total global production. In 2013, the U.S. imported 571,827 MT, valued at \$1.08 billion. Over 98 percent of U.S. avocado imports are sourced from just three countries: Mexico, Chile, and Peru.  
[https://pdf.usaid.gov/pdf\\_docs/PA00KP28.pdf](https://pdf.usaid.gov/pdf_docs/PA00KP28.pdf)
- Guatemala has about 12,000 hectares of avocado plantations, with approximately 4,000 hectares that are already being exported or have the capacity to become exportable.
- Currently, avocado accounts **for 1.5 to 2 direct jobs per hectare** and **3 to 4 indirect jobs per hectare. 34% of the productive or chain labor force is female, and this trend is growing.**
- In 2021, **Guatemala exported \$10 million in avocados.** Of these exports, the largest markets were **Europe (\$2.73 million) followed by Costa Rica and Honduras.** The Netherlands ranks first place for logistical reasons, as the hub from where distribution takes place to Spain, France, England, and Russia as major destinations.

**1.5 to 2**

DIRECT JOBS  
PER HECTARE



**3 to 4**

INDIRECT JOBS  
PER HECTARE

- Papaya exports, that developed with the opening of the U.S. market, began in the early 2000's and today it is estimated that, in the Peten region, between 3,000-5,000 hectares are planted by micro, small, medium, and large producers, accounting for approximately 10,000 to 12,000 direct and indirect jobs.
- PIPAA is a program that has the role of verifying the sanitary and phytosanitary condition of vegetables and the safety of unprocessed agricultural products for export. As well, it provides training and implement good agricultural and manufacturing practices in the export production sector, to ensure compliance with sanitary and phytosanitary measures and thus facilitate market access for agricultural products.

## **CURRENT SITUATION**

- Guatemala has around 30,000 hectares of land suitable for avocado production and it is estimated that by 2026 there could be 7,500-10,000 hectares planted and certified.
- There is production potential for this crop in the so-called dry corridor and in areas with major migration from the western side of the country. The activity requires not only investment but staying in the area; this ensures long term growth. The productive chain requires agricultural technology, packing plants, transportation, and other resources. These are concrete areas of opportunity to bring much needed development.
- The process of Guatemalan avocado admissibility into the United States is already underway. On June 1, 2020, the paperwork was sent to start procedures.
- Samples were taken and work was done to answer the admissibility questionnaire provided by APHIS (Animal and Plant Health Inspection Service) The first sampling was done in 2020 and the second sampling on February 22, 2021.
- Information was compiled, the complete document was transferred in May 2021 and was officially submitted in June 2021.

## **POSSIBLE SOLUTIONS**

- Acceleration of the creation of more and better jobs in the migration areas of Guatemala is possible; key to achieving this goal is giving access to Guatemalan avocados to the U.S. market. We believe that accelerating this process will provide immediate results in terms of development, as has been shown with access to other products such as papaya from the Peten area.
- To strengthen international technical cooperation through support for PIPAA so that inspectors and verifiers can ensure that all export products meet all U.S. regulations.





# Section 232 Tariffs on Steel and Aluminum by the United States

## BACKGROUND

- On March 8, 2018, Former U.S. President Donald Trump, decreed 25% import tariffs on steel products and 10% on aluminum products, arguing that the measure aims to boost national security. Such provision has its legal basis in Section 232 of the Trade Expansion Act of 1962, which empowers any federal department or agency to ask the Department of Commerce to investigate the implications of supply dependence on U.S. national security.
- The action has the characteristics of a safeguard measure under World Trade Organization (WTO) agreements.
- Although the measure appears to be covered by International Law, enforcing it in a discriminatory manner on some countries, such as Argentina, Australia, Brazil, and South Korea, with which the U.S. has negotiated export quotas, is a violation of the Most Favored Nation principle (Art. I) of the General Agreement on Tariffs and Trade (GATT 1994).
- Some countries and blocs of countries, such as Mexico and the European Union, filed international complaints against the U.S. because of the measure. As a result, both reached bilateral agreements to overcome the issue (see table 1).
- As an exception mechanism, the U.S. activated a procedure whereby if an importing company proves that its foreign supplier sells products of a certain quality and they are made from American raw materials, it exempts the shipment from the enforcement of the measure; however, this procedure is burdensome and bureaucratic.
- To date, the safeguard measure remains in force, and the USA has the option to authorize shipments without enforcing it. In the general context, imposing the

safeguard measure affects the export interests of countries, mainly those that have negotiated trade agreements with the USA, such as Guatemala.

- Guatemala went from exporting 35,847 tons in 2017 to only 2,605 tons in 2020.

**Guatemala  
Exporting**

**35,847  
tons**  
In 2017

**2,605  
tons**  
In 2020

## CURRENT SITUATION

- Since 2019, the Ministry of Economy of Guatemala and its counterparts of the Central American countries have written to the United States Trade Representative -USTR- requesting a solution to the enforcement of the safeguard measure; however, the U.S. has only responded that the exception mechanism per shipment is a partial solution to exports and that it should be utilized.
- The investigations carried out show that, in the agreement that Mexico signed with the USA, Mexico guarantees that its steel and aluminum exports come strictly from raw material originating in the member countries of the trade agreement (T-MEC), to guarantee that they do not contain raw material of Asian origin. This guarantee comes from the pre-export review.
- The European Union, for its part, agreed with the United States on export quotas for steel and aluminum products, even though these regions do not have a Free Trade Agreement in force.
- In the case of Guatemala, the organized private sector, together with the Ministry of Economy, prepared a proposal for an agreement (Joint Statement) like the one Mexico has in force, to be presented to the U.S. Government. However, it has not been possible to schedule a technical meeting to discuss it.
- 76.5% of Guatemalan steel exports to the United States are classified as galvanized coated flat steel. Production of this type of steel in the United States is not enough to cover domestic demand. It is important to underscore that no raw materials from China are used in its production.
- By the end of 2020, the sector had created 46,580** direct and indirect jobs. However, it is estimated that the number of jobs **could grow by 10% if an agreement between the United States and Guatemala is reached** regarding Section 232 (see graph 1).

In 2020

**46,580**

Direct and  
indirect jobs



**10%**

Possible  
growth

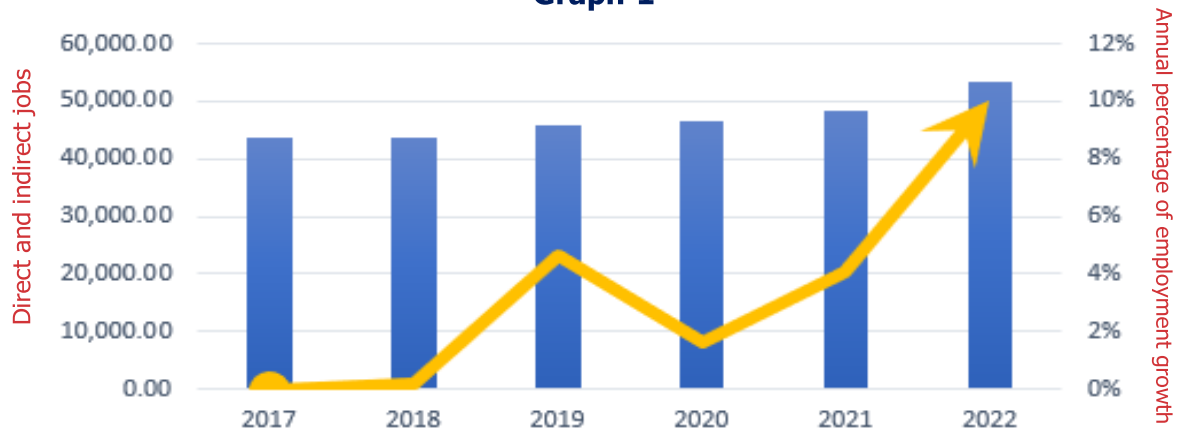
**Table 1**

**Country exemptions for Section 232 steel and aluminum tariffs**

Country	Steel	Aluminum	Date
Argentina	Quota	Quota	May 31, 2018
Australia	Permanent exemption	Permanent exemption	May 31, 2018
Brazil	Quota	-	May 31, 2018
Canada	Exemption with monitoring	Exemption with monitoring	May 19, 2019
Mexico	Exemption with monitoring	Exemption with monitoring	May 19, 2019
South Korea	Quota	-	April 30, 2018

Source: Congressional Research Service, "Section 232 Investigations: Overview and Issues for Congress," August 24, 2020.

**Graph 1**



Projected 2021 and 2022 values based on Bank of Guatemala numbers. The annual job growth percentage is based on data related to the previous year.

■ **Jobs**      ➡ **Annual job growth**

## PROPOSED SOLUTION

- To sign a bilateral Joint Statement of the United States and Guatemala that guarantees to U.S. companies that exported steel products will be produced exclusively with raw materials from DR-CAFTA countries, to enable an arrangement as accomplished by countries that already have an exemption.



A close-up photograph of a dark blue passport with the word "PASSPORT" in gold lettering, resting on a red and white striped American flag.

# Promotion and Facilitation of H-2B and H-2A Temporary Work Visas

## BACKGROUND

- Over the last decade, irregular migration from Guatemala to the United States has increased dramatically. Much of the migration comes from the Western Highlands, a region that is among the poorest and most rural in the country. An estimated 1.3 million Guatemalan immigrants lived in the United States in 2020, 44 percent more than in 2013, and more than half of them were living irregularly in the United States. The importance of migration as a lifeline was underscored during the COVID-19 crisis, with remittances to Guatemala increasing from \$10.5 billion before the pandemic to \$15.3 billion in 2021 (Selee, Argueta, & Hurtado Paz y Paz, 2022).
- Guatemala has the youngest population in Latin America, with 62% under 30 years old, a segment of the population that, with proper training and job opportunities, could be driving the country out of poverty.
- 59% of Guatemalans live below the poverty line. Out of that number, 77% who seek to migrate do so in search of economic opportunities (USAID.GOV, 2022).
- During 2022, Guatemala has in record 20,160 returnees from the U.S. by air alone, some having made multiple attempts to cross the U.S. border, risking their lives in the process.
- In September 2020, the governments of Guatemala and the United States signed the extension of the Bilateral Agreement on Labor Matters had first signed in July 2019. By means of which H2B visa applications, for the non-agricultural sector, were added to the H2A agricultural visas which were the only visas originally considered.
- After the visit by United States Vice President Kamala Harris, and the Secretary of the Department of Homeland Security, Alejandro Mayorkas, the U.S. government announced the allocation of 6,000 H2B visas for citizens of Guatemala, Honduras, and El Salvador. In recent years, approximately 3,000 H2A and 3,000 H2B visas have been issued to Guatemalans.
- The country whose citizens received the highest number of H-2B visas was Mexico with 74.7%, followed by Jamaica with 8.9%; Guatemala has only received 2.7%, according to a report by the U.S. Citizenship and Immigration Services (USCIS) in 2020.

- American companies that have already hired Guatemalan workers have, for the most part, rated their work as having a high potential as it brings profitability and growth.
- However, due to the difficulties they face in obtaining temporary work visas, they opt for workers from other countries, mostly Mexico.

## **CURRENT SITUATION**

- In January 2022, the U.S. Departments of Homeland Security and of Labor announced the availability of 20,000 additional H2B temporary non-agricultural worker visas for the first half of fiscal year 2022. For the second half of the year, an additional 11,500 visas have been approved for nationals of El Salvador, Guatemala, Honduras, and Haiti.
- The United States is going through "the great resignation period". People keep quitting their jobs; 4.5 million workers quit in March 2022, despite warnings of an upcoming recession. Currently, there are millions of empty job positions across the country.
- The process to obtain H2 work visas is very cumbersome and time consuming. It takes about 4 months to complete all the necessary steps to obtain a visa that will allow the candidate to be placed.
- There seems to be more interest in H2B visas on the part of companies in the U.S. However, these have more limitations than H2A visas, since they can only be requested in two periods of the year (May and November) and the number of available visas for the Northern Triangle is currently limited. Due to the urgent need that companies must hire workers, they are forced to look to other countries with less bureaucratic and more efficient processes.

## **POSSIBLE SOLUTIONS**

- Considering that the effects of regular migration are intended to fill a gap and not to replace native workers, economic growth will occur in both directions, for the benefit of the country of destination and the country of origin. At AmCham we believe it is necessary to increase efforts to find a mechanism to speed up the process to apply for H2A visas, but especially H2B visas, since these are in greater demand from American companies currently.
- To increase the number of visas authorized for Guatemala, since American companies have stated that workers from this country offer an excellent quality service, and this provides more hiring opportunities.



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