Doing Business In Guatemala: The 2008 Country Commercial Guide for U.S. Companies

Chapter 3: Selling U.S. Products and Services

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Using an Agent or Distributor

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One of the most important decisions a U.S. company will make in Guatemala will be the selection of a qualified and competent sales representative and/or distributor. A distributor with well-positioned sales outlets in important commercial locations will greatly enhance chances of capturing a major share of the end-user market.

Selection of the appropriate agent or distributor requires time and effort. The same high standards when selecting someone in the United States should, to the greatest extent possible, be used in Guatemala. English language capability, while important, should not be over-emphasized as a decision factor when selecting an agent or distributor. Reputation, product and industry knowledge, track record, enthusiasm and commitment should be weighed heavily.

Exclusivity will be requested by most potential agents and distributors, not only for Guatemala, but also in some cases, for part or all of Central America. U.S. exporters should scrutinize the request closely. The trend among U.S. and other foreign firms seeking representation in Guatemala is toward non-exclusivity and even well-defined,

renewable periods for representation. Guatemala can be a great place from which to enter the larger Central American market, but not all potential agents and distributors will be in a position to do it well.

In deciding with whom to work, U.S. firms should take the time to get to know the people they are considering, both in business and social settings (i.e., visit their offices, dine together, and request both local and international bank and trade references).

When completing an agency or distribution arrangement, U.S. exporters should make sure the agent or distributor understands clearly the terms of the relationship. The written agreement is important; however, both parties really need to understand it completely to avoid future problems.

Formal agency or distribution agreements should be reviewed by a Guatemalan attorney hired by the U.S. exporter (independent of the Guatemalan party with which the agreement is being established). The Guatemalan legal system can be slow and the law, under certain conditions, offers local agents and distributors a great deal of protection. Finally, under no circumstances should a U.S. exporter give a local agent or distributor the responsibility of registering any intellectual property (i.e. trademarks, trade names, copyrights, etc.); it should be done directly by the U.S. exporter, with the assistance of a Guatemalan attorney.

Establishing an Office

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Authorizations required to operate an office in Guatemala:

A foreign entity legally registered in its country of origin and intending to do business in Guatemala must:

Register with the Mercantile Registry (Registro Mercantil)

Registro Mercantil de Guatemala
Address: 7a. Ave. 7-51, Zona 4
01004 Guatemala
Ph.: [502] 2332-7678; 2331-0119
Fax: [502] 2331-0119 Ext.: 225
Contact: Lic. Arturo Saravia Altolaguirre, Registrador
E-mail: info@registromercantil.gob.gt
Website: www.registromercantil.gob.gt

Documents to be submitted to the Mercantile Registry with Request for Registration:

- Proof that the entity is legally constituted in accordance with the laws of the country (state) in which it is organized or registered.
- Certified copy of the deed of incorporation (charter), the by-laws, and modifications thereto.
- Proof that the Board of Directors has duly resolved to operate in Guatemala and has authorized the legal procedure to obtain permission to do so.
- A power of attorney in which the person named is given ample powers to act and to represent the entity in all legal matters.

- A document in which an amount is assigned as capital, with reference to the entity's operations in Guatemala, and in which it is expressly stated that the entity will be responsible for its obligations in Guatemala with all of its assets, both in Guatemala and abroad.
- A declaration that the entity recognizes the jurisdiction of the courts and laws of Guatemala, with respect to its activities and operations in the country, and that neither the entity nor its representatives and employees will seek special rights as foreigners.
- A declaration that the entity, prior to concluding operations in Guatemala, will fulfill all legal requirements in connection therewith.
- Certified copies of its latest financial statements (balance sheet and income account).

The documents must be certified by an authorized official in the country (state) of origin and must be authenticated by an appropriate Guatemalan Consular Official.

Registration with the Guatemalan Internal Revenue Service – SAT:

Register with the Guatemalan Superintendent of Tax Administration (Superintendencia de Administracion Tributaria – SAT) at:

Superintendencia de Administracion Tributaria – SAT
Address: 7a. Ave. 3-73, Zona 9
01009 Guatemala
Ph.: [502] 2329-7070 PBX
Fax: [502] 2329-7000
Website: www.sat.gob.gt
Call Center: +1-801-0072848
Contact: Lic. Rudy Villeda Vanegas

The documentation for registration with the SAT, as required by the Income Tax Law, is identical to that required for registration with the Mercantile Registry. It is advisable to have the documents prepared in duplicate and to submit one set to the SAT, together with a copy of the authorization to operate in Guatemala issued by the Ministry of Government. Registration under the Value Added Tax (Decree 27-92) is also necessary. This registration can also be made at the SAT.

Franchising

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A Guatemalan Franchise Association, Asociacion Guatemalteca de Franquicias AGF, was founded in August of 2007 with 25 professionally structured Guatemalan members. This association will be ratified by FIAF – Federacion Iberoamericana de Franquicias, located in Valencia, Spain. FIAF is integrated by the following Ibero-American franchise associations: Mexico, Venezuela, Ecuador, Brazil, Argentina, Chile, Peru, Portugal, Spain and now Guatemala. FIAF indicates that Guatemala is the largest franchise market in Central America, with 200 franchise chains, 3,500 outlets and that it has provided more than 25,000 direct employments, followed by El Salvador and Costa Rica with 95 chains respectively. The industry has grown 3,500 percent in the last five years. The Guatemalan franchise market has a constant growth of 20 percent per year. Local franchise companies operate mainly in the fields of fast food restaurants, bakery and ice

cream parlors, automobile services and supplies, gas stations, advertising signs, gifts and toy shops.

Opportunities for the establishment of additional U.S. franchises in all areas of economic activity are excellent, as businesspeople are increasingly interested in new franchising possibilities.

The CAFTA-DR agreement is providing full market access to franchising. Trademark provisions will protect the franchisor's name and tariff liberalization is allowing the lower-cost export of key equipment required to supply the franchisee.

The best and most effective way to enter the Guatemalan market, is through one of the Department of Commerce' services, such as the Gold Key Service, which is designed to give U.S. companies the advantage of local expertise to schedule meetings with pre-screened potential business contacts.

Contact:

AGF – Asociacion Guatemalteca de Franquicias
Edificio Murano – Penthouse
14 Calle 3-51, Zona 10
Guatemala, Guatemala
Tel: [502] 2386-1081
Fax: [502] 2386-1001
Email: info@guatefranquicias.com
www.guatefranquicias.com
Ramon Hernandez, Vice President

Direct Marketing

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Approximately one-half of all imports from the United States are the result of direct sales. Many of these result from Guatemalan businesspeople contacting potential suppliers located in traditional U.S. supply centers, such as Miami, New Orleans, Los Angeles and Houston, among other cities, to satisfy a specific product or service need. Other sales result from marketing through the Internet, which is now very popular among medium and large businesses. Direct marketing is usually more effective in cases where the product is well-known or the universe of local buyers is relatively small and easily identifiable, such as sugar mills. To be effective, a U.S. exporter would need to send a sales person (preferably the same person all of the time, so that a relationship can develop) to Guatemala on a regular basis to call on existing and potential customers. Direct sales to government agencies and state-owned firms, except in a few cases, is not possible unless the foreign firm has some sort of local representative authorized to act on its behalf.

The use of the Internet is increasing in Guatemala. Many orders are placed via the Internet and most of the merchandise ordered, except for heavy machinery, is processed via electronic orders. Guatemalan businesspeople access websites and search for specialized merchandise. Many significant Guatemalan businesses have postal boxes in Miami. Arrangements for the shipping of merchandise to Guatemala are made by the ordering companies, which can make transportation fees more favorable.

Joint Ventures/Licensing

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Commercial companies in Guatemala are governed by the Commercial Code (Congressional Decree No. 2-70) of January 28, 1970. Article 10 of this Code recognizes as commercial companies those organized exclusively as:

General Partnerships
Limited Partnerships
Special Limited Liability Companies
Corporations
Stock-issuing Partnerships

Article 12 provides that banks, insurance companies, re-insurance companies, bonding companies, re-bonding companies, financial firms, general warehouses, stock markets, mutual societies, and other similar organizations will be controlled with respect to their form, organization and operation by the provisions of the Commercial Code, only to the extent that they are not covered by other specific laws and regulations.

Joint Ventures

Joint Ventures (Negocios en Participacion) are regulated by Articles 861 to 865 of the Commercial Code as contracts, not as companies or juridical persons. The use of a trade name that includes first names and two family names of the participating persons shall make those persons legally responsible, just as if they were members of a general partnership, assuming they consented to the use of their name.

In a joint venture, the participants enter into a participation contract (contrato de participacion), by which the person called the “active partner” obligates himself to share with one or more persons called the “participants”, who contribute goods or services, the profits or losses resulting from one or several operations of their enterprise or of the complete turnover thereof. The active partner operates in his own name; there is no legal relationship between third parties and the participants.

Licensing

Licensing is defined as a contract partnership in which two or more persons agree to place goods or services in common for the purpose of carrying on an economic activity, dividing the profits. The licensing contract is tailored according to the needs and interests of the parties involved. However, all obligations are governed by the Civil Code.

A company or association that has been legally established in the United States may be established in Guatemala or may have agencies or branches in Guatemala, after receiving authorization from the government. It must show proof of its legal constitution and that it has appointed a paid local agent with all general and special powers. For purposes of the law, the agent is presumed to be vested with such powers, even though the agency agreement may not specifically so provide.

A foreign company or association that does business in Guatemala is required to:

- Establish agencies or branches that take care of its business

- Have an accounting system, in legal form and in Spanish, in which the operations or business negotiations that take place in Guatemala are recorded
- Submit for decision by the Guatemalan courts under Guatemalan law any legal questions that arise from the business of the agency or branch.

Selling to the Government

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Sales to government agencies and corporations are best achieved through local agents, distributors and other types of representatives; in some cases it is a requirement. It is not very practical to target government sales if a firm does not have contacts in Guatemala to be on the lookout for opportunities and then assist with obtaining the specifications and meeting deadlines for submission.

The Government Procurement Law (Decree 57-92- Ley de Contrataciones del Estado de Guatemala) and its addendums, stipulate that all government purchases over USD 161,000 must be submitted for public competitive bidding, and no less than 5 bidders must participate, except when a project is considered to be so urgent as to be declared a national emergency. In the latter case, the Government of Guatemala can forgo the bidding process and may acquire the goods or services, regardless of the amount, from local firms or through dealers by direct importation. Unless otherwise specified, all government public bidding requires foreign suppliers to meet pre-qualification requirements, and to submit bids through local established representatives. Government purchases or acquisitions are generally exempted from import duties. The period granted for submission of bids is often limited.

Government procurements executed by one government are occasionally challenged by the subsequent government. In some of these cases, the Embassy can assist U.S. firms by encouraging the government to respect the original contract. The complete public bidding process can be accessed at www.guatecompras.gob.gt - Concursos Publicados.

Distribution and Sales Channels

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Most Guatemalan importers have traveled extensively to the United States and/or have done business with U.S. firms. Guatemalan businesspeople are accustomed to doing business with the United States. Many businesspeople speak English. Nevertheless, to maximize the probability of succeeding in the Guatemalan market, U.S. exporters should be aware of and respect local business practices.

Almost half of all firms selling into the Guatemalan market do so by means of a Guatemalan agent or distributor. The rest sell directly to Guatemalan buyers. Generally speaking, the more pre-sales marketing and after-sales support and service that a product requires, the more important it is to have a local agent and distributor.

Most business is conducted in Guatemala based on personal relationships. Guatemalan business executives and government officials place great importance on personal contacts with suppliers. U.S. suppliers should be prepared to have a local representative or distributor and to travel to Guatemala personally. U.S. businesspersons are often surprised at the accessibility to key decision makers and the openness and frankness of local buyers.

Selling Factors/Techniques

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Guatemalan purchasing decisions are primarily based on price, service and quality. Being "Made in USA" usually confers a strong advantage to any product in the Guatemalan marketplace.

Direct sales by U.S. exporters to end-users, importers, wholesalers and retailers are usually most successful when the product is well-known within the market or when a limited number of (usually large) buyers exist. Direct sales are often supported by local advertisement, sales promotion campaigns, technical or illustrative brochures, visits by salespeople, and in some cases samples.

Sales via local agents and distributors are the most effective means of penetrating the market successfully, in most cases. The U.S. exporter appoints a person or firm, which, in turn, either promotes sales on a commission basis or purchases the merchandise and re-sells it. End-users and retailers generally have neither the experience nor the time to import directly, nor to handle customs clearance, which is time-consuming. Once exclusive representation has been given to a local company, it cannot be taken away and given to another concern without complying with the existing Agency, Distribution and Representation Law, contained in Congressional Decree No. 8-98, of February 4, 1998.

Electronic Commerce

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E-Commerce is a relatively new feature in the Guatemalan market. Guatemala has started to use e-commerce among its chambers and associations, some of the larger banks, large supermarkets, the exporters' guild, and others. Some government agencies, like the local equivalent of the Internal Revenue Service, the Government Procurement Office, and Trade Mark Registry have launched web pages and offer interactive services. Businesspeople, associations, and the government have realized that this is a very important electronic tool in doing business.

This e-commerce industry is growing rapidly. Large companies have been the first to take advantage of this tool. It will take some time for smaller firms to adapt. Examples of some users of e-commerce are: www.amchamguate.com, www.camaradecomercio.org.gt, www.industriaguate.com, www.coperex.com, www.prensalibre.com.gt, www.guatecompras.gob.gt, www.negociosenguatemala.com.gt, www.MiSuper.com, www.hiperpaiz.com, www.bi.com.gt

The Guatemalan Economic Congressional Committee, along with other trade associations, is currently working on an E-commerce bill which should be considered by Congress in 2008.

Trade Promotion and Advertising

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The Commercial Service of the U.S. Embassy in Guatemala City can provide guidance and assistance to U.S. firms seeking to enter or expand their presence in the Guatemalan market. The following trade associations, at times, can also provide guidance, information and/or assistance to companies planning trade promotion events, which may

include product demonstrations, seminars, conferences, etc. The associations are as follows:

American Chamber of Commerce of Guatemala (AMCHAM)
Address: 5a. Ave. 5-55, Zona 14
EuroPlaza, Torre I, Nivel 5
01014 Guatemala
Ph.: [502] 2417-0800
Fax: [502] 2417-0777
Contact: Carolina Castellanos, Director
Jose Orive, President
E-mail: director@amchamguate.com
Web page: www.amchamguate.com

Camara de Comercio de Guatemala
(Guatemalan Chamber of Commerce)
Address: 10a. Calle 3-80, Zona 1
01001 Guatemala
Ph.: [502] 2232-4545 / 2253-5353
Fax: [502] 2220-9393
Contact: Edgardo Wagner, President
E-mail: info@camaradecomercio.org.gt
Web page: www.camaradecomercio.org.gt

Cámara de Industria de Guatemala
(Chamber of Industry)
Address: Ruta 6 9-21, Zona 4
Edificio Camara de Industria, Nivel 12
01004 Guatemala
Ph.: [502] 2380-9000 / 2334-4848
Fax: [502] 2334-1090
Contact: Lic.Thomas Dougerty President
E-mail: cig@industriaguate.com
Web page: www.industriaguate.com

Trade Promotion Opportunities:

U.S. firms that are interested in participating in local trade events held in Guatemala may wish to receive more information from different organizers:

- FERIA NACIONAL (National Fair) – December (annual)
- COMFERIA – July (annual)
- INDUEXPO 2007 June (Every two years)
- EXPO-ALIMENTARIA September (annual)
- EXPOMUEBLE (twice a year)
- APPAREL SOURCING SHOW (May once a year)
- TECNOPAN (May, 2008)

Organizers of these and other fairs:

COPEREX
Address: 8a. Calle 2-33, Zona 9

Parque de la Industria
01009 Guatemala
Ph.: [502] 2331-3737 / 2334-1269
Fax: [502] 2331-7845
Contact: Lic. Roberto Gonzalez
E-mail: info@coperex.com
Web page: www.coperex.com.gt

Osmosis, Impulso y Desarrollo
Address: 9 Calle 18-51, Zona 14
01014 Guatemala
Ph.: [502] 2379-3879 -91
Contact: Ing. Carlos Rafael Anzueto, General Manager
E-mail: ventas@osmosisconsultores.com
Web page: www.feriatecnoalimentaria.com

Information on these shows can be obtained from:
U.S. Embassy
Commercial Service
Ph.: [502] 2326-4259
Fax: [502] 2331-7373
E-mail: Guatemala.Office.Box@mail.doc.gov
Web page: www.buyusa.gov/guatemala/en

Advertising
Advertising in Guatemala is usually done through the local media, such as newspapers, magazines, radio and television. Also, the use of billboards displayed along highways has proliferated in recent years. Firms interested in advertising in Guatemala may wish to contact the following association for guidance and the names of Guatemalan advertising firms that could be of assistance:

Union Guatemalteca de Agencias de Publicidad - UGAP
(Guatemalan Association of Advertising Agencies)
Address: 13 Calle 3-40, Zona 10
Edificio Atlantis, Nivel 3, Local 45
01010 Guatemala
Ph.: [502] 2367-2301 to 2303
Fax: [502] 2367-2304
Contact: Pauline Crespo K., Executive Director
E-mail: director@ugap.com
Web page: www.ugap.com

Major Newspapers
The leading newspapers in Guatemala include the following:

Prensa Libre
Address: 13 Calle 9-31, Zona 1
Edificio Prensa Libre
01001 Guatemala
Ph.: [502] 2230-5096, 2230-1384
Fax: [502] 2251-8768

Contact: Luis Enrique Solorzano, General Manager
Gonzalo Marroquin, Editorial Director
E-mail: nacionales@prensalibre.com.gt
Web page: www.prensalibre.com.gt

Siglo Veintiuno
Address: 14 Ave. 4-33, Zona 1
01001 Guatemala
Ph.: [502] 2423-6100
Fax: [502] 2423-6346
Contact: Guillermo Fernandez, Director
E-mail: buzon21@sigloxxi.com
Web page: www.sigloxxi.com

El Periodico
Address: 15 Avenida 24-51, Zona 13
01013 Guatemala
Ph.: [502] 2379-1616
Fax: [502] 2332-9761
Contact: Juan Luis Font, Director
E-mail: opinion@elperiodico.com.gt
Web page: www.elperiodico.com.gt

Nuestro Diario
Address: 15 Avenida 24-27, Zona 13
Ph.: [502] 2379-1600
Fax: [502] 2379-1621
Contact: Rodolfo Mobil
E-mail opinion@nuestrodiario.com.gt
Web page: N/A

Television Channels/Companies:

The following are the major television channels in Guatemala:

Canal 3 de Television (Channel 3)
Address: 30 Avenida 3-40, Zona 11
Edificio Canal 3
01011 Guatemala
Ph.: [502] 2410-3000
Fax: [502] 2410-3003
Contact: Fernando Villanueva, General Manager
E-mail: canal3@canal3.com.gt
Web page: N/A

Televisiete (Channel 7)
Address: 30 Avenida 3-40, Zona 11
Edificio Canal 3
01011 Guatemala
Ph.: [502] 2410-3000
Fax: [502] 2410-3003

Contact: Beatriz Eugenia Ramirez de Rivera, Sales Manager
E-mail: BeatrizdeRivera@canal3.com.gt
Web page: N/A

TELE ONCE (Channel 11)
Address: 20 Calle 5-02, Zona 10
Code: 01010
Phone: [502] 2368-2532
Fax: [502] 2333-4653
Contact: Juan Carlos Ortiz
E-mail: jcof@canalonce.tv
Web page: N/A

TRECEVISION (Channel 13)
Address: Address: 20 Calle 5-02, Zona 10
Code: 01010
Phone: [502] 2368-2532
Fax: [502] 2333-4653
Contact: Juan Carlos Ortiz
E-mail: jcof@canalonce.tv
Web page: N/A

GuateVision (Channel 39)
Address: Calzada Roosevelt 22-43, Zona 11
Tikal Futura Torre Sol Nivel 4
01011 Ciudad de Guatemala, Guatemala
Ph.: [502] 2328-6000
Fax: [502] 2328-6002
Contact: Haroldo Sanchez, General Manager
E-mail: N/A
Web page: www.guatevision.com

Mayacable/Comtech
Address: 6a. Calle 07-73 Zona 09
Edificio Telgua, Primer Nivel
01009 Guatemala, C.A.
Ph.: [502] 2420-5700, [502] 2420-5712
Fax: [502] 2420-5707
Contact: Lic. Aldo Ordoñez, General Manager
E-mail: clientes@comtech.net.gt
Web page: www.comtech.net.gt

Radio Stations:

To listen to Guatemalan radio on the Internet, visit www.comfm.com/live/radio/?c=gt.

For a list and description of Guatemalan radio stations, visit:
www.tvradioworld.com/region1/gtm/Radio.asp

The following is a list of some of the major radio stations in Guatemala City:

Emisoras Unidas
Address: 4a. Calle 6-84, Zona 13
01013 Guatemala, C.A.
Ph.: [502] 2440-5133
Fax: [502] 2440-5159
Contact: Rolando Archila, General Manager
Edgar Archila Marroquin, President
E-mail: emisorasunidas@emisorasunidas.com
Web page: www.emisorasunidas.com
Note: Emisoras Unidas has a National Network of five stations throughout Guatemala.

Radio Emperador
Address: 14 Calle 11-63, Zona 1
01001 Guatemala
Ph.: [502] 2253-4187
Fax: [502] 2253-4188
Contact: Cesar Augusto Hernandez Salguero, General Manager
E-mail: N/A
Web page: N/A

Cadena Azul de Guatemala
Radio Mundial
Address: 6a. Avenida 2-80, Zona 1
01001 Guatemala, C.A.
Ph.: [502] 2238-2233 / 2238-0372
Fax: [502] 2230-4216 / 2253-2552
Contact: Fredy Azurdia, General Manager
E-mail: radiomundial@centroamerica.com
Web Page: N/A

Radio Punto
Address: 6a. Avenida 0-60, Zona 4
Edificio Torre Profesional II, Nivel 10
01004 Guatemala, C. A.
Ph.: [502] 2379-8484
Fax: [502] 2335-2045
Contact: Helen Liu de Sanchez, General Manager
E-mail: alius@radiogrupoalius.com
Web page: www.grupoalius.com

Radio Panamericana
Address: 1a. Calle 35-48, Zona 7, Colonia Toledo
01007 Guatemala, C. A.
Ph.: [502] 2431-2293 / 2435-6504
Fax: [502] 2431-2293
Contact: Mario David Paniagua, General Manager
E-mail: panamericana.radio@gmail.com
Web page: N/A

Grupo Nuevo Mundo

Address: 9ª. Ave. 13-58, Zona 1
01001 Guatemala, C.A.
Ph.: [502] 2285-1212
Fax: [502] 2285-1220
Contact: Alfredo Gonzalez Gamarra, Director
E-mail: N/A
Web page: N/A

Radio Rumbos
Address: 6ª. Ave. 0-60, Zona 4
Torre Profesional I
Centro Comercial Zona 4
Ph.: [502] 2335-1738
Fax: [502] 2338-0009
Contact: Alfredo Gonzalez Gamarra, Director
E-mail: info@gruporumbos.com
Web page: www.gruporadiorumbos.com

Magazines and Business Journals:

The following are some of the leading magazines for business in Guatemala:

Revista Gerencia
Asociacion de Gerentes de Guatemala
Address: 6a. Avenida 1-36, Zona 14, Nivel 3
01014 Guatemala, C.A.
Ph.: [502] 2367-4995 to 7 / 2367-5001 to 5
Fax: [502] 2367-5006 to 7
Contact: Elizabeth Arreces, Executive Director
E-mail: servicio@agg.org.gt
Web page: www.agg.guate.com

Revista Industria
Camara de Industria de Guatemala
Address: Ruta 6 9-21, Zona 4
Edificio Camara de Industria
01004 Guatemala
Ph.: [502] 2331-9191 / 2334-4848
Fax: [502] 2334-1090
Contact: Lic. Karla Nuñez
E-mail: revistaindustria@industriaguate.com
Web page: www.industriaguate.com

Mundo Comercial
Camara de Comercio de Guatemala
Address: 10a. Calle 3-80, Zona 1
01001 Guatemala
Ph.: [502] 2232-4545 / 2253-5353
Fax: [502] 2251-4197
Contact: Ricardo A. Rodriguez, Manager
E-mail: info@camaradecomercio.org.gt

Web page: www.camaradecomercio.org.gt

Business Guatemala
American Chamber of Comerce of Guatemala
Address: 5ª. Avenida 5-55, Zona 14
Edificio Europlaza, Nivel 5
01014 Guatemala
Ph.: [502] 2333-3899
Fax: [502] 2368-3536
Contact: Silvia Carolina Tamayac, Publishing Department Supervisor
Carolina Castellanos, Director
E-mail: mercadeo@amchamguate.com
Web page: www.amchamguate.com

Internet Sites:

Terra Networks Guatemala, S.A.
Address: Diagonal 6 10-01, Zona 10
Centro Gerencial Las Margaritas Torre II, Oficina 9002-B
01010 Guatemala
Ph.: [502] 2379- 9999
Fax: [502] 2379- 9998
Contact: Carlos Raul Colindres
E-mail: info@corp.terra.com.gt
publicidad@corp.terra.com.gt
Web page: www.terra.com/gt

Pricing

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Price is a very important decision factor for most Guatemalan businesspeople when selecting a supplier of imported goods and services. Many Guatemalan businesspeople are accustomed to purchasing directly from abroad, especially when they feel that the price of locally available imported products or services are too high. In order to calculate the cost of a product or shipment, companies add up the following expenses:

a) Product F.O.B. cost
b) Product freight and/or transportation cost
c) Product insurance cost
d) Consular fees (in some cases)
e) Import duties
f) Value added tax, 12 percent

Sales Service/Customer Support

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One of the most important issues for purchase decisions of Guatemalan importers is sales service. U.S. firms, more than other foreign firms, generally have a reputation for providing good service and support. U.S. firms interested in penetrating the Guatemalan market should make a commitment to offer excellent service and support to their Guatemalan buyers, agents and distributors. This commitment to excellent service and support should also be made clear by the U.S. firm to its local agent or distributor. Poor or mediocre service often leads to lower sales. The Guatemalan business community is

comparatively small and word travels quickly about local and foreign firms that offer poor service and support.

Although after-sales service is not included in the Commercial Code, many representatives, wholesalers and retailers also provide after-sales service and support. This is particularly the case with items such as household appliances, electronic consumer goods, telecommunications and computer equipment, other electronic equipment and industrial machinery. There are no provisions in the law regarding product guarantees. However, most retailers provide some sort of guarantee that covers problems which occur under normal conditions of use.

Protecting Your Intellectual Property

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Introduction

Several general principles are important for effective management of intellectual property rights in Guatemala. First, it is important to have an overall strategy to protect IPR. Second, IPR is protected differently in *Guatemala* than in the U.S. Third, rights must be registered and enforced *in Guatemala,* under local laws. Companies may wish to seek advice from local attorneys or IP consultants. The U.S. Commercial Service can provide a list of local lawyers upon request.

It is vital that companies understand that intellectual property is primarily a private right and that the US government cannot enforce rights for private individuals in *Guatemala.* It is the responsibility of the rights' holders to register, protect, and enforce their rights where relevant, retaining their own counsel and advisors. While the U.S. Government is willing to assist, there is little it can do if the rights holders have not taken these fundamental steps necessary to securing and enforcing their IPR in a timely fashion. Moreover, in many countries, rights holders who delay enforcing their rights on a mistaken belief that the USG can provide a political resolution to a legal problem may find that their rights have been eroded or abrogated due to doctrines such as statutes of limitations, laches, estoppel, or unreasonable delay in prosecuting a law suit. In no instance should USG advice be seen as a substitute for the obligation of a rights holder to promptly pursue its case.

It is always advisable to conduct due diligence on partners. Negotiate from the position of your partner and give your partner clear incentives to honor the contract. A good partner is an important ally in protecting IP rights. Keep an eye on your cost structure and reduce the margins (and the incentive) of would-be bad actors. Projects and sales in *Guatemala* require constant attention. Work with legal counsel familiar with Guatemalan laws to create a solid contract that includes non-compete clauses, and confidentiality/non-disclosure provisions.

It is also recommended that small and medium-size companies understand the importance of working together with trade associations and organizations to support efforts to protect IPR and stop counterfeiting. There are a number of these organizations, both G*uatemalan* and U.S.-based. These include:

- The U.S. Chamber and local American Chambers of Commerce
- National Association of Manufacturers (NAM)

- International Intellectual Property Alliance (IIPA)
- International Trademark Association (INTA)
- The Coalition Against Counterfeiting and Piracy
- International Anti-Counterfeiting Coalition (IACC)
- Pharmaceutical Research and Manufacturers of America (PhRMA)
- Biotechnology Industry Organization (BIO)
- Registry of Intellectual Property, Ministry of Economic Affairs
- FOMPI (Association for Fostering IPR)

IPR Resources

A wealth of information on protecting IPR is freely available to U.S. rights holders. Some excellent resources for companies regarding intellectual property include the following:

- For information about patent, trademark, or copyright issues -- including enforcement issues in the US and other countries -- call the STOP! Hotline: 1-866-999-HALT or register at www.StopFakes.gov.
- For more information about registering trademarks and patents (both in the U.S. as well as in foreign countries), contact the US Patent and Trademark Office (USPTO) at: 1-800-786-9199.
- For more information about registering for copyright protection in the US, contact the US Copyright Office at: 1-202-707-5959.
- For US small and medium-size companies, the Department of Commerce offers a "SME IPR Advisory Program" available through the American Bar Association that provides one hour of free IPR legal advice for companies with concerns in Brazil, China, Egypt, India, Russia, and Thailand. For details and to register, visit: http://www.abanet.org/intlaw/intlproj/iprprogram_consultation.html
- For information on obtaining and enforcing intellectual property rights and market-specific IP Toolkits visit: www.StopFakes.gov This site is linked to the USPTO website for registering trademarks and patents (both in the U.S. as well as in foreign countries), the U.S. Customs & Border Protection website to record registered trademarks and copyrighted works (to assist customs in blocking imports of IPR-infringing products) and allows you to register for Webinars on protecting IPR.
- The U.S. Commerce Department has positioned IP attaches in key markets around the world. You can get contact information for the IP attache who covers Guatemala at: http://www.buyusa.gov/guatemala.

IPR Climate in Guatemala

[*Please refer to Chapter 6/Investment Climate/Protection of Property Rights in this document. Guatemala's IP office contact information can also be found at http://www.wipo.int/directory/en/urls.jsp*.]

Firms with valuable intellectual property to protect should take the legal steps necessary to insure that it is protected. Firms should never delegate to a local agent, distributor or business partner the job of registering intellectual property. It should be done directly by the U.S. firm, with the assistance of a Guatemalan attorney. Careful attention to IPR issues initially can prevent problems later.

Intellectual Property Registry

Congressional Decree No. 57-2000 ratified the Central American Agreement for Intellectual Property Protection. This law establishes a uniform legal framework for all the Central American countries regarding trademarks, trade names and expressions or advertising jingles and signs. The Rules and Regulations to be followed are found in Decree #89-2002, dated March 19, 2002.

Ownership of a trademark is obtained through its registration in accordance with the above-mentioned agreement and proven with the Registry's certification, issued by a competent authority.
The rights granted through the registration of a trademark lasts ten years, and may be renewed repeatedly for the same period of time by complying with the requirements established by the agreement. Any natural or legal person may obtain the registration of their trademarks.

Detailed information on the registration of trademarks or intellectual property can be accessed at: www.negociosenguatemala.com/negocios/registromarca.asp.

The Intellectual Property Registrar may be contacted at:

Registro de la Propiedad Intelectual
Address: 7a. Avenida 7-61, Zona 4
Ph.: [502] 2332-0111, 0112, 0113, 0114
Fax: [502] 2332-7707
Contact: Licda. Marina Giron Saenz, Directora
E-mail: rpiweb@rpi.gob.gt
Web page: www.rpi.gob.gt

Due Diligence

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Performing due diligence in Guatemala can be time-consuming and difficult. There are very few sources of independently verifiable information about companies and individuals. There are no publicly-listed Guatemalan companies and rarely do they publish information about their officers, sales or financial information. Most companies are sole proprietorships and partnerships, and business generally is conducted based upon personal reputation and contacts.

Companies should request bank and trade references from potential agents and customers. Companies should also consult with their own U.S. banks for information on Guatemalan banks, most of which have correspondent banking relationships with banks in Florida. Another source of information is the International Company Profile (ICP), which can be ordered through any U.S. office of the U.S and Foreign Commercial Service (U.S. Export Assistance Centers). These reports, compiled by the Commercial Service, contain information that might be difficult for a U.S. firm to obtain on its own. See www.buyusa.gov/guatemala/en/6.html

Local Professional Services

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Professional services involving lawyers, auditors, consultants, custom brokers, financial consultants, etc. can be a very useful in instances such as preparation of agency and distribution agreements and are essential for the legal registration of a new company, registration of a patent or trademark, debt collection, property rights, power of attorney,

and trade arbitration. As a matter of good business practice, U.S. businesspeople should not share the same attorney or auditors utilized by their local business associates.

Please visit the following website: http://www.buyusa.gov/guatemala/en/guatemalanserviceproviders.html to find a list of Business Service Providers. The U.S. Government cannot recommend any particular attorney or professional.

Web Resources

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- Superintendent of Tax Admin/SAT: www.sat.gob.gt
- Guatemala Procurement Office: www.guatecompras.gob.gt
- American Chamber of Commerce: www.amchamguate.com
- Guatemalan Chamber of Commerce: www.camaradecomercio.org.gt
- Export association: www.export.com.gt
- Chamber of Construction: www.construguate.com
- Guatemala Chamber of Industry: www.industriaguate.com
- COPEREX Trade Fairs: www.coperex.com.gt
- Agritrade: http://www.export.com.gt
- Apparel Show: www.apparel.com.gt
- InduExpo: http://www.industriaguate.com/
- Expomueble (furniture): http://www.export.com.gt
- International Construction Show: http://www.construexpocgc.com/
- U.S. Embassy Guatemala: http://guatemala.usembassy.gov/
- Advertising Association: www.ugap.com
- Prensa Libre (newspaper): www.prensalibre.com.gt
- SIglo XXI (newspaper): www.sigloxxi.com
- El Periodico (newspaper): www.elperiodico.com.gt
- GuateVision: www.guatevision.com
- Mayacable/Comtech: www.comtech.net.gt
- Guatemala Radio Stations: www.tvradioworld.com/region1/gtm/radio.asp
- Guatemala Managers Association: www.agg.guate.com

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U.S. exporters seeking general export information/assistance or country-specific commercial information should consult with their nearest **Export Assistance Center** or the **U.S. Department of Commerce's Trade Information Center** at **(800) USA-TRADE**, or go to the following website: http://www.export.gov.

To the best of our knowledge, the information contained in this report is accurate as of the date published. However, **The Department of Commerce** does not take responsibility for actions readers may take based on the information contained herein. Readers should always conduct their own due diligence before entering into business ventures or other commercial arrangements. **The Department of Commerce** can assist companies in these endeavors.