

# PARAGUAY

## TRADE SUMMARY

The U.S. goods trade surplus with Paraguay was \$1.9 billion in 2011, an increase of \$118 million from 2010. U.S. goods exports in 2011 were \$2.0 billion, up 9.2 percent from the previous year. Corresponding U.S. imports from Paraguay were \$110 million, up 77.0 percent. Paraguay is currently the 63rd largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Paraguay was \$193 million in 2010 (latest data available).

## IMPORT POLICIES

### Tariffs

Paraguay is a member of the MERCOSUR common market, which was formed in 1991 and is comprised of Argentina, Brazil, Paraguay, and Uruguay. MERCOSUR's Common External Tariff (CET) averages 11.5 percent and ranges from zero percent to 35 percent *ad valorem*, with a limited number of country-specific exceptions to the common rates. According to current MERCOSUR procedure, any good introduced into any member country must pay the CET to that country's customs authorities. If the product is re-exported to any other MERCOSUR country, the CET must be paid again to the second country. Thus, for any U.S. good introduced into landlocked Paraguay via any other MERCOSUR country (all of which have ocean ports), the CET is effectively doubled.

During its 39th meeting in August 2010, MERCOSUR's Common Market Council (CMC) advanced toward the establishment of a Customs Union with its approval of a Common Customs Code (CCC) and a decision to implement a plan to eliminate the double application of the CET within MERCOSUR. The plan was to take effect in three stages with the first phase to have been implemented no later than January 1, 2012. That deadline was not met, however, and the CCC still must be ratified by MERCOSUR's member countries.

Paraguay's import tariffs tend to be lower than the CET, ranging from zero percent to 20 percent, with an average applied tariff rate of 10.2 percent. This is because MERCOSUR permitted Paraguay to maintain over 2,600 country-specific exceptions to the CET through December 31, 2011. The continuation of these exceptions is currently being negotiated; however, at a minimum Paraguay will be permitted to maintain a national list of 649 country-specific exceptions until December 31, 2019.

In December 2009, Paraguay, along with the other MERCOSUR members, approved tariff increases for hundreds of products in the CET, including dairy, textiles, bags, backpacks, and suitcases. In many cases, the applied tariffs were increased up to WTO bound levels. In December 2011, the MERCOSUR members agreed to temporarily increase import duty rates to a maximum rate of 35 percent on 100 tariff items per member country. The increased duties went into effect in January 2012 and will remain in effect through the end of 2012, with the possibility of extension through the end of 2015.

### Nontariff Barriers

Since March 2009, the government of Paraguay has required non-automatic import licenses on personal hygiene products, cosmetics, perfumes and toiletries, textiles and clothing, insecticides, agrochemicals, and poultry. Obtaining a license requires review by the Ministry of Industry and Commerce and

sometimes by the Ministry of Health. The process usually takes 10 days but can take up to 30 days for goods that require a health certification. Once issued, the certificates are valid for 30 days.

With support from the Millennium Challenge Corporation's Threshold II Program, the Paraguayan Customs Office launched a "single window" web-based system for imports (referred to by its Spanish acronym, *VUI – Ventanilla Unica de Importación*) in July 2011. The cost and time required to process import licenses from government institutions has been reduced, improving competitiveness and transparency in customs operations.

Since 2000, Paraguay has prohibited the importation of used clothing and cars over 10 years old.

### **Customs Procedures**

Paraguay requires specific documentation for imports, such as the commercial receipt, certificate of origin and cargo manifest, to be certified by either the Paraguayan consulate in the country of origin or at the Ministry of Foreign Affairs in Paraguay. The latter requires an additional fee.

Paraguay requires all companies operating in the country to contract the services of a customs broker. The customs broker fees are standardized by Paraguayan law.

### **GOVERNMENT PROCUREMENT**

Paraguay is not a signatory to the WTO Agreement on Government Procurement. In September 2011, the government of Paraguay passed a new law that gives preference to a locally produced good in public procurements where the procurement is open to foreign suppliers even if it is up to 20 percent more expensive than the imported good.

### **INTELLECTUAL PROPERTY RIGHTS PROTECTION**

The United States continues to monitor implementation of the Memorandum of Understanding (MOU) between the United States and Paraguay pertaining to intellectual property rights (IPR) protection and enforcement, which was revised in 2009 and will remain in effect through April 30, 2012. The United States is working with Paraguay on its renewal.

Recently, Paraguay has made progress with respect to IPR enforcement, for example, by making its Specialized Technical Unit permanent and providing funds for that unit. Paraguay also enacted legislation to clarify and streamline procedures for administrative IPR litigation, and the National Customs Administration issued resolutions with respect to combating IPR violations. However, concerns remain because of porous borders, ineffective prosecution of IPR violators, and court sentences that are insufficient to deter infringement. The United States has strongly encouraged Paraguay to undertake more effective enforcement efforts in the Tri-Border region, including by increasing cooperation with Argentina and Brazil. Industry has also expressed concerns about inadequate protection against unfair commercial use of undisclosed test or other data generated to obtain marketing approval for pharmaceutical and agricultural chemical products, as well as shortcomings in Paraguay's patent regime.

### **INVESTMENT BARRIERS**

Under Paraguayan Law 194, enacted in 1993, foreign companies must demonstrate "just cause" to terminate, modify, or decide not to renew contracts with Paraguayan distributors. Severe penalties and high fines may result if a court determines that the foreign company ended a relationship with its distributor without first having established that "just cause" exists. This requirement often leads to

expensive out-of-court settlements. In a few cases, the courts have upheld the rights of foreign companies to terminate representation agreements after finding the requisite showing of “just cause.” However, this law may discourage U.S. investment due to concerns about potential lawsuits and interference with contractual relations.

Tourism Law 2828, enacted in 2005, mandates that air carriers pay a six percent commission to travel agents that sell their air tickets. This law has discouraged U.S. air carriers, which have a different compensation model for their travel agents, from entering the Paraguayan market.

Executive branch ministries, regulatory agencies and the tax agency often lack the resources, expertise, or impartiality necessary to carry out their respective mandates, creating uncertainty for investors. Corruption is also a challenge in Paraguayan government agencies, and industry asserts that the judiciary has not consistently enforced laws in cases involving foreign investment.

Two laws, Article 195 of the Civil Procedural Code and Law 1376/1988, raise a concern for potential investors. These laws appear to create a basis for a plaintiff pursuing a lawsuit to seek reimbursement from the defendant of the damages and legal fees incurred by the plaintiff in pursuing the action, irrespective of the outcome of the underlying suit. Such punitive measures could act as a significant deterrent to U.S. and other foreign companies in considering whether to invest in Paraguay.