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TRADE SUMMARY

In 2001, the U.S. trade surplus with Argentina was \$913 million, a decrease of \$684 million from the U.S. trade surplus of \$1.6 billion in 2000. U.S. goods exports to Argentina were \$3.9 billion during 2001, a decrease of \$767 million (16.3 percent) from the level of U.S. exports to Argentina in 2000. Argentina was the United States 27th largest export market in 2001. U.S. imports from Argentina were \$3.0 billion in 2001, a decline of \$84 million (2.7 percent) from the level of imports in 2000.

U.S. exports of private commercial services (i.e., excluding military and government) to Argentina were \$3.6 billion in 2000 (latest data available), and U.S. imports were \$934 million.

The stock of U.S. foreign direct investment (FDI) in Argentina in 2000 was approximately \$14.5 billion, an increase of 2.2 percent from the level of U.S. FDI in 1999. U.S. FDI in Argentina is concentrated largely in the finance, manufacturing, and banking sectors.

IMPORT POLICIES

During the 1990s, the government made significant progress in reducing tariffs and non-tariff barriers, including in the areas of investment and government procurement. However, due to continuing financial and political crises starting in late 2000, the government has implemented and overturned trade policies frequently enough to foster uncertainty and confusion in the exporting and importing community. In January 2002, the GOA established a system that prioritizes Central Bank distribution of foreign exchange to pay for imported products. Importers have complained that such a system, which would result in delays, in some cases of up to 360 days to obtain foreign exchange, is susceptible to corruption and is generally a disincentive to trade.

Imports of used clothing are prohibited except for donations to the government or religious organizations. Textile and apparel products enter the Argentine market under the MERCOSUR Common External Tariff (CET) of 22.5 percent for MERCOSUR imports or under the 35 percent tariff applicable to extra zone imports. In addition to this tariff, Argentina maintains a complex array of variable duties that further inhibit market access for used clothing. The specific duties vary according to the product; however, importers expect to pay approximately 35 percent in import tariffs.

Tariffs

MERCOSUR

On January 1, 1995, MERCOSUR designated itself as a customs union by establishing a common external tariff (CET) covering 85 percent of traded goods. MERCOSUR is gradually phasing in coverage of the CET through 2006, when all products should be covered. In 1999, most trade between Brazil and Argentina became duty-free under the intra-MERCOSUR duty phase out schedule. However, many sensitive sectors, such as sugar, autos and telecommunications equipment are on either Brazil's or Argentina's exception list and are still subject to customs duties.

Prior to November 1997, MERCOSUR's CET ranged from zero percent to 20 percent. In November 1997, MERCOSUR's members agreed to temporarily raise the CET by three percentage points. Argentina implemented the increase in January 1998. The three-point increase will be phased-out by the end of 2002. Argentina's average applied tariff currently is approximately 13.5 percent. A limited number of imports are banned altogether, such as re-manufactured auto parts. Tariffs on toys were significantly increased in January 1999 and again in November 2001, particularly those originating in countries that are not members of the World Trade Organization (WTO).

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In the wake of the 1999 Brazilian devaluation, the Government of Argentina initiated a number of actions to slow or limit what it feared would be a flood of imports from Brazil, which in many cases led to negative Brazilian reactions and/or countermeasures. The two governments have reduced political friction through sectoral agreements on footwear, steel, paper and automobiles that generally restrained intra-MERCOSUR trade. Overall, the Argentine government has stated repeatedly that it will seek to strengthen and deepen the institution of MERCOSUR.

Customs Procedures

Argentina implemented the WTO Agreement on Customs Valuation in 1995. In October 2001 it eliminated a pre-shipment inspection (PSI) regime that U.S. exporters generally considered an obstacle to legitimate trade. Argentina has import monitoring mechanisms, similar to an import-licensing regime, which affect roughly one-fifth of its imports, principally textiles, toys and footwear. U.S. firms complain of cumbersome certificate of origin (COO) requirements, particularly in the electronics and textile sectors. The U.S. continues to urge Argentina to reform its customs regime and to improve the rules-based trade environment in Argentina.

Textiles, Apparel and Footwear

In 1996, USTR initiated an investigation under Section 301 of the Trade Act of 1974 into Argentina's application of specific duties on textiles, apparel and footwear; its 3 percent statistical tax on almost all imports; and its burdensome labeling requirements.

The United States and Argentina consulted extensively on labeling, leading to Argentina's modification of its labeling requirement. To address the remaining issues, the United States

requested the establishment of a WTO dispute settlement panel in January 1997. In February 1997, the WTO dispute settlement body established a panel to examine Argentina's specific duties on textiles, apparel and footwear as well as Argentina's statistical tax on imports. Argentina subsequently informed the WTO that it had revoked the specific duties on footwear and replaced them with nearly identical provisional safeguard duties on non-MERCOSUR imports.

In November 1997, the panel found in favor of the United States, stating that under GATT Article II Argentina could not impose specific duties where it bound its tariffs exclusively in *ad valorem* terms. The panel also found that Argentina's 3 percent statistical tax on almost all imports violated GATT Article VIII. Argentina appealed the panel decision and the WTO Appellate Body upheld the panel determination in March 1998. To comply with its WTO obligations, in October 1998 Argentina capped its duties on textiles and apparel at the bound rate of 35 percent. With respect to the statistical tax, Argentina reduced the tax to 0.5 percent in January 1998, and subsequently imposed a further cap on the tax.

Footwear Safeguard

Subsequent to the 1997 WTO panel findings, Argentina replaced the specific duties on footwear with nearly identical duties imposed as a safeguard measure. In September 1997, Argentina extended the application of the safeguard duties until February 2000. In November 1998, Argentina modified the footwear safeguard to establish a stringent quantitative restriction in addition to the high safeguard duties already imposed on footwear imports. Imports from MERCOSUR countries were excluded from the safeguard measures. Under the modified safeguard measure, footwear imports below the quota limit are subject to the original safeguard duty. Once the quota limit is filled, imports are

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assessed a duty rate that is double the normal safeguard duty.

The footwear safeguard raised serious questions regarding Argentina's WTO obligations, and the United States has raised the issue bilaterally with the Government of Argentina. The United States reserved its right to participate as a third party in a panel established at the EU's request to examine Argentina's footwear safeguard. In addition, in March 1999 the United States requested the establishment of a panel to examine the consistency of Argentina's modified safeguard with the requirements of the WTO Agreement on Safeguards.

The WTO panel established to review the EU's complaint determined in June 1999 that Argentina's investigation of injury to its footwear industry did not satisfy the requirements of the Safeguards Agreement. The panel thus concluded that the investigation could not serve as a basis to impose either the original safeguard or the subsequent modification. The WTO Appellate Body affirmed that determination in December 1999. In response to the Appellate Body decision, the Government of Argentina modified the measure again, effective July 22, 2000. The Government of Argentina extended the period of application of the measure by three and one-half years, until July 27, 2003. The extended measure applies only to performance sports footwear. The safeguard measure with respect to other types of footwear has lapsed.

The U.S. Government has also expressed concern to Argentine authorities about licensing and labeling requirements suddenly imposed on footwear imports in August 1999. Administrative delays related to these measures effectively blocked footwear imports from some trading partners for several months. Brazilian footwear imports, which were exempted from the Argentine safeguard measure, were particularly hard hit. The Argentine Government began to

process import licenses more expeditiously after an agreement was reached between the Brazilian and Argentine footwear sectors in November 1999. The United States continues to monitor closely the evolution of Argentine trade measures in this sector.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Agricultural Products

While some barriers remain in place, there was significant progress during 2001 in removing barriers to U.S. agricultural exports. Argentina agreed to authorize imports of fresh boneless pork and bone-in pork for further processing. The U.S. pork industry believes that Argentina is a potential market for pork exports valued at approximately \$10 million.

Argentina is also close to issuing the final authorization for imports of additional citrus fruit. Unjustified restrictions remain in place for swine genetics, an issue that has been difficult to address due to the Argentine Government's almost exclusive focus on controlling foot-and-mouth disease.

Non-agricultural Products

IRAM, Argentina's standards institute, bases some of its voluntary standards on international standards. In addition, IRAM standards are in some cases compatible with U.S. or European standards. In general, Argentine buyers usually accept products that meet U.S. standards as well as U.S. product certifications and laboratory testing. In early 1998, however, Argentina began mandating compliance with new safety certifications on a wide range of products. Argentina has issued regulations that affect U.S. exports of low voltage electrical products (household appliances, electronics products and electrical materials), toys, covers for dangerous

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products, gas products, construction steel, personal protective equipment and elevators. The procedures for compliance often appear inconsistent, redundant and non-transparent. Regulations that require product re-testing are particularly cumbersome and costly and are especially problematic for small and medium-sized U.S. companies. In some cases, Argentina has failed to fulfill the notification and comment requirements of the WTO Agreement on Technical Barriers to Trade (TBT) in its implementation of these measures. The United States has raised this issue with the Argentine Government in Geneva and bilaterally.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Patents

Argentina's lack of adequate and effective patent protection has been a long-standing irritant in our bilateral trade relationship. Argentina is on the Special 301 Priority Watch List. Many of the TRIPS inconsistencies in the Argentine patent law were not previously actionable in the WTO, because Argentina availed itself of the developing country transition period. However, most of Argentina's TRIPS obligations came into force on January 1, 2000. As a result, the U.S. Government is currently in consultations with Argentina under the WTO dispute resolution process in order to address continuing shortcomings in Argentina's intellectual property regime.

In March 1996, Executive Decree 260, which consolidated Argentine patent law, authorized the National Intellectual Property Institute (INPI) to approve pharmaceutical patents starting in October 2000, but contained numerous problematic provisions. In December 1996, the Argentine Congress passed legislation that permits Argentine companies to use data

submitted by innovative companies to obtain marketing approval in Argentina. The shortcomings in the patent law include Argentina's failure to protect confidential test data submitted to government regulatory authorities for pharmaceuticals; its denial of certain exclusive rights for patents; its failure to provide such provisional measures as preliminary injunctions to prevent infringements of patent rights; and its exclusion of certain subject matter from patentability.

INPI's board has changed several times over the last several years. The organization is chronically short of funds, which has impaired its efforts to modernize and improve service. The U.S. industry estimates that Argentina's lack of adequate patent protection for pharmaceuticals alone results in losses of over \$600 million a year.

Copyrights

Argentina's copyright laws provide generally good protection and are under review by the Government of Argentina to ensure that these laws fully meet TRIPS requirements. Argentina adopted legislation in 1999 to ratify the World Intellectual Property Organization (WIPO) Copyright Treaty and the WIPO Performances and Phonograms Treaty. To better protect software, the Argentine Government promulgated legislation in November 1998 establishing software piracy as a criminal offense, thus avoiding problems generated by previous court rulings. Despite vigorous efforts by the software industry, the Government of Argentina has yet to fully legalize software used in all government offices.

Enforcement of copyrights on recorded music, videos, books, and computer software remains inconsistent. Although Argentine Customs and other Government authorities generally cooperate with industry efforts to stop shipments of pirated merchandise, inadequate resources and slow court procedures have hampered the effectiveness of

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enforcement efforts. Inadequate border controls, particularly at the Paraguayan-Brazilian frontier, contribute to the regional circulation of pirated goods. The U.S. copyright industry estimates annual losses due to copyright infringement at over \$275 million.

Trademarks

U.S. companies report that the process of registering trademarks generally takes over five months. Once a trademark is registered, however, enforcement is relatively efficient and reliable.

SERVICES BARRIERS

Although Argentina enacted liberalization in the services sector as part of its broader economic reform program in the 1990s, some barriers continue to exist. For example, the Argentine Government obliges cable/pay television operators to register their programming with a government body. In addition, restrictions regarding the showing, printing and dubbing of films have burdened U.S. exports, as has the practice of charging *ad valorem* customs duties based on the value of authors' rights, rather than solely on the value of the physical materials being imported, which is the WTO standard.

services to increased competition in November 1999, and allowed full market access for local, domestic and international long distance, cellular and other wireless and international data services in November 2000.

INVESTMENT BARRIERS

In the WTO, Argentina has committed to allow foreign suppliers of non-insurance financial services to establish all forms of commercial presence and has committed to provide substantially full market access and national treatment to foreign suppliers of non-insurance financial services. A remaining issue is lending limits for foreign bank branches that are based on local paid-in capital, not parent bank capital. This effectively removes the rationale for establishing in branch form.

In line with WTO rules, Argentina notified measures inconsistent with its obligations under the WTO Agreement on Trade-Related Investment Measures (TRIMS). These measures deal with local content and trade balancing in the automotive industry. Proper notification allowed developing-country WTO members to maintain such measures for a five-year transitional period, ending January 1, 2000. In December 1999, Argentina requested a seven-year extension, but in November 2001, the WTO granted a four-year extension to Argentina for its TRIMS transitional period. This will allow it to maintain minimum content requirements until December 31, 2003.

ELECTRONIC COMMERCE

In the WTO negotiations on telecommunications services, Argentina made commitments on most basic telecommunications services and adopted the reference paper on regulatory commitments. Argentina ratified the Fourth Protocol to the General Agreement on Trade in Services (GATS) in July 1998. Argentina opened long distance

Argentina has made a broad range of value-added and basic telecommunications GATS commitments that have helped support the development of electronic commerce. Argentina has taken steps to lower the cost of Internet usage and has shown interest in the U.S. electronic commerce initiatives in the FTAA and WTO. The United States and Argentina have signed a bilateral initiative to promote the growth of electronic commerce. Despite supporting electronic commerce, the

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Government of Argentina does not participate in the WTO Information Technology Agreement (ITA). In addition, Argentina does not allow the use of electronically produced air waybills, slowing the customs processing of critical just-in-time shipments and interfering with Argentina's ability to conduct electronic commerce transactions.