

ARGENTINA

TRADE SUMMARY

The U.S. goods trade deficit with Argentina was \$359 million in 2004, a decrease of \$473 million from \$732 million in 2003. U.S. goods exports in 2004 were \$3.4 billion, up 39 percent from the previous year. Corresponding U.S. imports from Argentina were \$3.7 billion, up 18.2 percent. Argentina is currently the 31st largest export market for U.S. goods.

U.S. exports of private commercial services (i.e., excluding military and government) to Argentina were \$68 million in 2003, and U.S. imports were \$751 million.

The stock of U.S. foreign direct investment (FDI) in Argentina in 2003 was \$11.0 billion, down from \$11.2 billion in 2002. U.S. FDI in Argentina is concentrated largely in the manufacturing, finance, and mining sectors.

IMPORT POLICIES

Argentina made significant progress in reducing tariffs and non-tariff barriers during the 1990's, including in the areas of investment and government procurement. Starting in late 2000, however, the government implemented new trade policies and overturned old trade policies frequently enough to foster uncertainty and confusion in the exporting and importing community.

During 2003, most of the exchange controls for imports imposed during the 2002 crisis were relaxed or abolished. Imports can now be paid for in advance, regardless of the type of good involved. However, importers must show that imported products entered Argentina within 360 days of payment. There are no restrictions on payments for services imports (such as freight, insurance, technical assessment, and professional fees). Foreign currency earned through exports may be used for foreign debt payments if the debt was accrued prior to December 2001. Purchases of foreign currency to settle debts owed to foreign creditors are permitted within 15 days of each scheduled payment. Purchases of foreign currency to pay dividends are permitted once the balance sheets are finished and audited.

There are special rules for establishing the clearance of foreign currency in the local exchange markets for new private debt in foreign currency, and for the private issuance of bonds denominated in foreign currency.

Hard currency export earnings, both from goods and services, must be cleared in the local foreign exchange market with exceptions, and there are time limits to fulfill this obligation (from approximately 130 to 350 working days for goods, depending on the goods involved, and 105

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working days for services). There are more liberal time limits for certain capital goods and situations where exports receive long-term financing. The foreign exchange clearance requirement does not apply to exports of certain minerals or for exports to Argentine foreign trade zones, and is limited to 30 percent of total revenues for hydrocarbons exports.

Imports of used clothing are prohibited except for donations to government or religious organizations. Argentina also prohibits the importation and sale of used tires, re-manufactured automotive parts, and used or refurbished medical equipment, such as imaging equipment. Imports of television sets from the Manaus Industrial Zone were restricted by safeguards.

Tariffs

Argentina's average applied tariff was 13 percent in 2004. Argentina is a member of MERCOSUR, a customs union comprising Argentina, Brazil, Paraguay, and Uruguay. Full CET product coverage is scheduled for implementation in 2006. CET tariffs range from zero percent to 35 percent *ad valorem*, with a limited number of country-specific exceptions. A temporary CET surcharge applied to most imports since 1997 was abolished by Argentina on September 6, 2004.

A statistical fee of 0.5 percent is added to most imports (90 percent of all harmonized system tariff lines). Export taxes average 5.3 percent, and exporters may claim reimbursement for some domestically paid taxes. The average reimbursement for exporters is 4.2 percent. Toys, footwear, and textiles are subject to both *ad valorem* and specific tariffs. High specific duties on Chinese toys, non-sport footwear, and textiles were imposed in October 2001, which affects U.S. firms established in Argentina that use inputs from China. In December 2001, Ministry of Economy Resolution 825/2001 established a phase-out program, according to which these duties should be equivalent to a maximum 35 percent *ad valorem* tariff by January 2007.

Import Licensing

Argentina implemented a non-automatic import license requirement during 2004, which affects imports of textiles, refrigerators, and washing machines. However, import licenses are not required for textiles produced by companies in Brazil and Argentina when the Argentine and Brazilian companies have reached private agreements that restrain the two-way trade in textiles. There is also an automatic license requirement for most footwear imports. The Argentine government says this requirement is needed for informational purposes, but the private sector claims that it is an obstacle to trade. Ministry of Economy Resolution 495/2004 modified a 2003 resolution and established minimum specific import duties on shoe imports on July 22, 2004, to be in force for 180 days. These import duties do not apply to imports from MERCOSUR countries and cannot exceed the equivalent of a 35 percent *ad valorem* tariff.

Customs Procedures

Argentina abides by the WTO Agreement on Customs Valuation. In October 2001, Argentina eliminated a pre-shipment inspection (PSI) regime that U.S. exporters considered an obstacle to legitimate trade. Argentina has import monitoring mechanisms, similar to an import licensing regime, that affect roughly one-fifth of its imports, principally textiles, toys and footwear. U.S. firms complain of cumbersome certificate of origin requirements, particularly in the electronics and textile sectors.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Agricultural Products

Since 2002, Argentina has prohibited the import of beef and beef products from the United States due to concerns about bovine spongiform encephalopathy (BSE). These unjustified prohibitions continue in place without a science-based risk assessment. In addition, Argentina's prohibitions are inconsistent with the relevant international standard. These restrictions effectively eliminate U.S. exports of beef and products containing beef including pet food.

Also in 2002, Argentina banned the import of chicken products from the United States. Argentina's decision was based on an outbreak of Newcastle's Disease in California, Nevada, and Arizona, which has been controlled. In August 2004, the United States requested that Argentina restore market access for poultry and poultry products from those regions of the United States that are disease-free. This ban has affected an estimated \$5 million annually in potential U.S. exports of poultry products. Argentina has not responded to this request.

Argentina maintains unjustified restrictions on U.S. exports of swine genetics. In addition, Argentina has continued to delay issuing the final approval for expanding the areas in the United States authorized to export citrus fruit.

Non-agricultural Products

Argentina began mandating compliance with new safety certifications on a wide range of products in early 1998, affecting U.S. exports of low voltage electrical products (household appliances, electronics products and electrical materials), toys, covers for dangerous products, gas products, construction steel, personal protective equipment and elevators. The procedures for compliance often appear to many business people to be inconsistent, redundant and non-transparent. Regulations that require product testing can be cumbersome and costly and are especially problematic for US small and medium-sized companies. The most restrictive requirements were supposed to have been in effect by the end of 2002, but this was postponed until December 31, 2003, and again until December 31, 2004 (this time by Technical Coordination Secretariat Resolution 33/2004). Argentina's certificate of origin regulations require separate certificates for each of the countries involved in manufacturing the various

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components of a final product. Originally, Argentina failed to fulfill the notification and comment requirements of the WTO Agreement on Technical Barriers to Trade (TBT) in its development of these measures.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Argentina was placed on the 2004 Special 301 Priority Watch List because of serious concerns over the lack of adequate protection for copyright and patents. In addition, unauthorized use of protected seed varieties remains a problem.

Patents

In May 1999, the United States initiated a WTO case against Argentina because of, *inter alia*, its failure to protect patents and test data. The United States added additional claims in May 2000, when further TRIPS obligations came into force. In April 2002, the United States and Argentina reached a partial settlement, in which Argentina clarified certain aspects of its IP system and undertook to pass certain legislative amendments to, *inter alia*, provide for process patent protection and to ensure that preliminary injunctions are available in IP court proceedings. However, Argentina still does not provide adequate protection for undisclosed test data submitted by research-based pharmaceutical companies for marketing approval. Consultations continue with respect to the remaining unresolved issues, and the United States retains its right to seek resolution under the WTO dispute settlement mechanism, if necessary.

The National Intellectual Property Institute (INPI) started to approve pharmaceutical patents in October 2000. INPI has been extremely slow since that time in issuing pharmaceutical patents to products with commercial value. INPI implemented fast-track procedures to reduce the large patent application backlog in early 2004.

Copyrights

Argentina's copyright laws generally provide good protection. Argentina adopted legislation in 1999 to ratify the World Intellectual Property Organization (WIPO) Copyright Treaty and the WIPO Performances and Phonograms Treaty, though some implementation issues exist. The Argentine government has also yet to fully comply with an agreement with the private sector to prevent the use of unlicensed software in government offices.

Enforcement of copyrights on recorded music, videos, books, and computer software remains inconsistent. Argentine Customs and other government authorities generally cooperate with industry efforts to stop shipments of pirated merchandise, but inadequate resources and multiple and slow court procedures have hampered the effectiveness of enforcement efforts. The legal framework regarding Internet piracy provides few incentives to investigate and punish those who post infringing materials. Inadequate border controls, particularly at the Paraguayan/Brazilian border, further contribute to the regional circulation of pirated goods.

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SERVICES BARRIERS

Argentina enacted broad liberalization in the services sector as part of its economic reform program in the 1990s, but some barriers continue to exist. For example, the Argentine Government obliges cable/pay television operators to register their programming with a government body. This government body imposed restrictions on the frequency of advertisements on cable-TV providers. 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 previously estimated value of the content, rather than solely on the value of the physical materials being imported.

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. The only significant remaining issue involves 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. This issue has become largely moot due to the ongoing banking crisis that began in December 2001 with the freezing of bank accounts and the subsequent devaluation and asymmetric pesification of deposits, loans and other assets.

There are nationality restrictions for some internal shipping, private security, and education providers. Provinces can impose their own barriers on the provision of services.

INVESTMENT BARRIERS

Upon becoming a Member of the WTO, Argentina notified the WTO of 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, including Argentina, to maintain such measures for a five-year transitional period, ending January 1, 2000. In November 2001, the WTO granted an extension to the TRIMS transitional period that allowed Argentina and several other countries to maintain measures inconsistent with TRIMS until December 31, 2003. Argentina apparently maintained some measures that may be inconsistent with the TRIMS Agreement past the 2003 deadline. The United States is consulting on next steps with U.S. industry and with the Argentine government.

In mid-2003, the Argentine Congress passed the Cultural Assets Preservation Law, which established an ownership cap of 30 percent for investment in media enterprises by foreign nationals. Excluded from the ownership limitation were existing investors and investors from countries in which Argentine nationals may own more than 30 percent of media firms. The 2003 legislation provides that prior law, under which there was no ownership cap, will continue to apply to foreign investments made before the passage of the new legislation. The new ownership

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limitations, however, will apply to any future foreign investments (including changes in ownership) in the media sector.

Under the United States-Argentina Bilateral Investment Treaty (BIT), which entered into force in 1994, investors of either country may seek binding international arbitration of claims that a host government violated certain obligations of the treaty. Several U.S. investors have initiated dispute settlement under the BIT in response to measures imposed by Argentina during the financial crisis that began in 2001. Most of the disputes relate to Argentine measures affecting investors in the utilities and energy sectors. Among other things, the Argentine government set utility tariff rates to be denominated in pesos in early 2002, and has kept many rates frozen since then, despite the fact that many utilities owe dollar-denominated debt to offshore creditors. The Argentine government has also pressured power companies to invest amounts alleged to be owed to them by the government into power plants that the government wants to construct.

ELECTRONIC COMMERCE

Argentina has taken steps to lower the cost of Internet usage and has shown interest in U.S. electronic commerce initiatives in the FTAA and the WTO. The United States and Argentina signed a bilateral initiative in 2000 to promote the growth of electronic commerce. Despite supporting electronic commerce, Argentina does not participate in the WTO Information Technology Agreement (ITA). In addition, Argentina does not allow the use of electronically produced airway bills, limiting their ability to speed up customs processing and the growth of electronic commerce transactions.