

PARAGUAY

In 1996, the U.S. trade surplus with Paraguay was \$855 million, a decrease of \$83 million from the U.S. trade surplus of \$938 million in 1995. U.S. merchandise exports to Paraguay were \$897 million, a decrease of \$96 million (9.7 percent) from the level of U.S. exports to Paraguay in 1995. Paraguay was the United States' fifty-fifth largest export market in 1996. U.S. imports from Paraguay were \$42 million in 1996, a decrease of \$13 million (23.6 percent) from the level of imports in 1995.

IMPORT POLICIES

Paraguay has a relatively open trade regime. As a member of the Southern Common Market, MERCOSUR, it applies a common external tariff (CET) on imports ranging between 0 and 20 percent. A WTO review of the consistency of MERCOSUR's policies with WTO rules is currently underway.

Paraguay has established almost 400 exceptions to the CET through 2006. These exceptions are applied to both capital inputs and consumer items which are mostly re-exported to neighboring countries. Items to be re-exported are subject to a flat 7 percent duty upon entry into the country.

On July 31, 1996, the Paraguayan Ministry of Finance introduced Resolution 171 establishing new pre-shipment inspection procedures for all goods imported into Paraguay effective August 1996. Two companies, SGS and Bureau Veritas, are now charged with the customs verification procedure at the point of origin. As of November 12, 1996, (Ministry of Finance Resolution 1350), goods imported without a pre-shipment inspection report must be returned to the country of origin for inspection. Otherwise, customs authorities may open an investigation to determine the reason the inspection was not performed. There is no time limit to the investigation process, during which time the goods may be held in the customs warehouses (and charged to corresponding warehouse fee). If the investigation concludes there is no justification for the lack of pre-shipment report, the goods may be subject to seizure, and not allowed to enter the country. A local SGS inspector cannot inspect the goods in Paraguay.

GOVERNMENT PROCUREMENT

Paraguayan law requires bids for all purchases of goods and services in excess of \$60,000. U.S. companies that have participated in bids for contracts for goods and services worth several million U.S. dollars have questioned the transparency of the procurement process.

LACK OF INTELLECTUAL PROPERTY PROTECTION

Paraguay is a regional distribution and assembly center for counterfeit merchandise. The large re-export trade to Brazil, catering to consumer demand for electronics, audio tapes/compact disks, and designer clothing/footwear, among other items, is a contributing factor.

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After placement on USTR's Special 301 "watch list" in April 1996, the government formed an inter-agency National Intellectual Property Council, increased raids in cooperation with affected industries, and submitted new patent, trademark and copyright legislation to the Congress. A subsequent out-of-cycle review (OCR) left Paraguay on the watch list, and reiterated the need for improved enforcement efforts both in-country and on the borders. There has also been a petition filed by Nintendo of America and associated software producers to remove GSP privileges from Paraguay for its failure to protect intellectual property rights. The Government of Paraguay has indicated that it is currently designing a national strategy which will reportedly increase enforcement at the border.

Patents

Paraguay's outdated patent law (dating from 1925) established an Office of Patents and Inventions and the requirements and procedures for obtaining patents. A new patent law, opposed by the local pharmaceutical industry, was submitted to Congress in October 1996. The Draft Law on Inventions conforms with the organization and content of most modern laws. Patent protection is provided for pharmaceutical products, but will be subject to at least a one year phase-in period. Pipeline provisions are also included in the law. Nevertheless, the law has a number of significant problems, including inadequate term of protection, failure to protect against parallel imports and no express provisions for "mailbox" and exclusive rights as required by Article 70 of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs). In addition, although there is no explicit "working" requirement, patentees may be subject to compulsory licenses if they do not satisfy the local market, which constitutes an indirect working requirement. A compulsory license may be issued to the owner of a dependent patent. There is no express provision limiting the issuance of compulsory licenses for certain semiconductor inventions as required by TRIPs.

Trademarks

Infringement of well-known trademarks presents a serious problem, despite Paraguay's obligations under the Paris Convention and the TRIPs Agreement. The Executive has been willing to protect famous trademarks, but existing laws greatly limit the extent of its actions. The only alternative, judicial proceedings, is cumbersome (often taking 10-15 years to resolve). A new pending trademark law is needed to give the Executive greater authority to combat infringement and seize counterfeit merchandise at the border.

Copyrights

In 1991, Paraguay became a signatory to the Berne Convention for the Protection of Literary and Artistic Works. Although the government has taken measures to fight piracy, widespread production and trade in pirated recordings, compact disks, computer software and video cassettes remains a serious problem. The principal problem is export of pirated merchandise to neighboring countries. A new copyright law has been introduced into Congress.

A report prepared by the International Intellectual Property Alliance, estimated that losses due to copyright piracy are \$117 million a year. Continued raids along the Argentine and Brazilian borders have uncovered

and closed sizable factories for audio tapes and video games (both hardware and software), confirming the regional implications of piracy in Paraguay.

Other Intellectual Property Areas

To date, the U.S. Government has no indication that the Government of Paraguay provides protection for industrial designs, the layout-designs of integrated circuits, or undisclosed information (trade secrets) as required by TRIPs. Furthermore, as plant varieties are excluded from patent protection, Paraguay is required by TRIPs to enact *sui generis* protection for plant varieties.

SERVICES BARRIERS

All telephone, telegraph, telex, and radio communication services are provided by a monopoly service provider, ANTELCO.

OTHER BARRIERS

Paraguay's law protecting agents and distributors virtually locks exporters into a relationship with an agent or distributor. This law features severe penalties, such as a percentage (determined by a judge) of gross sales since the inception of the contract, that often lead to expensive out-of-court settlements. Several U.S. companies have singled out this law as a cause for concern.

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