

# PARAGUAY

In 1997, the U.S. trade surplus with Paraguay was \$872 million, an increase of \$17 million (2.0 percent) from the U.S. trade surplus of \$855 million in 1996. U.S. merchandise exports to Paraguay were \$913 million, an increase of \$16 million (1.8 percent) from the level of U.S. exports to Paraguay in 1996. Paraguay was the United States' fifty-seventh largest export market in 1997. U.S. imports from Paraguay were \$41 million in 1997, a decrease of \$1 million (3.1 percent) from the level of imports in 1996.

## 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 23 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. Paraguay has also been granted additional exceptions as a result of Mercosur's recent CET increase. The Government of Paraguay is currently formulating its list of exceptions.

## GOVERNMENT PROCUREMENT

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

## LACK OF INTELLECTUAL PROPERTY PROTECTION

On January 16, 1998, USTR Ambassador Barshefsky identified Paraguay as a Priority Foreign Country (PFC) under section 182 of the Trade Act of 1974 ("Special 301"). The decision was based on Paraguay's historically inadequate enforcement of intellectual property rights (IPR) and its failure to enact adequate and effective intellectual property legislation. Paraguay's status as a distribution and assembly center for pirate and counterfeit merchandise and the large re-export trade to other Mercosur countries were also contributing factors to this determination. As required by law, USTR initiated a Section 301 investigation of Paraguay's IPR regime and practices in February 1998. The first round of 301 consultations was held in March 1998.

In December 1997, the Chamber of Deputies approved amended trademark and copyright legislation. The Senate will now review both bills. Patent legislation, submitted to the Paraguayan Congress in October 1996, is still pending.

## Patents

## **Paraguay**

Paraguay does not provide adequate and effective patent protection, especially with regard to pharmaceutical and agricultural chemical products. A draft patent law under consideration by the Congress, while not without imperfections, could help to alleviate this problem. The Draft Law on Inventions is organized consistently with most modern laws and contains some good points. However, significant problems remain, including permission to parallel import and failure to comply with paragraph 2 of TRIPS Article 70. The bill faces significant local opposition, especially from the domestic pharmaceutical sector.

### **Trademarks**

Infringement of well-known trademarks presents a serious problem for many U.S. companies. Existing laws greatly limit the extent to which the Executive Branch can protect trademarks. The only alternative, judicial proceedings, is cumbersome, often taking 10-15 years to resolve a complaint. The proposed trademark law, approved by the Chamber of Deputies, would give the Executive Branch greater authority to combat infringement and seize counterfeit merchandise at the border and in-country.

### **Copyrights**

The Government of Paraguay has not provided adequate and effective enforcement of its laws to address widespread production and trade in pirated recordings, compact disks, computer software and video cassettes that continue to adversely affect U.S. industries. The principal issue is export of pirated merchandise to neighboring countries, though domestic production of illicit goods also exists in some areas. The copyright bill approved by the Chamber of Deputies, if passed by the Senate and signed by the Executive, would give the Paraguayan Government increased enforcement authority. However, effective enforcement against piracy will require a commitment by the Government of Paraguay to increase resources dedicated to this end and to strengthen its enforcement infrastructure.

According to a 1997 estimate by the International Intellectual Property Alliance, U.S. losses due to piracy within Paraguay are \$117 million a year. However, the regional impact is estimated by the affected industries to be \$300 million. 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 TRIPS-consistent protection for industrial designs, the layout-designs of integrated circuits, or undisclosed information (trade secrets and test data) as required by TRIPS. Paraguay joined the UPOV Convention in 1997, but implementing regulations have not been promulgated to date.

## **OTHER BARRIERS**

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Paraguay's law protecting agents and distributors virtually locks exporters into a relationship with an agent or distributor. The law features severe penalties, such as a fine valued 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.