

PARAGUAY

TRADE SUMMARY

The U.S. trade surplus with Paraguay was \$563 million in 2004, an increase of \$133 million from \$430 million in 2003. U.S. goods exports in 2004 were \$622 million, up 28.6 percent from the previous year. Corresponding U.S. imports from Paraguay were \$59 million, up 10.0 percent. Paraguay is currently the 67th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Paraguay in 2003 was \$114 million, the same as in 2002.

IMPORT POLICIES

Tariffs

Paraguay's average applied tariff rate was 12.5 percent in 2003. Paraguay 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. Currently, Paraguay maintains 399 exceptions to the CET. A temporary CET surcharge applied to most imports since 1997 was abolished by Paraguay on January 1, 2004.

Customs Procedures

For exports to Paraguay, a Paraguayan consulate in the country of export must certify specific documentation, such as the commercial receipt, certificate of origin, and cargo manifest. If there is no Paraguayan consulate in the country of export, the documents can be certified in the nearest country with a consulate or in the border consulate office in the country from which the exports enter Paraguay (in the case of ground or river shipments). Multiple changes in regulations make it difficult for exporters to ensure they are following the most current regulations, which can delay shipments and lead to unexpected fines.

Customs Valuation

On September 21, 2004, Paraguay complied with its obligation to notify the World Trade Organization (WTO) of its legislation and checklist for implementing the WTO Agreement on Customs Valuation.

FOREIGN TRADE BARRIERS

GOVERNMENT PROCUREMENT

In the past, U.S. companies have protested Paraguay's non-transparent procurement procedures, citing bid specifications that favor a preferred bidder and the fact that subsidiaries of a single parent company are each permitted to submit separate bids. Other complaints have included the discriminatory use of bid procedures to disqualify a non-preferred bidder, declaring that there were no bids when a non-preferred bidder submitted the best bid, and not requiring preferred bidders to comply with tender requirements. However, the Duarte government has moved aggressively to implement the Law of Public Contracting that came into force in July 2003. Since March 3, 2004, all public contracting in Paraguay with a value over \$70 must be done *via* the website of the Director General of Public Contracting, which is www.contratacionesparaguay.gov.py. The Law of Public Contracting applies to the central government as well as to state and local entities. The contracting office screens tenders to avoid preferential specifications in an effort to avoid issuing tenders biased in favor of a particular bidder. All bid documents are made available electronically and, once bids are awarded, the information on the winner and the final price is made publicly available on the website. Complaints are channeled through the Directorate rather than being submitted directly to the contracting entity, and most complaints so far have been adjudicated in favor of bidders. Foreign firms can bid on tenders deemed "international," which accounted for about 60 percent of the total in 2004, and can bid on "national" tenders through a local representative. Paraguay is not a member of the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

The Duarte Administration has been particularly active and focused in its fight against piracy, counterfeiting and contraband, declaring the fight a national priority. However, serious concerns over the lack of effective border enforcement remain, because Paraguay continues to be a transshipment point for pirated and counterfeit goods to Brazil and other neighboring markets.

In January 1998, the United States Trade Representative (USTR) identified Paraguay as a Priority Foreign Country under the Special 301 provisions of the Trade Act of 1974, and in February 1998, the United States initiated a Section 301 investigation of Paraguay's acts, policies and practices regarding intellectual property. Paraguay is currently subject to Section 306 monitoring of its Memorandum of Understanding (MOU) with the United States on the protection of intellectual property, which allowed the United States to remove Paraguay from its Priority Foreign Country status and to terminate the Section 301 investigation. In the 1998 MOU, the Paraguayan government committed to implement institutional and legal reforms and to strengthen intellectual property rights enforcement and prosecution. In addition, Paraguay agreed to ensure that its government ministries use only authorized software. The two Governments signed a new MOU in March 2004, which focuses on areas that are still of concern.

FOREIGN TRADE BARRIERS

The Paraguayan government has made a significant effort to implement the MOU and has met regularly with the U.S. Government to review and discuss the progress achieved in addressing IPR-related concerns. The Paraguayan government has submitted legislation to Congress to increase the penalties for IPR infringement, and worked with the private sector to increase enforcement actions. The Paraguayan government has created a special investigative unit dedicated to combating piracy and counterfeiting as well as an IPR statistics center. The investigative unit has coordinated with industry and has supported many significant seizures of infringing goods. Paraguay also signed an agreement with a major television content provider to fight signal piracy. The number of prosecutors dedicated exclusively to IPR cases has been doubled, although from a low base, and Paraguay has received several awards from industry for its improved enforcement efforts. The United States will continue to work closely with Paraguay to address remaining IPR-related concerns, particularly with regard to strengthening border and other enforcement measures to combat piracy and counterfeiting activities.

OTHER BARRIERS

Law 194/93 establishes the legal framework governing relationships between foreign companies and their Paraguayan representatives. Modeled after the Puerto Rico's Dealers Act, this law requires that foreign companies prove just cause in a Paraguayan court to terminate, modify or fail to renew contracts with Paraguayan distributors. Severe penalties and high fines may result if the court determines that the foreign company ended the relationship with its distributor without just cause, which often leads to expensive out-of-court settlements. In several cases, however, the courts have upheld rights of foreign companies to terminate representation agreements after just cause was established, mainly on the basis of lack of sales performance by local representatives. This law may discourage U.S. investment through fear of potential lawsuits.

Privatization

Paraguay has an uneven record on privatization. Political pressures have impeded the process, as the large state-run companies most attractive to foreign buyers (such as telecommunications, water/sewage, and electrical companies) employ thousands of potential voters and are outlets for political patronage. An effort to privatize the telecommunications company failed in 2002, due to intense political pressure and amid allegations of mishandling. In May 2004 several Congress members from the opposition parties attempted to revive legislation that would have allowed privatization to occur. Due to widespread negative public response, however, Congress suspended consideration of the legislation. As part of its Stand-By Arrangement with the International Monetary Fund, the government has committed to undertake independent audits of state-owned firms and to develop business plans for them, with the aim of eventually increasing private sector involvement in the management and ownership of the companies.

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