

PARAGUAY

TRADE SUMMARY

The U.S. goods trade surplus with Paraguay was \$852 million in 2006, an increase of \$8 million from \$844 million in 2005. U.S. goods exports in 2006 were \$911 million, up 1.7 percent from the previous year. Corresponding U.S. imports from Paraguay were \$58 million, up 13.0 percent. Paraguay is currently the 68th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Paraguay in 2005 was not available (\$115 million in 2003) (latest data available).

IMPORT POLICIES

Tariffs

Paraguay is a member of MERCOSUR, a customs union comprising Argentina, Brazil, Paraguay and Uruguay, with several associate members including Chile, Bolivia, Peru and Colombia. In July 2006, Venezuela became a full member of MERCOSUR. Full Common External Tariff (CET) product coverage is scheduled for implementation in 2007, although Paraguay enjoys certain exceptions through 2010. CET tariffs range from zero percent to 20 percent, with a limited number of country-specific exceptions. Currently, Paraguay maintains 399 exceptions to the CET.

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 procedures make it difficult for exporters to ensure they are following the most current procedures, which can delay shipments and lead to unexpected costs. The burden of compliance is most often borne by importers. Some of the changes implemented in 2005 resulted from the January 2005 adoption of a new customs code.

Customs Valuation

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

GOVERNMENT PROCUREMENT

The Duarte government's highly successful implementation of the Law of Public Contracting, which came into force in July 2003, has been an important reform. While there continues to be some concern about collusion and attempts by contracting agencies to favor preferred bidders, the new Directorate General of Public Contracting has greatly increased transparency and has become a legitimate arbiter of disputed awards. Since March 3, 2004, all public contracting in Paraguay with a value over 20 daily minimum wages (about \$176.40) must be publicized on the website of the Director General of Public Contracting, which is <http://www.contratacionesparaguay.gov.py>. The Law of Public Contracting applies

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to the central government as well as to state and local entities and state-owned enterprises. The contracting office screens tenders to identify and eliminate preferential specifications in an effort to avoid issuing tenders biased in favor of a particular bidder. All tender documents are made available electronically and, once contracts are awarded, information on the winner and the final price is made publicly available on the website. Complaints are channeled through the Directorate rather than submitted directly to the contracting entity. Most of the complaints that have been submitted so far have been adjudicated in favor of bidders. Foreign firms may bid on tenders deemed “international,” which accounted for about 60 percent of total tenders in 2004. Foreign firms may also 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, most notably because Paraguay continues to be a transshipment point for pirated and counterfeit goods to Brazil and other neighboring markets. The International Intellectual Property Association estimated that losses to industry in Paraguay’s domestic market due to the piracy of copyrighted material such as movies, music, books, and entertainment and business software, totaled \$137.3 million in 2005.

Paraguay’s efforts to improve IPR performance are guided in part by a Memorandum of Understanding (MOU) with the United States, concluded following Paraguay’s 1998 designation as a Priority Foreign Country under the Special 301 provisions of the Trade Act of 1974. Implementation of the MOU, which has been revised and extended through 2007, is currently subject to ongoing monitoring under U.S. trade law. The MOU details Paraguayan commitments 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.

While the Paraguayan government has made important efforts to implement the MOU and has met regularly with U.S. Government officials to review and discuss the progress achieved in addressing IPR-related concerns, additional progress is needed in order to address significant challenges, particularly in the area of enforcement against this transshipment of pirated and counterfeit goods. The United States will continue to work closely with Paraguay to address remaining IPR-related concerns, particularly with regard to increasing the penalties for IPR infringement as called for in the MOU, strengthening border and other enforcement measures to combat piracy and counterfeiting activities, and providing information and assistance to Paraguay with its MOU obligations concerning geographical indications. The United States is also concerned about the protection of undisclosed pharmaceutical test data submitted for the drug marketing approval process.

OTHER BARRIERS

Law 194/93 establishes the legal framework governing relationships between foreign companies and their Paraguayan representatives. Modeled after 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 a few cases, 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

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performance by local representatives. This law may discourage U.S. investment through fear of potential lawsuits.

For virtually all textile and apparel products and footwear, Paraguay requires that in addition to the name of the manufacturer, the name and fiscal number of the importer also be included on the label. Industry reports that such information is difficult, if not impossible, to know during the construction process when permanent labels are attached. Re-labeling of products upon entry to meet these requirements results in additional costs and delays. Additionally, in 2000, Paraguay promulgated Decree 7084/00, which explicitly prohibits the importation of used clothing. Previously, used clothing could be imported with a certification notarized in the place of origin showing that the used clothing had been sanitized.

Privatization

Paraguay has an uneven record on privatization. Political pressures have impeded the privatization process as 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 and again in May 2005, efforts by some in Congress to revive the privatization process were thwarted, in part due to public outcry. As part of its Stand-By Arrangement with the International Monetary Fund, the government committed to undertake independent audits of state-owned firms and develop business plans for them with the aim of eventually increasing private sector involvement in the management and ownership of the companies. The audits have been completed and the government has moved to establish performance criteria for the countries in order to increase efficiency. The government has suggested that some form of private sector participation, whether through management contracts or equity participation, will be considered in the future.