

ARGENTINA

TRADE SUMMARY

The U.S. goods trade surplus with Argentina was \$1.4 billion in 2007, an increase of \$563 million from \$797 million in 2006. U.S. goods exports in 2007 were \$5.9 billion, up 22.6 percent from the previous year. Corresponding U.S. imports from Argentina were \$4.5 billion, up 13.0 percent. Argentina is currently the 33rd largest export market for U.S. goods.

U.S. exports of private commercial services (*i.e.*, excluding military and government) to Argentina were \$2.2 billion in 2006 (latest data available), and U.S. imports were \$1.0 billion. Sales of services in Argentina by majority U.S.-owned affiliates were \$2.9 billion in 2005 (latest data available), while sales of services in the United States by majority Australia-owned firms were \$25 million.

The stock of U.S. foreign direct investment (FDI) in Argentina was \$13.1 billion in 2006 (latest data available), up from \$11.0 billion in 2005. U.S. FDI in Argentina is concentrated largely in the nonbank holding companies, manufacturing, and finance sectors.

IMPORT POLICIES

Tariffs

Argentina's import tariffs range from 0 percent to 35 percent, with an average applied tariff rate of 14 percent in 2007. Argentina is a member of MERCOSUR, a customs union formed in 1991 and comprised of Argentina, Brazil, Paraguay, and Uruguay. MERCOSUR common external tariff (CET) averages 13.6 percent and ranges from 0 percent to 20 percent *ad valorem*, with a limited number of country-specific exceptions. Currently, Argentina maintains exceptions to the CET on capital goods (for which the CET is 14 percent but for which Argentina allows duty free entry), computing and telecommunications goods and an additional diversified group of 100 products. Tariffs may be imposed by each MERCOSUR member on products imported from outside the region which transit one or more MERCOSUR member nations before reaching their final destination. Full CET product coverage, which would result in duty free movement within MERCOSUR, was originally scheduled for implementation in 2006, but has been deferred until 2009.

In 2007, Argentina imposed a specific duty safeguard on imports of recordable compact discs, which is scheduled to be phased out by May 2010.

Nontariff Barriers

A number of new procedures and requirements imposed by the government of Argentina in July 2007 and August 2007 could make importing U.S. products and products from third country U.S. affiliates more difficult. Customs Resolution 52 restricts the ports-of-entry for numerous goods, including sensitive goods classified in 20 Harmonized Tariff Schedule (HTS) chapters (*e.g.* textiles, shoes, electrical machinery, metal and certain other manufactured goods, and watches). Partial limitations on ports-of-entry are applied to plastic household goods, leather cases and apparel, porcelain and ceramic tableware and ornaments, household glass goods, imitation jewelry, household appliances, pots and pans, computers, car parts, motorcycles and parts, bicycles and parts, lamps, and toys. The government of Argentina has listed products limited to

certain ports-of-entry, and the ports-of-entry applicable to those products available at <http://www.infoleg.gov.ar/infolegInternet/anexos/130000-134999/131847/norma.htm>.

Depending on their country of origin, many of these products are also subject to Customs External Note 58, which revised some reference prices and set new ones on over seven thousand tariff lines. This Note expands selective, rigorous "red channel" inspection [procedures \(via Resolution 1907 of 2005 and amplified by Customs External Note 55 in 2007\)](#) to a broader range of goods [and requires](#) importers to provide guarantees for the difference of duties and taxes if the declared price of an import is lower than its reference price.

Customs External Note 57, which the government of Argentina indicated was designed to discourage under-invoicing and fraudulent under-payment of customs duties, requires importers of any goods from designated countries which are invoiced below the reference prices to have the invoice validated by both the exporting country's customs agency and the appropriate Argentine Embassy or Consulate in that country. The government of Argentina has made the list of reference prices and applicable countries (the Annex to Customs External Note 58) available at <http://www.infoleg.gov.ar/infolegInternet/anexos/130000-134999/131630/notaext58-2007-sup.doc>.

A number of U.S. companies with operations in Argentina have expressed concern that this combination of enhanced inspection, port-of-entry restrictions, reference price measures, and consularization requirements could delay and make more costly imports from their third country affiliates.

Since 2005, the government of Argentina has solicited private sector companies to negotiate and abide by sector-specific voluntary price caps aimed at limiting price increases on key components of the consumer price index (CPI), especially in the basic consumption basket. Sectors in which voluntary price accords have been negotiated include a variety of foodstuffs, personal hygiene and cleaning products, and pharmaceuticals. Gasoline and diesel fuel prices have been controlled by government pressure and government-promoted boycotts and the government has, with some exceptions, largely frozen public utility electricity, natural gas, water, and sewage taxes since 2002.

Since 2005, the government of Argentina has required nonautomatic licenses on shoes, requiring certificates that are valid for only 120 days and whose issuance involves procedures that, according to the private sector, are burdensome. There is an automatic license requirement for most footwear imports; the government of Argentina says this requirement is needed for informational purposes. Some U.S. companies, however, claim it is designed to delay footwear imports.

Also since 2005 the government has required nonautomatic import licenses for toys. Obtaining a license requires review by three different offices in the Ministry of Economy. The process generally takes 120 days, partly due to a backlog. Once issued, the certificates are valid for 60 days. Previously high and variable specific duties on toys were reduced to a maximum 35 percent *ad valorem* equivalent tariff in January 2007.

Argentina prohibits the import of many used capital goods. Used capital goods which can be imported are subject to a 6 percent import tariff. Some used machinery imports are allowed, but only if repaired or rebuilt. The Bilateral Automobile Pact also bans the import of used self propelled agricultural machinery, unless it is rebuilt. Imports of used clothing are prohibited through June 2010, except when donated to government or religious organizations, as established

by Resolution 367 in 2005. Argentina prohibits the importation and sale of used or re-treaded tires, used or refurbished medical equipment, including imaging equipment, and used automotive parts.

A fee of 0.5 percent to fund the government of Argentina's compilation of trade data is assessed on most imports (90 percent of all harmonized system tariff lines).

Customs Procedures

In 2005, AFIP Resolution 1811 modified the import-export regime applied to couriers. Previously, a simplified procedure for customs clearance applied to the international operations expedited couriers' shipments of up to \$3,000. Resolution 1811 reduced this maximum to \$1,000. Additionally, couriers now are considered importers and exporters of goods, rather than transporters, and also must declare the tax identification codes of the sender and addressee, both of which render the process more time consuming and costly. These regulations increase the cost not only for the courier, but also for users of courier services.

EXPORT POLICIES

Following the 2002 currency devaluation, the government of Argentina imposed export taxes on all but a few exports, including significant export taxes on key hydrocarbon and agricultural commodity exports, in order to generate revenue and increase domestic supplies of these commodities to constrain domestic price increases. In many cases, the export tax for raw materials is higher than that of the processed product to encourage development of domestic value added production. Crude hydrocarbon export taxes are indexed to world commodity benchmarks. Total export tax revenue in 2006 was equal to 10.3 percent of the value of all Argentine exports, including goods not subject to export taxes.

Other export taxes continue to be actively managed by the government of Argentina. In November 2007, export taxes on the following major agricultural commodities were increased: soybeans to 35 percent; soybean oil and soybean meal to 32 percent; corn to 25 percent; wheat to 28 percent; sunflower seeds to 32 percent; and sunflower meal and sunflower oil to 30 percent. The export tax on biodiesel is 5 percent with a 2.5 percent rebate. The differential taxes between raw and processed products create large incentives to process those commodities -- particularly soybeans, which are turned into oil and in turn provide the feedstock for Argentina's rapidly growing biodiesel industry.

Along with applying high export taxes, the government of Argentina requires export certificates for major commodities before an export sale can be shipped. This process has been used to control the quantity of goods exported, thereby manipulating domestic supply. Prior to the increases in export taxes in November 2007, the export registration process was closed for soybeans, corn, and wheat. Currently, registrations are open for soybeans with tighter restrictions on maximum shipment periods (150 days) than were previously allowed. Although registrations were opened for wheat in November 2007, significant crop damage prompted the government to re-close the registrations until late December 2007 in attempts to bolster the domestic supply. The export registration process for corn remains closed.

Export taxes on beef, as well as restrictions on beef exports, have been applied with the aim of increasing local supply and avoiding further increases in domestic beef prices. The government of Argentina suspended beef exports for 180 days beginning in March 2006, except for beef exports to the European Union under the Hilton quota program and beef exports guaranteed under

bilateral agreements. Export taxes originally imposed in 2002 on boned cuts and heat-processed beef were increased from 5 percent to 15 percent. Starting in June 2006, the government began to ease the ban, establishing a cap (set by Resolutions 935 and 2104 in 2006, and 1420 in 2007) for monthly beef exports, until December 2007, of half of the monthly average of total export volumes during 2005. The limit was extended until March 31, 2008, pursuant to Resolution 24 of 2007, which also established that the government will allow exports of at least 40,000 tons per month.

Exporters may claim reimbursement for some domestically paid taxes, including value added tax (VAT) reimbursements. The average non-VAT export reimbursement rate is 5.2 percent of export value. The government eliminated some non-VAT reimbursements for food products (including milk and dairy products, and vegetable oils) in 2005 to influence domestic prices of those goods, and reinstated some in 2006.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

The government of Argentina banned import of all products of ruminant origin, including beef and lamb, from the United States after a case of Bovine Spongiform Encephalopathy (BSE) was discovered in Washington State in December 2003. The government of Argentina continues to ban imports of all beef and beef products from animals of all ages from the United States. World Organization for Animal Health (OIE) guidelines provide for scientifically-based conditions under which all beef and beef products from animals of any age can be safely traded. In May 2007, the OIE classified the United States as controlled risk for BSE. Argentina has not made any changes to bring its import requirements for beef and beef products from the United States since December 2003. The United States continues to engage with the relevant Argentine government agencies on the issue. The United States continues to engage with the relevant Argentine government agencies to open its market for all beef and beef products from the United States on the basis of the OIE guidelines and the OIE's classification of the United States as controlled risk for BSE. In August 2006, Argentina issued Resolution 315, in which it adopted OIE-consistent import requirements with regard to BSE for dairy products, bovine semen and embryos, hides and skins, and other similar products. Under OIE guidelines all these products are considered safe to trade from any country regardless of its BSE risk status.

Although Argentina accepts imports of some poultry products, including day-old chicks, Argentina continues to delay issuance of health certificates that would allow the resumption of imports of poultry meat and products from the United States. Argentina has banned imports of U.S. poultry products since 2002 as a result of an outbreak of Exotic Newcastle Disease.

In 2002, Resolution 816 established a framework for all agricultural product imports overseen by the Argentine Animal and Plant Inspection and Food Safety Agency (SENASA). This resolution authorizes SENASA to inspect those processing/packing plants that intend to export to Argentina. In 2006 and 2007, SENASA requested several plant inspections prior to issuance of import permits. The United States is currently seeking SENASA recognition of equivalency for the U.S system, rather than undergoing plant-by-plant inspections.

Argentina's Standards Institute (IRAM) aligns the bulk of Argentine standards with U.S. or European norms. Since Argentina began mandating compliance with new national safety certifications on a wide range of products in early 1998, U.S. exports of low-voltage electrical products (household appliance, electronics, and electrical materials), toys, covers for dangerous products, gas products, construction steel, personal protective equipment, bicycles and elevators have been negatively affected. Many U.S. exporters continue to find the procedures for

compliance to be inconsistent, redundant, and nontransparent. Enforcement by Customs of a regulation mandating the use of a national standards with respect to plugs for low-voltage equipment, as established by IRAM rules 2073/2063, and Customs homologation required by the Secretariat of Communications to ensure that telecommunications and radio equipment meet regulatory requirements, can result in long delays and do not apply to domestic producers.

Regulations that require product testing can be cumbersome and costly for small and medium-sized U.S. companies. Argentina's certificate of origin regulations require separate certificates for each of the countries involved in manufacturing the various components of a final product.

In 2000, Resolution 287 established strict labeling requirements for footwear and textiles with respect to, *inter alia*, print size, attachment to the garment, and information contained (including country of origin and importer name). Importers complain that such requirements significantly delay import processing.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Argentina's lack of adequate and effective intellectual property protection remains a concern for the United States. Argentina has been on the Special 301 Priority Watch List since 1996. Although cooperation has improved between Argentina's enforcement authorities and the U.S. copyright industry, and the Argentine Customs authority has taken steps to improve enforcement, the United States encourages stronger IPR enforcement actions to combat the widespread availability of pirated and counterfeit products. Civil damages are nondeterrent and in criminal cases the judiciary is reluctant to impose deterrent penalties, such as prison sentences.

Argentine customs and other government authorities generally cooperate with U.S. industry efforts to stop shipments of pirated merchandise. In 2007, Argentine customs, in close collaboration with the private sector, instituted a program in which registered trademark owners are notified of imports using their trademarks. However, insufficient resources and slow court procedures have hampered the overall effectiveness of enforcement efforts. End user piracy of business software, motion picture piracy, and book piracy remains widespread. The legal framework regarding Internet piracy provides few incentives to investigate and punish those who post infringing materials.

Inadequate border controls further contribute to the regional circulation of pirated goods. Law 25986, passed in December 2004, prohibits the import or export of merchandise which violates intellectual property rights. However, Argentine customs authorities are still unable to detain merchandise based on the presumption of a violation, as regulations to implement this law have never been issued. In March 2007, the Executive branch proposed a modification to Law 25986 which would limit such intervention to copyrights and trademarks. This proposal has been approved by some congressional committees, but has not yet been considered by either full chamber of Congress.

Patents

The National Intellectual Property Institute (INPI) started to grant pharmaceutical patents in October 2000. Although issuance of pharmaceutical patents has been slow since that time, INPI took a number of steps to reduce the backlog, including the implementation in 2005 of fast-track procedures and opportunities in 2005 and 2007 for companies to prioritize their patent applications before INPI. The United States remains concerned about the lack of protection for the safety and efficacy data developed by pharmaceutical companies and required to be submitted

to ANMAT (the Argentine equivalent of the U.S. Food and Drug Administration) for the approval of pharmaceutical products. Argentina amended its patent law in December 2003, as required by a May 2002 agreement between Argentina and the United States. The intention of the amendment was to provide protections for process patents and to ensure that preliminary injunctions were available in intellectual property court proceedings. However, the injunctive relief process has thus far been too slow to be an effective deterrent to patent.

Copyrights

Argentina's copyright laws generally provide good protection, but copyright piracy remains a significant problem. Argentina ratified the World Intellectual Property Organization (WIPO) Copyright Treaty and the WIPO Performances and Phonograms Treaty in 1999, though some implementation issues remain. The government has yet to fully comply with an agreement with the U.S. private sector to eliminate unlicensed software used in government offices.

Enforcement of copyrights on recorded music, videos, books and computer software remains inconsistent. The International Intellectual Property Alliance estimates that the trade losses in 2007 were \$310.7 million, an increase from \$268 million in 2006.

Biotechnology

The United States and Argentina have been closely allied in the area of agricultural biotechnology, including as co-complainants in a WTO dispute challenging the EU moratorium on transgenic crops and in discussions on implementation of the Cartagena Biosafety Protocol. However, the Argentine government has not enforced an intellectual property regime to ensure that companies developing new biotechnology crops are reasonably compensated and guarantee future investment in agricultural biotechnology. Argentina currently produces approximately 47 million tons of soybeans from biotechnology seed, the vast majority of which, according to U.S. private sector estimates, are produced without payment to the U.S. owners of the technology. Efforts to rectify this situation have to date not borne fruit.

SERVICES BARRIERS

Argentina enacted broad liberalization in the services sector as part of its economic reform program in the 1990s, but some barriers still exist. In addition, restrictions regarding the showing, printing and dubbing of films add cost to U.S. exports, as does the practice of charging *ad valorem* customs duties on U.S. exports based on the estimated value of the copyrights in Argentina rather than solely on the value of the physical materials being imported, which is the WTO standard. In practice, companies temporarily import one copy of a film and produce multiples copies locally, which they claim increases the cost of exporting movies to Argentina.

Under the WTO General Agreements on Services (GATS), Argentina has committed to allow foreign suppliers of noninsurance financial services to establish all forms of commercial presence and has committed to provide market access and national treatment to foreign suppliers of noninsurance financial services. The only significant remaining barrier is the limit on lending for foreign bank branches based on local paid-in capital, as opposed to the parent bank's capital.

Insurance

In general, commercial presence of foreign insurance firms is permitted under the same conditions required for local firms. Law 20091, however, establishes that the branches or

agencies of foreign insurance firms will be authorized to perform insurance activities in Argentina only if there is reciprocity in the respective countries' laws. Argentine residents cannot acquire life, medical, or patrimony insurance abroad and foreign suppliers cannot publicize their services within Argentina.

There is also a restriction on foreign insurance firms insuring goods owned or used by the national, provincial, or municipal governments, independent agencies, and people or firms that were granted concessions. The insurance for such goods has to be engaged with local firms.

GOVERNMENT PROCUREMENT

Law 25551 of 2001 establishes a national preference for local industry for most government purchases if the domestic supplier bid is no more than 5 percent to 7 percent (the latter figure for small or medium-sized businesses) higher than the foreign bid, and applies to tender offers by all government agencies, public utilities, and concessionaires. There is similar legislation at the provincial level, resulting in entry barriers for foreign firms.

Inland water shipping is reserved for Argentine flag carriers. Any foreign firm entering the market must nationalize vessels, pay high import duties, and follow strict local union regulations on nationality of the crew.

Argentina is not a signatory to the WTO Agreement on Government Procurement, but it is an observer to the WTO Committee on Government Procurement.

INVESTMENT BARRIERS

Brazil and Argentina's common automotive policy (Bilateral Automobile Pact), introduced in 2002 and modified in 2004 and 2006, significantly restricts bilateral trade in automobiles and automotive parts (Brazil may export tariff-free to Argentina up to \$195 of automotive products for every \$100 of the same it imports from Argentina). There is substantial U.S. investment in automobile manufacturing in Argentina, as well as significant imports of cars by U.S. companies from their U.S. affiliates in Brazil. These U.S. firms have optimized their regional production, in some cases through substantial investment in new Argentine production facilities, in line with evolving Bilateral Automobile Pact restrictions.

Exchange and Capital Controls

Hard currency export earnings, both from goods and services, must be cleared in the local foreign exchange market, with some exceptions. Time limits to fulfill this obligation range from approximately 180 days to 480 days for goods (depending on the goods involved) and 135 working days for services. For certain capital goods and situations where Argentine exports receive long-term financing not exceeding 6 years, Argentina exporters face more liberal time limits. The maximum foreign exchange clearance allowed for hydrocarbons exports is 30 percent of total revenues. There is no maximum for exports of certain minerals, re-exports of some temporary imports, and exports to Argentine foreign trade zones. Foreign currency earned through exports may be used for some foreign debt payments.

Argentina has expanded its capital control regime since 2003, with the stated goal of avoiding the potentially disruptive impact of large short-term capital flows on the nominal exchange rate. In June 2003, Argentina imposed a registration requirement for inflows and outflows of capital, and a 180 day minimum investment period. In May 2005, the government issued Presidential Decree

616 and extended the minimum time period to 365 days. The Decree also expanded the registration requirement to include "all types of debt operations of residents that could imply a future foreign currency payment to nonresidents" and requires that all foreign debt of private Argentine residents, with the exception of trade finance and initial public debt offerings that bring foreign exchange into the market, must include provisions that the debt need not be repaid in less than 365 days.

The Ministry of Economy implemented Decree 616 through resolutions in 2005 and 2006 which imposed more restrictive controls on the following classes of inbound investments: inflows of foreign funds from private sector debt (excluding foreign trade and initial stock and bond issues); inflows for most fiduciary funds; inflows of nonresident funds that are destined for the holding of Argentine pesos or the purchase of private sector financial instruments (excluding foreign direct investment and the primary issuance of stocks and bonds); and investments in public sector securities purchased in the secondary market. These inflows are subject to three restrictions: (a) they may not be transferred out of the country for 365 days after their entry; (b) proceeds from foreign exchange transactions involving these investments must be paid into an account in the local financial system; and (c) 30 percent of the amount of such transactions must be deposited in a local financial entity for 365 days in an account that must be denominated in dollars and pay no interest. As of September 2006, a deposit is not required for capital inflows aimed to finance energy infrastructure works. Violations are subject to criminal prosecution. In October 2007, the Central Bank introduced new control measures, banning all foreign entities from participating in Central Bank initial public offerings; however, foreign firms may still trade Central Bank debt instruments on the secondary market.

Bilateral Investment Treaty

Fifteen U.S. investors have submitted claims to investor-state arbitration under the United States-Argentina Bilateral Investment Treaty. Some of these cases claim that measures imposed by Argentina during the financial crisis that began in 2001 breached certain BIT obligations.

ELECTRONIC COMMERCE

Argentina has a legal framework for digital signatures. The Digital Signature Law 25506 of 2001 was implemented by Presidential Decrees 2628 of 2002 and 724 of June 2006. Argentina has accepted digital signatures since early 2004, but requires that they are verified by a certified licensor. According to the U.S. private sector, this has facilitated transactions and its use has increased rapidly.

Since 2006, Decree 724 has allowed the Argentina government agencies to act as certified licensors and to issue certificates for government officials or private individuals, establishing conditions for use of digital signatures between public organizations and the community. The Decree also eliminated the requirement that each entity with the authority to certify digital signatures be backed by liability insurance. Argentina does not allow the use of electronically produced air waybills, limiting their ability to speed up customs processing and the growth of electronic commerce transactions.

Electronic invoicing became available in Argentina as of January 16, 2006, through the Federal Administration of Public Taxes (AFIP) Resolution 1956 of 2005. This new procedure allows replacement of the traditional paper invoice with an electronic one, which can be sent via the Internet. The resolution establishes eligibility requirements for companies to obtain authorization to use electronic invoicing, such as having appropriate information technology systems and

infrastructure to send and store originals, duplicates, and receipts and to keep digital records/registry of all documentation sent and received.