

# ARGENTINA

## TRADE SUMMARY

The U.S. trade deficit with Argentina was \$734 million in 2003, a decrease of \$868 million from \$1.6 billion in 2002. U.S. goods exports in 2003 were \$2.4 billion, up 546 percent from the previous year. Corresponding U.S. imports from Argentina were \$3.2 billion, down 0.6 percent. Argentina is currently the 39<sup>th</sup> largest export market for U.S. goods.

U.S. exports of private commercial services (i.e., excluding military and government) to Argentina were \$1.7 billion in 2002 (latest data available) and U.S. imports were \$593 million. The stock of U.S. foreign direct investment (FDI) in Argentina in 2002 was \$11.3 billion, down from \$15.8 billion in 2001. U.S. FDI in Argentina is concentrated largely in the manufacturing, finance, and utilities sectors.

## IMPORT POLICIES

Argentina made significant progress in reducing tariffs and non-tariff barriers during the 1990's. Starting in late 2000 the government implemented and overturned trade policies frequently enough to foster uncertainty and confusion in the exporting and importing community. In January 2002, then-President Eduardo Duhalde abandoned Argentina's quasi-currency board system, known as "convertibility," which had pegged the peso to the dollar at a one-to-one rate since 1991 and replaced it with a market-based (floating) exchange rate system. This resulted in a 70 percent devaluation of the peso. The collapse of the decade-long convertibility regime triggered a 56 percent drop in imports and a 3 percent decline in exports due to uncertainty and lack of financing. The peso has appreciated 22 percent in 2003.

The government implemented an increasing variety of capital and exchange controls throughout 2002. These measures inhibited access to foreign exchange to pay for imports. As of September 2002, the government retained strict controls on the release of foreign exchange to pay for imports of 2,700 products. During 2003, most of the exchange market controls for imports were relaxed or abolished. Imports can now be paid in advance regardless of the type of good involved. However, importers must show that imported products entered Argentina within 180 days of payment, though there is an exception for capital goods worth more than \$50,000 for which the time frame increases to 270 days. There are no restrictions on payments for services imports (such as freight, insurance, technical assessment, professional fees, etc.). Purchases of foreign currency to settle debt services owed to foreign creditors are permitted within 15 days of each scheduled payment.

Imports of used clothing are prohibited except for donations to government or religious organizations. A tariff of 21.5 percent is imposed on textile and apparel products entering the Argentine market. In addition to this tariff, Argentina maintains a complex array of variable and specific duties that further inhibit market access for textile and apparel products. Importers should expect to pay an aggregate of approximately 35 percent in import tariffs. Argentina also prohibits the importation and sale of used tires, and used or refurbished medical equipment such as imaging equipment.

## Tariffs

Tariffs average approximately 11 percent. A statistical fee of 0.5 percent is added to some products. A limited number of imports are banned altogether, such as re-manufactured auto parts. Tariffs on toys were significantly increased in January 1999, and again in November 2001, particularly those originating in countries that are not members of the World Trade Organization (WTO).

On January 1, 1995, MERCOSUR became a customs union by establishing a common external tariff (CET) covering 85 percent of traded goods. MERCOSUR will gradually phase in coverage of the CET

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through 2006, when all products should be included in the customs union. In 1999, most trade between Brazil and Argentina became duty-free under the intra-MERCOSUR duty phase-out schedule. However, several sensitive sectors, such as sugar, autos, and telecommunications equipment are included on either Brazil's or Argentina's exception list and are still subject to customs duties.

### Customs Procedures

Argentina abides by the WTO Agreement on Customs Valuation. Argentina has import monitoring mechanisms, similar to an import licensing regime, which affect roughly one-fifth of its imports, principally textiles, toys, and footwear. U.S. firms also complain of cumbersome certificate of origin requirements, particularly in the electronics and textile sectors.

## STANDARDS, TESTING, LABELING AND CERTIFICATION

### Agricultural Products

In 2002, Argentina banned the import of all chicken products from the United States. This decision was based on an outbreak of Newcastle Disease in the states of California, Nevada, Arizona, and Texas. Although there was no import of chicken meat from the United States in 2002, this ban affected the import of chicken cartilage, worth \$5 million annually. The United States requested recognition as being free of Newcastle Disease in December 2003 and is waiting for a response from Argentina.

Argentina has continued to delay issuing the final authorization for imports of citrus fruit, pears, and cherries from the U.S. In addition, import restrictions remain in place for swine genetics. Argentina also prohibits the import of seed potatoes, claiming phytosanitary concerns.

In October 2002, Argentina's Phytosanitary and Food Safety Agency (SENASA) issued Resolution 816/02 that could require audits of the animal and plant facilities of countries exporting animal and plant products to Argentina. In 2003, SENASA agreed to postpone implementation of this regulation for 180 days. SENASA states that there will be no change in the trade after the 180 days.

Exports of U.S. pet food and of U.S. semen and embryos to Argentina are restricted based on Resolution 117, which concerns risks of BSE.

The Argentine National Food Institute (equivalent of the U.S. Food and Drug Administration) began requiring imports produced with U.S. milk to be accompanied by a special certificate after December 2003.

### Non-agricultural Products

Argentina's Standards Institute (IRAM) bases some of its voluntary standards on international standards. These voluntary standards are in some cases compatible with U.S. or European standards. In general, Argentine buyers usually accept products with U.S. product certificates or which meet U.S. standards. In early 1998, Argentina began mandating compliance with new safety certifications on a wide range of products. Argentina has issued regulations that affect U.S. exports of low voltage electrical products (household appliances, electronics products and electrical materials), toys, covers for dangerous products, gas products, construction steel, personal protective equipment and elevators. The procedures for compliance often appear inconsistent, redundant and non-transparent. Regulations that require product re-testing are particularly cumbersome and costly and are especially problematic for U.S. small- and medium-sized 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 some

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cases, Argentina has failed to fulfill the notification and comment requirements of the WTO Agreement on Technical Barriers to Trade (TBT) in its implementation of these measures.

## INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

### Patents

Argentina's lack of adequate and effective patent protection has been a long-standing irritant in the bilateral trade relationship. Argentina is listed on the 2003 Special 301 "Priority Watch List."

The National Intellectual Property Institute (INPI) started to approve pharmaceutical patents in October 2000. INPI has been extremely slow since that time in issuing pharmaceutical patents to products with commercial value. Bilateral trade negotiations between the United States and Argentina did not resolve the issue of protection of confidential and proprietary data developed by pharmaceutical companies and submitted to INPI. In April 2002, negotiations between the governments of the United States and Argentina clarified aspects of the latter's intellectual property system, such as provisions related to the patentability of microorganisms and its import restriction regime. In December 2003, Argentina's Congress passed an amendment to its patent law to provide protection for products obtained from a process patent and to ensure that preliminary injunctions are available in intellectual property court proceedings, among other steps. The United States has explicitly reserved its right to seek resolution on the outstanding issues that remain, including data protection, under the WTO dispute settlement mechanism.

### Copyrights

Argentina's copyright laws provide generally good protection. Argentina adopted legislation in 1999 to ratify the World Intellectual Property Organization (WIPO) Copyright Treaty and the WIPO Performances and Phonograms Treaty, though some implementation issues remain. An agreement between the Argentine government and the software industry to legalize unlicensed software in use in government offices was never finalized.

Enforcement of copyrights on recorded music, videos, books and computer software remains inconsistent. Argentine Customs and other government authorities generally cooperate with industry efforts to stop shipments of pirated merchandise, but inadequate resources and slow court procedures have hampered the effectiveness of enforcement efforts. 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.

## SERVICES BARRIERS

Argentina enacted broad liberalization in the services sector as part of its economic reform program in the 1990s, though some barriers continue to exist. For example, the Argentine government obliges cable/pay television operators to register their programming with a government body. In addition, restrictions regarding the showing, printing and dubbing of films have inhibited U.S. exports. A further barrier is the practice of charging ad valorem customs duties based on the value of authors' rights, rather than solely on the value of the physical materials being imported, which is the WTO standard.

Argentina has committed to allow foreign suppliers of non-insurance financial services to establish all forms of commercial presence. Argentina has also committed to provide substantially full market access and national treatment to foreign suppliers of non-insurance financial services. The only significant

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remaining issue involves lending limits for foreign bank branches that are based on local paid-in capital, not parent bank capital. This effectively removes the rationale for establishing in branch form. This issue has become largely moot due to the ongoing banking crisis that began in December 2001 with the freezing of bank accounts and the subsequent devaluation and asymmetric “pesification” from dollars into pesos of deposits, loans and other assets.

Most professionals must enroll in local associations or must maintain a local address for a certain period of time prior to establishment of operations. There are nationality restrictions for some internal shipping, private security companies and education providers.

Provinces can impose their own barriers on the provision of services.

### **INVESTMENT BARRIERS**

Pursuant to WTO rules, Argentina notified the WTO in 1995 that it maintained measures inconsistent with its obligations under the WTO Agreement on Trade-Related Investment Measures (TRIMS). These measures deal with local content and trade balancing in the automotive industry. In November 2001, following the conclusion of the five-year TRIMS Agreement transition period, the WTO granted Argentina and several other countries additional time to bring their policies fully into compliance with the TRIMS Agreement. The extension granted to Argentina and the others expired at the end of 2003, and the United States is now seeking to confirm whether the measures in question have been eliminated.

Under the bilateral investment treaty (BIT) between the United States and Argentina, which entered into force in 1994, investors of either country may seek binding international arbitration of claims that a host government violated certain obligations of the treaty. Several U.S. investors have initiated dispute settlement under the BIT in response to measures imposed by Argentina during the financial crisis that began in 2001.

### **ELECTRONIC COMMERCE**

Argentina has taken steps to lower the cost of Internet usage and has shown interest in U.S. electronic commerce initiatives in the FTAA and the WTO. Despite supporting electronic commerce, Argentina does not participate in the WTO Information Technology Agreement (ITA). In addition, Argentina does not allow the use of electronically produced airway bills, slowing the customs processing of critical just-in-time shipments and interfering with Argentina's ability to conduct electronic commerce transactions. Recent advances legalizing digital signatures will enhance the chances to advance in the airway bill issue.