

# ARGENTINA

## TRADE SUMMARY

The U.S. goods trade surplus with Argentina was \$5.4 billion in 2015, a 18.2 percent decrease (\$1.2 billion) over 2014. U.S. goods exports to Argentina were \$9.3 billion, down 14 percent (\$1.5 billion) from the previous year. Corresponding U.S. imports from Argentina were \$3.9 billion, down 6.9 percent. Argentina was the United States' 28th largest goods export market in 2015.

U.S. exports of services to Argentina were an estimated \$6.7 billion in 2014 (latest data available), and U.S. imports were \$1.7 billion. Sales of services in Argentina by majority U.S.-owned affiliates were \$9.4 billion in 2013 (latest data available), while sales of services in the United States by majority Argentina-owned firms were \$7 million.

U.S. foreign direct investment (FDI) in Argentina (stock) was \$13.4 billion in 2014 (latest data available), a 0.2 percent decrease from 2013. U.S. direct investment in Argentina is led by manufacturing, information, and mining.

## INTRODUCTION

The government of President Mauricio Macri, which took office on December 10, 2015, has taken steps to reverse many of the trade restrictive policies and measures that were in effect in 2015, as noted in this report. During President Obama's visit to Argentina, the United States and Argentina signed a bilateral Trade and Investment Framework Agreement (TIFA) on March 23, 2016. The TIFA creates a forum for the United States and Argentina to engage on a broad range of bilateral economic issues, such as market access, intellectual property rights protection, and cooperation on shared objectives in the World Trade Organization and other multilateral fora.

## TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

### Technical Barriers to Trade

#### *Consumers Goods Label Supervision System*

In October 2015, Argentina issued Resolution 420/2015, which established a Label Supervision System affecting several products for human consumption and human handling, including imported food and beverages, personal hygiene, perfume and cosmetics. This measure contained duplicative requirements for documentation that must be submitted to regulatory authorities, resulting in delayed label approval and increased costs that will increase prices to the consumer. On January 28, 2016, the recently elected government of President Mauricio Macri issued Resolution 6/2016, which revokes this measure in its entirety, and removes this barrier to U.S. exports.

#### *Regulation of Low Voltage Electrical Equipment Safety*

On October 22, 2015, Argentina issued Resolution 508/2015, which changes the procedures for obtaining safety certificates for low voltage electrical equipment. Specifically, the measure amends the universe of products that, when used professionally or by electrical safety experts, may be subject to alternative means of compliance with safety requirements; establishes criteria for forming families of products, with a view to issuing a certificate for each of these families and creating a single certificate format for each of the

authorized modalities; and establishes new guidelines for the monitoring of certified products by certification bodies. Argentina notified this measure to the WTO Committee on Technical Barriers to Trade (TBT Committee) on November 2, 2015, and it came into force on November 22, 2015. U.S. stakeholders submitted comments on the measure through the U.S. Inquiry Point on January 4, 2016 citing transparency concerns, a need for a longer implementation period, and offered suggestions to improve the regulation. We will continue to engage with Argentina on this issue in 2016.

#### *Conformity Assessment Requirements*

Since 2013, Argentina has maintained mandatory conformity assessment requirements for electrical and electronic products that require foreign manufacturers and importers of all electrical and electronic products to obtain safety certifications from Argentine bodies before they can enter commerce in Argentina. These repetitive testing requirements are applicable only to foreign manufacturers, and they impose significant delays and increase costs.

#### *Testing Requirements for Lead in Graphic Products*

In 2010, Argentina issued Resolution 453/2010, which required that all inks, lacquers and varnishes used in producing printed materials, such as books, magazines, newspapers, package labeling and inserts, undergo testing for lead content. The resolution also required the testing to be conducted in one of two designated laboratories in Argentina. The United States, along with other WTO members, raised these requirements in the WTO Committee on Technical Barriers to Trade, noting that the requirements appeared to apply only to foreign producers and resulted in a *de facto* ban on imports of books, magazines and newspapers. In January 2016, the new government issued Resolution 1/2016, to exclude books, magazines, brochures, leaflets, and periodicals from the technical restrictions established in Resolution 453/2010, thereby re-opening the Argentine market to imports of printed materials.

### **Sanitary and Phytosanitary Barriers**

#### Food Safety and Animal Health

##### *Live Cattle, Beef, and Beef Products*

Argentina has banned imports of all U.S. live cattle, beef, and beef products since 2002 due to concerns about the status of bovine spongiform encephalopathy (BSE) in the United States. In June 2015, through Resolution 238/2015, Argentina's National Service of Agricultural and Food Health and Quality (SENASA) published new import requirements for ruminants and ruminant products, replacing previous requirements from 2010 and adopting three World Organization for Animal Health (OIE) categories for BSE risk classification. The OIE recognizes the United States as negligible risk for BSE. The United States has initiated discussions with SENASA to gain full access for U.S. beef, beef products and live cattle based on the United States' BSE negligible risk status.

#### Animal Health

##### *Pork*

Argentina does not currently allow imports of U.S. pork. In July 2014, Argentina provided an official response to a 2011 request from the United States for access for fresh, chilled, frozen and cooked pork meat and meat products. Argentina indicated that it will only accept imports of U.S. pork from herds that have tested negative for Trichinellosis and have no reported cases of Porcine Reproductive and Respiratory Syndrome (PRRS), among other requirements. The United States does not consider any of these

requirements to be science-based. For example, U.S. producers maintain stringent biosecurity protocols that have virtually eradicated trichinae in commercial pork production. The risk of introducing PRRS into the Argentine herd due to the import of U.S. pork is negligible. The OIE does not recognize trade in pork as posing a threat of transmitting the disease. The United States will continue to engage with SENASA to resolve these issues.

### *Poultry*

Argentina does not allow imports of fresh, frozen, and chilled poultry from the United States due to concerns over Avian Influenza (AI). Argentina also has not recognized the U.S. sanitary inspection system as equivalent to the Argentine system. During bilateral technical meetings in October 2015, the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) and Foreign Agricultural Service (FAS) provided SENASA a comprehensive presentation on the current status of Highly Pathogenic Avian Influenza (HPAI) in the United States and the success of the U.S. Government eradication program. In addition, APHIS requested that Argentina regionalize its restrictions related to HPAI either by state or county. On November 30, 2015, APHIS informed SENASA that the United States had complied with all required OIE actions and requirements related to HPAI to be declared free of the disease after the 2015 HPAI outbreak. Argentina has indicated that it would accept cooked poultry products from the United States, but there is no agreement yet on the terms of the necessary sanitary certificate as Argentina has maintained that the U.S. poultry inspection system is not "equivalent" to the Argentine system.

## **IMPORT POLICIES**

### **Tariffs**

Argentina is a member of the MERCOSUR common market, formed in 1991 and composed of Argentina, Brazil, Paraguay, Uruguay, and Venezuela. MERCOSUR maintains a Common External Tariff (CET) schedule with most favored nation (MFN) applied rates ranging from zero percent to 35 percent *ad valorem*. Argentina's import tariffs follow the MERCOSUR CET with some permitted exceptions. Argentina's MFN applied average tariff was 13.6 percent in 2014. Argentina's average bound tariff rate in the WTO is significantly higher at 31.8 percent. According to current MERCOSUR procedures, any good introduced into any member country must pay the CET to that country's customs authorities. If the product is then re-exported to any other MERCOSUR country, the CET must be paid again to the second country.

At the MERCOSUR Common Market Council (CMC) ministerial meeting in December 2011, MERCOSUR members agreed to increase import duty rates temporarily to a maximum rate of 35 percent on 100 tariff items per member country. For Argentina, the list of products subject to the tariff increases as of October 2014 can be viewed at: <http://www.infoleg.gov.ar/infolegInternet/anexos/235000-239999/235857/norma.htm>. These tariff increases are still in effect.

MERCOSUR member countries are also currently allowed to set import tariffs independently for some types of goods, including computer and telecommunications equipment, sugar, and some capital goods. Argentina currently imposes a 14 percent tariff on imports of capital goods that are also produced domestically. Imports of certain other capital goods that are not produced domestically are subject to a reduced *ad valorem* tariff of 2 percent. A list of the goods affected and their respective tariff rates can be found at <http://infoleg.gov.ar/infolegInternet/anexos/195000-199999/199256/norma.htm>.

Argentina has bilateral arrangements with Brazil and Uruguay on automobiles and automotive parts intended to provide preferential access among the three countries. Mexico and Argentina also have a separate bilateral trade agreement regarding automobiles and automotive parts.

## **Nontariff Barriers**

In recent years, Argentina has imposed a number of customs and licensing procedures and requirements, which make importing U.S. products difficult. The measures include additional inspections, restrictions on entry ports, expanded use of reference prices, import license requirements, and other requirements, such as requiring importer invoices to be notarized by the nearest Argentine diplomatic mission when imported goods are valued below reference prices. Many U.S. companies with operations in Argentina have expressed concerns that the measures have delayed exports of U.S. goods to Argentina and, in some cases, stopped exports of certain U.S. goods to Argentina altogether.

Argentina has relied on nontariff barriers to protect industries considered sensitive, such as leather, shoes, textiles, toys, plastics and chemicals, and automobiles. The new Argentine government, which took office December 10, 2015, has stated publicly that about 1,200 product types will still require non-automatic import licenses.

### *Capital Goods Imports*

Argentina prohibits the import of many used capital goods. Under the Argentina-Brazil Bilateral Automobile Pact, Argentina bans the import of used self-propelled agricultural machinery unless it is imported to be rebuilt in country. Argentina also prohibits the importation and sale of used or retreaded tires (but in some cases allows remolded tires); used or refurbished medical equipment, including imaging equipment; and used automotive parts. Argentina generally restricts or prohibits the importation of any remanufactured good, such as remanufactured automotive parts, earthmoving equipment, medical equipment, and information and communications technology products. In the case of remanufactured medical goods, imports are further restricted by the requirement that the importer of record must be the end user, such as a hospital, doctor, or clinic. Such parties are generally not accustomed to importing and are not typically registered as importers.

Domestic legislation requires compliance with strict conditions on the entry of those used capital goods that may be imported, as follows:

- Used capital goods can only be imported directly by the end user;
- Overseas reconditioning of the goods is allowed only if performed by the original manufacturer. Third-party technical appraisals are not permitted;
- Local reconditioning of the good is subject to technical appraisal only to be performed by the state-run Institute of Industrial Technology (INTI), except for aircraft related items;
- Regardless of where the reconditioning takes place, the Argentine Customs Authority requires at the time of import the presentation of a "Certificate of Import of Used Capital Goods." This certificate is issued by the Secretariat of Foreign Trade, after the approval by the Secretariat of Industry. Pursuant to Resolutions 12/2014 and 4/2014 of January 2014, the import certificate for used capital goods has a duration of 60 working days from the issuing date; and
- The time period during which the imported used capital good cannot be transferred (sold or donated) is four years.

Pursuant to Decree 2646/2012, capital goods that may be imported are subject to a 28 percent tax if there is existing local production of the good, a 14 percent tax in the absence of existing local production, and a 6 percent tax for used capital goods for the aircraft industry. There are exceptions for some industries (*e.g.*, graphics, printing, machine tools, textiles, mining, and some types of aircraft), enabling importation of used capital goods at a zero percent import tax.

### *National Supply Law*

In September 2014, Argentina amended the 1974 National Supply Law to expand the ability of the government to regulate private enterprises by setting minimum and maximum prices and profit margins for goods and services of private enterprises. The law covers all economic processes related to such goods and services at any stage of economic activity. Private companies determined by the government to be making “artificial” or “unjustified” profits may be subject to fines of up to 10 million pesos (approximately \$770 thousand) and a potential 90-day closure of their business. Under the authority of the amended Supply Law, Argentina requires pharmaceutical companies, including some U.S. companies, to lower their prices of certain medicines. The government also imposes hefty fines on certain automakers for failing to provide an adequate supply of cars at a specified price for the government’s auto stimulus program.

In February 2015, Argentina issued Resolution 17, which creates a System of Monitoring the Supply and Availability of Goods and Inputs (SIMONA). SIMONA is a data tracking tool that aims to detect production or distribution issues before they affect supply. Pursuant to Resolution 17, any company engaging in production or distribution in Argentina must report via SIMONA any impediments to its production or distribution process. The information gathered by the government through SIMONA may be used to identify ways to reduce the effects of variations in supply. In addition, the government may impose fines on companies found to be setting unjustifiably high prices. Argentina apparently uses SIMONA to collect price data.

### *Used Clothing Imports*

Argentina maintains an import prohibition on used clothing that was due to expire in December 2015. Since no new resolution has been issued to negate the current resolution, the decree remains in effect.

### *Taxes*

In August 2012, the Argentine Tax Authority (AFIP) issued Resolution 3373, which raised the rate of certain taxes charged after import duties are levied, thereby increasing the tax burden for importers. The value-added tax (VAT) advance rate rose from 10 percent to 20 percent on imports of consumer goods, and from 5 percent to 10 percent on imports of capital goods. The income tax advance rate on imports of all goods increased from 3 percent to 6 percent, except when the goods are intended for consumption or for use by the importer, in which case an 11 percent income tax rate applies.

In 2015, Argentina imposed a sliding scale tax on imported luxury vehicles. Under that system, cars priced above 195,500 pesos (approximately \$15,000, based on the 2015 average official exchange rate of 13 pesos to the U.S. dollar) were subject to a 30 percent tax, while vehicles priced above 241,500 pesos (approximately \$18,600) were subject to a 50 percent tax. Motorbikes priced above 34,500 pesos (approximately \$2,650) were taxed at 30 percent, and motorbikes priced above 61,500 pesos (approximately \$4,700) were taxed at 50 percent. The luxury tax was imposed on top of the normal import duty.

In January 2016, the Macri government issued Decree 11/2016, which reduced the luxury tax for imports and also applied such taxes to locally produced vehicles. In particular, the Decree eliminated taxes on cars priced below 350,000 pesos (approximately \$26,900), reduced the tax to 10 percent for cars valued between 350,000 (approximately \$26,900) and 799,000 pesos (approximately \$61,500) and to 20 percent for cars priced above 800,000 pesos (approximately \$61,500). This Decree also reduced the tax imposed on motorbikes priced above 65,000 pesos (approximately \$5,000), boats priced above 400,000 pesos (approximately \$31,000) and planes priced above 225,000 pesos (approximately \$17,300) to 10 percent.

### *Consumer Goods Price Control Program*

In January 2014, the Argentine government launched a consumer goods price control program called “Precios Cuidados,” which established price caps on nearly 200 basic consumer goods. Although participation in the program is supposed to be voluntary, several supermarkets have reportedly been subject to steep fines for failing to stock all of the products subject to price caps. Since the program was first launched in January 2014, the number of products subject to price caps has increased substantially, and the maximum prices have been revised several times. The list of goods and their maximum prices can be found at: <http://precioscuidados.gob.ar/inicio>. The website also includes a link for consumers to claim if a shop or supermarket does not comply with the price control program. In January 2016, the new government announced the extension of the program for several more months. In February 2016, the Argentine government issued resolution 12/2016, which established the Argentine Electronic System of Advertised Prices (or SEPA) program, accessible online or via mobile app, to monitor retail prices. Supermarkets are required to publish their price lists, and customers can submit observed price information. Customers can complain about price increases on any given product to the Competition Defense Commission, which has the authority to fine companies if it determines the price increases are not justified. Previously, the Commission had fined companies nearly 15 million pesos (approximately \$1.2 million) for violations of the “Precios Cuidados” program.

### *Preference for Domestic Medicines*

In October 2015, Resolutions 1710/2015 and 406/2015 established a framework to comply with the reimbursement functions assumed by health insurance agents in connection with high cost medicines. The resolutions provided that health insurance agents should give preference to locally manufactured products that have the same active ingredient as, or are biosimilars to, imported products, subject to the condition that the final selling price of the locally manufactured products are significantly lower than the average price of similar products of foreign origin.

### *Import Licenses*

From 2012 through 2015, Argentina maintained an import licensing system known as the Advance Sworn Affidavit on Imports (or “DJAI” by its Spanish acronym), which required that all imports receive advance approval by the Argentine government. Argentina used the DJAI system to limit the volume or value of imports, extract commitments from importers to export goods from Argentina, increase investments in Argentina, increase the use of local content, and refrain from repatriating profits. Prior to 2012, Argentina also operated a far-reaching automatic and non-automatic import licensing scheme. That system was the subject of much criticism by WTO members even before the DJAI requirement was put in place.

In 2012, the United States, along with the European Union and Japan, initiated WTO dispute settlement proceedings to challenge Argentina’s import licensing regime. In August 2014, the WTO dispute settlement panel ruled in favor of the United States, the European Union, and Japan, finding that Argentina’s import licensing requirements and other import restrictions breached international trade rules. In September 2014, Argentina appealed the panel decision, and on January 15, 2015, the Appellate Body affirmed the earlier findings of the WTO panel. Argentina agreed to comply with the WTO ruling by December 31, 2015.

On December 22, 2015, AFIP issued Resolution 3823/2015, which established a Comprehensive Import Monitoring System (SIMI) to manage a new automatic and non-automatic import licensing regime, created by Resolution 5/2015 issued on December 23, 2015. The new resolutions require that importers submit electronically to SIMI detailed information about goods to be imported into Argentina. Once the information is submitted, the relevant Argentine government agencies are able to review the application

through a “Single Window System for Foreign Trade” and make any observations or request additional information. The automatic import licensing requirements apply to approximately 18,000 tariff lines, or approximately 86.5 percent of Argentina’s tariff schedule. Non-automatic import license requirements apply to approximately 1,200 tariff lines, or approximately 13.5 percent of Argentina’s tariff schedule, including sectors and products the government has deemed import-sensitive, such as automobiles, paper and cardboard, iron and steel, nuclear reactors, electrical materials and parts, toys, textiles, apparel and footwear. The resolutions do not provide a maximum time period for AFIP to issue a decision on import license applications. Automatic import licenses are valid for 180 days from the date of approval, while non-automatic licenses are valid for 90 days. The full text of Resolution 5/2015 with the affected tariff lines can be accessed at: <http://www.infoleg.gob.ar/infolegInternet/anexos/255000-259999/257251/norma.htm>. The United States has significant questions about whether the adoption of the SIMI brings Argentina’s import licensing measures into compliance with its WTO obligations, and the United States is working with Argentina to address these concerns.

#### *Dollar Payments Authorization Requirement*

From 2012 through December 2015, many U.S. companies reported that they had to request authorization from the Central Bank to make substantial exchanges of pesos to U.S. dollars to pay foreign suppliers for imported goods. This requirement was neither officially published nor written, and Central Bank officials reportedly communicated the amounts permitted informally via phone calls or text messages. The threshold level of the amount permitted for payments abroad was apparently lowered from \$300,000 to \$150,000 daily in September 2014. By December 2015, the threshold level was reportedly \$50,000 daily. Many U.S. companies have reported that this requirement and the changing threshold amounts prevented them from planning for inventory and increased delays in their ability to import goods.

On December 17, 2015, the new government announced the elimination of capital controls, a move that appeared to suggest that importers would no longer need Central Bank authorization to exchange pesos for dollars to pay for imported goods going forward. Due to delayed Central Bank authorization for dollar payments, private importers accumulated debt estimated between \$5 billion and \$10 billion to suppliers for previously imported goods. To resolve the importers’ debt, as well as a stock of profits that companies wanted to repatriate, the Central Bank and the Ministry of Treasury and Finance offered two options in late December 2015, a payment schedule or a sovereign bond. There are to be no restrictions on the amount of payment requests after May 2016.

#### *Foreign Transactions Monitoring Unit*

In November 2014, via Decree 2103/2014, the Argentine government established the Unit of Monitoring and Traceability of Foreign Trade Operations, coordinated jointly by the Chief of Cabinet with participation from the Ministry of Economy, the Customs Office, the AFIP, the National Securities and Exchange Commission, Financial Information Unit, and the Central Bank, among other financial regulatory agencies. The stated objective of this Joint Unit is to track all international trade operations to ensure transparency and accuracy and to prevent over- and under-invoicing by commercial entities. Many enterprises, especially multinationals, have expressed concerns that this Joint Unit further increases governmental controls over international trade.

#### *Customs Valuation*

Argentina continues to apply reference values to several thousand products. The stated purpose of reference pricing is to prevent under-invoicing, and authorities establish benchmark unit prices for customs valuation purposes for certain goods that originate in, or are imported from, specified countries. These benchmarks

establish a minimum price for market entry and dutiable value. Importers of affected goods must pay duties calculated on the reference value, unless they can prove that the transaction was conducted at arm's length.

Argentina also requires importers of any goods from designated countries, including the United States, that 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 Argentine government publishes an updated list of reference prices and applicable countries, which is available at: <http://www.afip.gov.ar/aduana/valoracion/valores.criterios.pdf>.

Argentina maintains administrative mechanisms that restrict the entry of products deemed sensitive, such as textiles, apparel, footwear, toys, electronic products, and leather goods. While the restrictions are not country specific, they are to be applied more stringently to goods from countries considered "high risk" for under-invoicing, and to goods considered at risk for under-invoicing or trademark fraud.

#### *Ports of Entry*

Argentina restricts entry points for several classes of goods, including sensitive goods classified in 20 Harmonized Tariff Schedule chapters (*e.g.*, textiles; shoes; electrical machinery; iron, steel, metal, and other manufactured goods; and watches), through specialized customs procedures for these goods. A list of products affected and the ports of entry applicable to those products is available at: <http://www.infoleg.gov.ar/infolegInternet/anexos/130000-134999/131847/norma.htm>.

### **Customs Procedures**

Certificates of origin have become a key element in Argentine import procedures in order to enforce antidumping measures, reference prices (referred to as "criterion values"), and certain geographical restrictions. Argentina requires certificates of origin for certain categories of products, including certain organic chemicals, tires, bicycle parts, flat-rolled iron and steel, certain iron and steel tubes, air conditioning equipment, wood fiberboard, most fabrics (*e.g.*, wool, cotton, other vegetable), carpets, most textiles (*e.g.*, knitted, crocheted), apparel, footwear, metal screws and bolts, furniture, toys and games, brooms, and brushes. To receive the MFN tariff rate, a product's certificate of origin must be certified by an Argentine embassy or consulate, or carry a "U.S. Chamber of Commerce" seal. For products with many internal components, such as machinery, each individual part is often required to be notarized in its country of origin, which can be very burdensome. Importers have stated that the rules governing these procedures are unclear and can be arbitrarily enforced.

Simplified customs clearance procedures on express delivery shipments are only available for shipments valued at \$1,000 or less. Couriers are now 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**

#### **Export Tariffs**

Argentina imposes export taxes on all but a few exports, including significant export taxes on key hydrocarbon and agricultural commodities. In many cases, the export tax for raw materials is set higher than the sale price of the processed product to encourage development of domestic value-added production. Crude hydrocarbon export taxes are indexed to world commodity benchmarks.

Argentina imposes significant export taxes on hydrocarbon goods and their derivatives (crude oil or bituminous mineral). Pursuant to Resolution 803/2014, the export duty is 13 percent if the international barrel price is lower than the established reference price or \$503 per cubic meter; 11.50 percent if the price is lower than \$75 per barrel or \$472 per cubic meter, and 10 percent if the price is lower than \$70 per barrel or \$440 per cubic meter. In response to falling international oil prices, in December 2014, the Argentine government issued Resolution 1077/2014, which established that beginning in January 2015 the export duty will be one percent whenever the international Brent crude reference price is below \$70 per barrel.

Argentina has a long history of applying differential export tariffs on a variety of agricultural commodities with lower rates on processed goods to incentivize value-added processes and increase fiscal revenue for the government. In 2015, Argentina applied differential taxes to the soy and grain sectors as follows: soybeans at 35 percent; soybean oil and soybean meal at 32 percent; soybean pellets and animal food containing soy bean hulls and waste at 32 percent; biodiesel mainly from soy oil currently at 14 percent to 15 percent, although that rate fluctuated; sunflower seed at 32 percent; sunflower seed meal and sunflower seed oil at 30 percent; wheat at 23 percent; wheat flour at 13 percent; and corn at 20 percent with corn flour at 15 percent. Other export taxes included beef at 15 percent; poultry, pork, apples, pears, and wine at 5 percent; and lemons, sweet citrus, at 2.5 percent. In December 2015, through the issuance of Decrees 133/2015 and 160/2015, the new government has eliminated export taxes on most goods but maintained the following differential taxes: soybeans are taxed at 30 percent; soy flour and oil at 27 percent; soy pellets and other refined mixed soy oils at 27 percent; bovine leather at 10 percent; wool not card or combed at 5 percent, and paper and cardboard waste for recycling at 20 percent. Full text of the decrees can be found at: <http://www.infoleg.gob.ar/infolegInternet/anexos/255000-259999/256979/norma.htm> and <http://www.infoleg.gob.ar/infolegInternet/anexos/255000-259999/257076/norma.htm>.

On January 6, 2016, Argentina established a 24.24 percent export tax on biodiesel exports pursuant to Decree 25/2016. The export tax is applied to the declared FOB price. The full text of the rule can be found at: <http://www.infoleg.gob.ar/infolegInternet/anexos/255000-259999/257595/norma.htm>.

In April 2014, Argentina issued Decree 374/2014 banning exports of iron, steel, copper, and aluminum scrap for 360 days in an attempt to ensure domestic supply. In June 2015, Decree 1102/2015 extended the export ban for an additional 360 days. According to Decree 160/2015 issued on December 18, 2015, iron and steel scrap are subject to a 5 percent export duty.

On February 12, 2016, the Argentine government issued decree 349/2016, eliminating the export duties on metal and non-metal mining products, which previously ranged between 5 and 10 percent. The full text of the decree can be found at: <http://www.infoleg.gob.ar/infolegInternet/verNorma.do?id=258595>.

The MERCOSUR Common Customs Code (CCC) restricts future export taxes and anticipates a transition to a common export tax policy, but the CCC is not yet in effect. In November 2012, Argentina became the first MERCOSUR member to ratify the CCC, but all MERCOSUR member countries must ratify the CCC before it goes into effect.

### **Export Registrations and Permits**

Argentina previously required major agricultural commodities to be registered and pre-approved for export before they could be shipped out of the country. The administration of the Registry of Export Operations (ROEs) resided in the Office of Coordination and Evaluations of Subsidies to Domestic Consumption (UCESCI) under the Ministry of Economy. On December 29, 2015, the new government issued Resolutions 4/2015, 7/2015 and 7/2015 from the Ministry of Treasury and Finances, the Ministry of Agro-industry and the Ministry of Production, eliminating export permits that controlled the flow of grain and oilseed exports.

In place of the export permits, the Argentine government has reintroduced Affidavits of Foreign Sales (“DJVE” or Declaraciones Juradas de Ventas al Exterior), which was a mechanism used to track exports prior to 2008. The DJVE does not require pre-approval for export sales. The regulations that require export permits for meat and dairy are still in place, but the government has announced its intention to revoke these regulations. According to the new resolution, exporters must register the export of grains, oilseeds, and their derivatives with the Office of Coordination and Evaluations of Subsidies to Domestic Consumption (UCESCI). Once the registration is approved, the DJVEs are valid for 180 days. In the case of wheat, the DJVEs are valid for 45 days. In the case of soybeans and other soy products, the DJVEs will be approved if the exporter pays 90 percent of the export tax at the time the DJVE is approved.

## **SUBSIDIES**

In October 2014, Argentina launched the “Ahora 12” program, which allows individuals to finance the purchase of certain domestically-manufactured goods, ranging from clothing to home appliances, in 12 monthly installments without interest. The list of qualifying goods for the Ahora 12 program can be found at <http://www.ahora12.gob.ar/>. Argentina claims the program has been very successful in increasing the consumption of locally-produced goods and has stated that more than 4 million transactions have occurred since the program’s inception. On December 14, 2015, Resolution 1/2015 extended the program through March 31, 2016.

Argentina currently has a tax-exempt trading area called Special Customs Area (SCA), located in Tierra del Fuego Province, established in 1972 through Law 19,640 to promote economic activity in the southern province. The government has authority to exempt products shipped through the SCA (but not assembled or manufactured therein) from all forms of taxation except excise taxes. The SCA program, set to expire at the end of 2023, provides benefits for established companies that meet specific production and employment objectives. Since November 2009, cell phones, televisions, digital cameras and other electronic items not produced in the SCA are charged value-added tax rates up to 21 percent. There are concerns that foreign companies have set up local assembly facilities in the SCA that they would not have otherwise done in order to bring manufactured goods into the country. In particular, there are concerns that products are brought to facilities in the SCA where they are taken apart and reassembled for sale inside Argentina.

## **GOVERNMENT PROCUREMENT**

Argentine law establishes a national preference for local industry for most government procurement if the domestic supplier’s tender, depending on the size of the company, is no more than five percent to seven percent higher than the foreign tender. The preference applies to procurement by all government agencies, public utilities, and concessionaires. There is similar legislation at the sub-national (state) level.

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

## **INTELLECTUAL PROPERTY RIGHTS PROTECTION**

Argentina remained on the Priority Watch List in the 2015 Special 301 Report. Enforcement challenges and other factors have diminished market access for U.S. IP-intensive industries. The absence of sustained enforcement efforts – including under the criminal laws – sufficient to have a deterrent effect, coupled with judicial inefficiency, have made it possible for one of South America’s largest black markets for counterfeit and pirated goods to flourish and spawn smaller branches throughout the country. Apparent lack of understanding about technology and online jurisdiction within the judicial system hinder the ability to halt,

through legal action, the growth of illegal online markets (the largest of which launched a mobile platform in 2015). The United States continues to monitor the situation closely, including via USTR's Notorious Markets List.

The situation for innovators in the pharmaceutical and agrochemical sectors also presents significant concerns. First, the scope of patentable subject matter is significantly restricted under Argentine law. Second, patent pendency backlog continues to be excessive. Third, there continues to be no means of adequate protection against unfair commercial use and unauthorized disclosure of undisclosed test and other data submitted to the government in conjunction with its lengthy and challenging marketing approval process.

## **SERVICES BARRIERS**

Argentina requires individuals and companies to file an online affidavit known as the Advance Sworn Statement on Services (or by its Spanish acronym "DJAS") and obtain approval prior to offering or purchasing offshore services if the value of the services to be provided exceeds \$100,000. The DJAS requirement, established through Resolution 3276/2012, creates delays and is used to restrict the purchase of foreign services and to restrict dollar-denominated payments abroad. The DJAS requirement applies to a wide range of services including professional and technical services, royalties, and personal, cultural and recreational services. This requirement has reportedly resulted in significant delays in purchasing services from U.S. services providers and has hindered the ability of Argentine purchasers to promptly transfer payment to the United States. During 2014 and 2015, DJAS authorization has been subject to tighter controls particularly in the case of royalty payments.

As of December 17, 2015, pursuant to Resolution 3825 issued by AFIP, all purchases of transportation tickets and tourist packages to travel abroad paid in cash or by bank transfer are subject to a 5 percent tax.

### **Audiovisual Services**

The Argentine government imposes restrictions on the showing, printing, and dubbing of foreign films in Argentina. Argentina also charges *ad valorem* customs duties on U.S. film exports based on the estimated value of the potential royalty generated from the film in Argentina rather than on the value of the physical materials being imported.

The National Institute of Cinema and Audiovisual Arts taxes foreign films screened in local movie theaters. Distributors of foreign films in Argentina must pay screening fees that are calculated based on the number and geographical locations of theaters at which the films will be screened within Argentina. Films that are screened in 15 or fewer movie theaters are exempted.

The Media Law, enacted in 2009, requires companies to locally produce advertisement and publicity materials, or to include 60 percent local content.

### **Insurance Services**

The Argentine insurance regulator (SSN) prohibits cross-border reinsurance. As a result, Argentine insurers are able to purchase reinsurance only from locally based reinsurers. Foreign companies without local operations are not allowed to enter into reinsurance contracts except when the SSN determines there is no local reinsurance capacity. SSN requires that all investments and cash equivalents held by locally registered insurance companies be located in Argentina.

These regulations do not formally require the exchange of dollars into pesos; companies can convert their holdings to dollar-denominated assets based in Argentina and still be in compliance. Nevertheless, non-Argentine insurance firms – whose liabilities are often denominated in U.S. dollars – reported during 2015 that they faced increased pressure by the Argentine government to sell their dollars for pesos. In October 2015, the Argentine Insurance Superintendent issued Resolution 39517, which set out new investment rules for insurers. Resolution 39517 required the industry to divest from its positions held in U.S. dollars before the end of 2015. Insurance firms reported that complying with the resolution would force them to take losses based on an official exchange rate that overvalued the peso. Many companies and industry associations filed legal claims against enforcement of the resolution. The Argentine government also blocked payments by subsidiaries of dividends and royalties to parent companies and shareholders abroad.

On January 15, 2016, the Argentine Insurance Superintendent issued Resolution 39646/2016, abolishing Resolution 39517. As of January 15, insurance companies can hold and dispose their investments in any currency they deem appropriate.

### **Telecommunications**

Argentina enacted the Argentine Digital Law in December 2014, which declares information technology and telecommunications as “public services” and allows the government to require private companies to share the use of their infrastructure, such as cabling, if the government considers that it is in the public interest. During 2015, the Argentine tax authority, AFIP, initiated several legal proceedings against foreign-owned firms, alleging that the companies’ structures and operations were inconsistent with the Digital Law because the companies used offshore shell corporations to shelter profits and assets from taxation.

On December 29, 2015, Argentina issued Resolution 267/2015, which amends Argentina’s 2009 Media Law (laws 26,522 and 27,078). One aspect of the amendments jeopardizes the business of satellite and telecommunications suppliers in Argentina. Specifically, the resolution prohibits a satellite television supplier from also providing (1) telecommunications services, including broadband Internet access; (2) video-on-demand services; and (3) bundling of satellite television with any telecommunications services. Because similar restrictions do not apply to cable or telecommunications suppliers, the measure appears to discriminate against satellite services providers in Argentina, the main provider of which is a U.S. supplier. In addition, the decree maintains certain regulatory requirements for satellite television (*e.g.*, an obligation to carry certain free-to-air television channels) that are not applied to cable television suppliers, putting satellite providers at a competitive disadvantage. The United States has begun to engage the government of Argentina on the issue, and will continue to seek to ensure fair treatment for all providers.

## **INVESTMENT BARRIERS**

### **Pension System**

In 2008, the Argentine Parliament approved a bill to nationalize Argentina’s private pension system and transfer pension assets to the government social security agency. Compensation to investors in the privatized pension system, including to U.S. investors, is still pending and under negotiation.

### **Foreign Exchange**

Hard currency earnings on exports of both goods and services must be converted to pesos in the local official foreign exchange market. Time limits on fulfilling the requirement to convert foreign currency to pesos range from 60 days to 360 days for goods depending on the goods involved and 15 days for services. The time period for fulfilling these requirements changes frequently, which can significantly impede trade.

## **FOREIGN TRADE BARRIERS**

During 2014 and most of 2015, the Ministry of Economy maintained restrictive controls on certain classes of inbound investments, including foreign funds from private sector debt, 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, and investments in public sector securities purchased in the secondary market. Shortly after taking office in December 2015, the new government issued several regulations relaxing restrictions that were previously established in the foreign exchange market, including the elimination of the one-year mandatory unremunerated reserve requirement of 30 percent of investment inflows, elimination of the 20 percent tax on purchases of foreign currency for saving purposes, and elimination of the 35 percent tax on purchases made abroad using credit cards, debit cards, purchase cards, or through online websites. The government also announced that individuals and firms are allowed to purchase up to the equivalent of \$2 million of foreign currency per month for savings purposes without prior authorization from the federal tax agency, AFIP.

U.S. investors have reported that since 2012 the Argentine government has limited their ability to make payments in foreign currency to entities outside of Argentina. This situation was aggravated in 2015 by a shortage of U.S. currency in the Central Bank's international reserves. This restriction is often communicated informally by the Argentine government and may extend to profit remittances, royalty payments, technical assistance fees, and payments for expenses incurred outside of Argentina. The new government lifted capital controls for all current and future transactions on December 17, 2015. It established two methods – a calendar of payments or a sovereign bond – by which companies could obtain dollars to draw down their stocks of delayed import payments and profit repatriation accumulated due to the previous government's imposition of capital controls.

### **Localization Measures**

Argentina maintains certain localization measures aimed at encouraging domestic production. For example, the Argentine National Mining Agency (Agencia Nacional de Minería) requires mining companies registered in Argentina to use Argentine-flagged vessels to transport minerals and their industrial derivatives for export from Argentina. Argentina requires that mining companies registered in Argentina purchase domestic capital goods, spare parts, inputs and services. Argentina also requires that radio and TV (via airwaves and cable) advertisements have a minimum of 60 percent local content.

### **ELECTRONIC COMMERCE**

In January 2014, Argentina modified its retail mail order import licensing system through AFIP General Resolution 3579. Online purchases of foreign products valued up to \$3,000 and delivered through Argentina's official postal service are assessed a charge of 50 percent of the value of the goods. Goods in excess of \$3,000 may not be sent via the Argentine postal service. In addition, individuals may import by mail up to \$25 in duty free goods per year in up to two mail order transactions. Transactions above \$25 are subject to the import tax of 50 percent. The resolution also requires goods delivered by official mail to be retrieved in person at the post office or customs authority.

Argentina does not allow the use of electronically produced airway bills, which would accelerate customs processing and the growth of electronic commerce transactions.