

**Trade Policy Review Body**

**TRADE POLICY REVIEW**

**Report by the Secretariat**

**ARGENTINA**

This report, prepared for the Trade Policy Review of Argentina, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Argentina on its trade policies and practices.

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## SUMMARY OBSERVATIONS

### (1) INTRODUCTION

1. Argentina's economy has been growing at a fast pace since 2003, having overcome its major crisis in modern history. The recovery has come hand-in-hand with the adoption of a wide range of policy measures that have included the abandonment of a fixed exchange rate followed by a sharp currency depreciation, the renegotiation and reduction of the external debt, and government intervention in domestic price formation. Trade-related measures have also come into play, notably a major increase in the use of export taxes. Argentina's heterodox mix of measures has, arguably, underpinned its remarkable economic turnaround; however, the systemic implications for the global economic system of such a strategy and whether it will prevent another boom-bust cycle in Argentina remain open questions. A successful transition to a sustainable growth path calls for policy measures to avoid economic overheating and prevent market distortions from becoming entrenched. Attracting investment is important to address emerging supply constraints, and depends in part on enhancing investor confidence. Also vital is the international economic environment, which Argentina can help shape by continuing to play an active role in the Doha Development Agenda (DDA) whose success is expected to be of considerable benefit for Argentina.

### (2) ECONOMIC ENVIRONMENT

2. Since its last Trade Policy Review in 1999, Argentina has successfully emerged from one of the worst recessions in its history. The downturn, which evolved mainly over 1999-2002, saw Argentina's GDP contract by some 20 per cent. The recession was caused by a number of domestic and external factors, including the accumulation of public debt and a loss of external competitiveness. Compounding this, a financial crisis unravelled in 2001 leading to an external debt payment moratorium, and the abandonment of

the fixed exchange rate regime. This in turn triggered a sharp depreciation of the peso in early 2002.

3. As a reaction to the recession, Argentina applied a macroeconomic adjustment programme and measures to support the financial system. After suspending payments for over three years, Argentina managed to renegotiate about three-quarters of its public debt on very favourable terms, exchanging new for old obligations at a ratio of around 1:3. Argentina has repaid its entire debt to the IMF but a settlement is still to be reached with private creditors on some US\$20 billion of its debt. Fiscal accounts have been in surplus since 2003, in part as a result of measures identified as temporary by the authorities, such as the widened use of export taxes. Inflation has declined but, at over 11 per cent, controlling it remains the Government's main macroeconomic concern. Unemployment has fallen to some 11.4 per cent and the proportion of people living below the poverty line has dropped to 34 per cent from some 57 per cent in 2002.

4. Since 2003, the Argentinean economy has been growing at a fast pace, reaching annual growth rates in excess of 9 per cent over 2004-2006. The main impulse to growth has stemmed from strong domestic demand, particularly investment, as well as from a favourable international context, facilitating a rapid expansion of exports. Argentina has been posting high surpluses in its current account of the balance of payments since 2002. This has been mainly a result of lower external debt payments, growing exports and, initially, lower imports. There has been a shift in trade patterns during the period under review, with exports being redirected to countries outside the MERCOSUR. Argentina is an important exporter of agricultural goods and a growing exporter of manufactured products; as such, according to a recent study, Argentina would benefit considerably from a positive outcome of the DDA negotiations.

5. To achieve its economic goals, the Government has made use of a range of instruments including the use of price moderation agreements to prevent price increases, the freezing of prices for certain utilities and services previously granted in concession to the private sector, and the renegotiation of contracts with service concessionaires. Some such measures have been taken under the Economic Emergency Law of 2002. The Government has also reactivated part of a 1974 law that requires suppliers to furnish specified quantities to the domestic market.

6. Direct State participation in the economy waned in the 1990s, and is now confined to 17 enterprises in sectors such as energy, transport and financial services. Nevertheless, the degree of competition in some areas remains low. Argentina has legislation on competition policy, but institutional enforcement capacity remains limited. A new law and the establishment of a Competition Policy Tribunal have been under consideration in recent years. Strengthening the competition policy framework and the capacity to apply it are pressing tasks, and would boost public confidence on the capacity of the market to determine prices and allocate resources.

### **(3) TRADE AND INVESTMENT POLICY FRAMEWORK**

7. There have been no major changes to Argentina's basic legal framework since 1999, although reforms were introduced to the judiciary and in a number of activities under the Economic Emergency Law. The latter grants the Executive extraordinary powers, scheduled to expire at end 2006, to fix prices and intervene in the economy when deemed necessary. During the period under review, the President also made frequent use of his powers to issue, in exceptional circumstances and in agreement with ministers, decrees for reasons of necessity and urgency, which have the same hierarchy as laws adopted by the legislature.

8. Argentina considers regional and multilateral negotiations as tools to foster welfare and increase social equity. Argentina is an original Member of the WTO and an active participant in the multilateral trading system, including the DDA negotiations in relation to which it has submitted numerous proposals. The main area of interest for Argentina is agriculture, although it also gives high priority to the negotiations on services, market access for non-agricultural products, special and differential treatment for developing countries, and the reduction of barriers to the trade of environmental goods and services.

9. Argentina has made several notifications to the WTO but, as at October 2006, a few were behind schedule. Argentina has been an active user of the WTO's dispute settlement mechanism during the period under review, appearing in 9 cases as complainant, in 16 cases as respondent (nine concerning contingency measures) and in 15 cases as third party.

10. Argentina follows an independent foreign trade policy within its obligations as member of the Southern Common Market (MERCOSUR). As a part of MERCOSUR, Argentina has subscribed to preferential trade agreements with Bolivia, Chile Peru, and with members of the Andean Community. Individually, Argentina has also entered into several agreements with other Latin American Integration Association members, the most comprehensive of which, as regards product coverage, are those with the Andean Community and Mexico.

11. Argentina's foreign investment regime is open with some exceptions. Foreign participation is only restricted in fishing, domestic transport, the acquisition of real estate in security areas, and weapons and ammunition; in 2003, legislation was adopted restricting foreign participation in certain media communication activities. Foreign investment is not subject to prior authorization and receives national treatment. Foreign



investors have, in principle, the right to repatriate their investment and profits, and, like other investors, may benefit from a number of incentives granted at both the federal and provincial levels.

12. To encourage and provide security for investment, Argentina maintains bilateral investment treaties with 50 trading partners. During the period under review, Argentina has faced numerous demands in international arbitral tribunals, several concerning emergency measures adopted in the context of the economic crisis. As at January 2006, 43 cases were still being considered by the International Centre for Settlement of Investment Disputes. Also in the midst of the crisis, foreign exchange restrictions were temporarily imposed on the repatriation of capital and profits. Although foreign investment flows into Argentina have recovered since the crisis, enhancing investor confidence will be important to attract the investment necessary to sustain economic growth. Argentina could enhance such confidence by broadening and deepening its WTO commitments in the context of the current DDA negotiations.

#### **(4) MARKET ACCESS FOR GOODS**

13. Since its last Review, Argentina has taken steps to simplify customs procedures, including the elimination of the preshipment inspection requirement. The average MFN tariff has fallen by just over three percentage points, to 10.4 per cent. Average tariff protection for agricultural products (WTO definition), at 9.9 per cent, is slightly lower than for non-agricultural products (10.5 per cent). Tariffs take the form of ad valorem duties, except for some 8 per cent of lines which, since 2000, are subject to compound duties (ad valorem duties plus minimum specific import duties). The tariff shows signs of escalation. Argentina applies MERCOSUR's Common External Tariff with some exceptions.

14. Argentina has bound its whole tariff in the WTO, thus enhancing the predictability of

its trade regime. However, there is a large gap between applied tariff levels and bound tariffs, with the average for the latter being 30.7 per cent. Argentina bound "other duties and charges" at 3 per cent.

15. Apart from tariffs, Argentina applies two charges exclusively on imports: a statistical tax of 0.5 per cent on the majority of MFN imports, and levies that vary with world prices on sugar imports.

16. In general, imports are granted national treatment for the application of internal taxes. However, excise duties ("impuestos internos"), levied on products such as cigarettes, beverages and automobiles, are calculated by increasing the tax base for imports by 30 per cent. In addition, Argentina's Value Added Tax regime includes a system of advance payments, which was modified after a WTO Panel found in 2002 that, among other things, the regime resulted in a heavier fiscal burden for imports than for domestic products.

17. Argentina has made active use of antidumping measures, especially during the years preceding the peso's devaluation in 2002. Argentina initiated 111 antidumping investigations between January 1999 and December 2005, adopting 62 provisional measures and 88 definitive measures during the same period. As at December 2005, there were 35 product groups, all of them manufactures, subject to definitive antidumping duties. The use of countervailing measures and safeguards has been, on the other hand, relatively limited: Argentina adopted two safeguard measures between January 1999 and June 2004, concerning certain mopeds and motorcycles, and preserved peaches; as at June 2006, only one safeguard measure, on colour televisions, remained in place. Argentina adopted no new countervailing measures during the period under Review; as at December 2005, there were three countervailing measures in place (one of them since 1996 and two since 1998).

18. Argentina applies import prohibitions on various products (such as used vehicles, auto-parts and tyres). Since 1999, automatic import licences are required for all products. Additionally, a number of products are subject to non-automatic import licence requirements, or to pre-import authorization for sanitary or phytosanitary, safety and environmental protection reasons. Argentina notified to the WTO 96 sanitary and phytosanitary measures and 247 technical regulations during the period under Review.

**(5) OTHER MEASURES AFFECTING TRADE**

19. In 2002, following the devaluation of the Argentinean peso, the scope of export taxes levied in Argentina was enhanced and rates were increased. The declared objective of the taxes is to act as a buffer against the effect of exchange rate fluctuations on domestic prices and to boost fiscal revenue; they were introduced as temporary measures, but no end date to their application has been announced. Export taxes represented, on average, some 10 per cent of total fiscal revenue between 2002 and 2005. As of mid 2006, the rates applied were 5, 10, 15, 20 and 25 per cent, depending on the product, calculated on FOB values. Official FOB prices are fixed for several agricultural products subject to export taxes, to prevent under or over invoicing. Argentina has also made use of export suspensions or volume restrictions, as in the case of aluminium and copper scrap, bovine cattle, and some bovine meat cuts.

20. The use of export taxes and quantitative restrictions on exports in recent years has been instrumental in keeping the domestic prices of the products affected below world prices, discouraging the flow of Argentinean products into the world market. In general, primary products have been particularly affected, since they represent the largest share of Argentina's exports and are subject to the highest tax rates. Processors and other consumers, on the other hand, have benefited from the availability of inputs at prices below those that would prevail in the

absence of taxes and other export restrictions. Exports of manufactures have also been encouraged through a number of tax incentives schemes such as special customs zones and the free zones regime, with the latter permitting production only for export.

21. Argentina applies a number of horizontal investment incentives, complemented by a number of programmes targeted to specific activities. Horizontal incentive schemes taking the form of fiscal relief are mainly geared to reducing initial investment costs, encouraging R&D, and fostering regional development. Benefits on two of these schemes (concerning the importation of used machinery, and of goods for large investment projects) are contingent on the use of a certain percentage of domestic products. Argentina also offers a number of schemes to offer financing, in some cases, such as the programme to develop micro, small and medium-size enterprises, at preferential interest rates. Argentina has notified the WTO Subsidies and Countervailing Measures Committee that it offers subsidies through the free zones regime, through the regime for capital goods, informatics and telecommunications, and through support programmes for mining and forestry.

22. Argentina is not a party to the WTO's Plurilateral Agreement on Government Procurement, to which it has been, however, an observer since 1997. In 2001 Argentina reintroduced the use of preferences for domestic suppliers in public procurement in order to encourage domestic production. Preferential margins are between 5 and 7 per cent.

23. The TRIPS Agreement came into effect for Argentina on 1 January 2000. Argentina's legislation was examined by the TRIPS Council in November 2001. Argentina notified to the DSB that agreed solutions had been found to the claims against it concerning its protection of pharmaceutical products, and undisclosed information.

**(6) *SECTORAL POLICIES***

24. Argentina has a strong revealed comparative advantage in agriculture, especially in cereals and livestock. Exports of agricultural products (WTO definition) represented about 46 per cent of Argentinean exports in 2005. Agriculture receives less support than other sectors, and practically all the aid notified has been classified under the Green Box. Minimum producer prices are only set for tobacco.

25. The share of GDP of the manufacturing sector increased substantially during the period under Review, reflecting enhanced competitiveness following the devaluation of the peso in 2002, and strong domestic demand. Special support schemes are applied for the automotive industry, including an incentive regime for auto-parts that makes the benefits conditional on the use of local components. The bilateral automotive agreement with Brazil contains a provision that includes trade-balancing requirements.

26. Argentina is the fourth largest crude petroleum producer in Latin America, and possesses the third largest natural gas reserves. Exports of hydrocarbons are subject to a surcharge (additional to export duties of 25 per cent), which, depending on the international price of crude, can reach 20 per cent. Natural gas prices were capped in 2002 which, together with increased demand, have helped to trigger supply shortages and led the Government to adopt measures such as export restrictions. Also to contend with shortages, since 2006 the Government establishes the volumes that refineries, wholesalers and retailers of diesel oil must supply to the market.

27. The electricity sector experienced important reforms during the 1990s, which encouraged investment and contributed to maintain prices low. However, in the context of the economic crisis, electricity tariffs were frozen and contracts declared under renegotiation, contributing to companies posting losses and investment reductions.

*With the pickup of economic growth, supply has not kept pace with growing electricity demand.*

28. In services, Argentina undertook specific commitments in 6 of the 12 sectors specified in the GATS. Argentina participated in the extended negotiation on telecommunications and ratified the Fourth Protocol; it also participated in the extended negotiation on financial services but did not present an offer, in part because, with the exception of insurance, its GATS commitments in financial services were already broad. In the framework of the DDA, Argentina presented an initial offer in services in April 2003.

29. Argentina undertook new commitments as a result of its ratification of the Fourth Protocol. Reflecting these, since November 2000 all telecommunications services have been provided under a regime of full competition. Nevertheless, in practice fixed telephony continues to be dominated by the two "historical operators", for which tariffs were frozen and their contracts declared under renegotiation in 2002. As at mid 2006, certain tariff adjustments had been allowed, but the ratification of new contracts was still pending.

30. The financial sector underwent a major crisis in 2001-02, which prompted the authorities to adopt measures such as more flexible regulatory principles, restrictions on the withdrawal of banks deposits, and the conversion to pesos of bank deposits and assets at asymmetric exchange rates. Insurance companies as a whole have been posting losses over most of the last 10 years. There are no restrictions to the entry of new financial entities, and national treatment is granted to foreign capital, except that foreign insurance companies are granted national treatment based on the principle of reciprocity. Moreover, to operate in the insurance market, a prior authorization is required which may depend on national convenience. Risks occurring in Argentina must be insured through a company

*established in the country. Insurance premiums are subject to a tax whose rate is higher for policies issued by firms established abroad. Current bank transactions are subject to a special tax.*

*31. Domestic air transport services (cabotage) are reserved to firms established in Argentina although waivers may be granted. Similar restriction apply in maritime transport. Airports are state-owned but the administration of several has been granted on concession to private operators. Most ports are under private administration, but six of the main ones, including the port of Buenos Aires, remain under state administration. The fees charged by ports under state administration*

*differentiate between domestic and international trade, being lower for cabotage operations.*

*32. Professional titles obtained abroad must be revalidated by a national university in Argentina to get the right to practice a profession. Most professions are self-regulated but the State regulates a number of professions, generally those where there are health or safety considerations, such as medicine and engineering. Argentina has made specific commitments regarding a number of professional services in the GATS, including legal, accounting, engineering and architectural services.*