III. TRADE POLICIES BY MEASURE

(1) OVERVIEW

1. Since its previous review in 1999, Argentina has adopted a number of measures to streamline customs procedures, such as eliminating preshipment inspection and lowering the simple average most-favoured-nation (MFN) tariff by just over three percentage points to 10.4 per cent. Agricultural products (WTO definition) receive slightly lower average tariff protection (9.9 per cent) than non-agricultural products (10.5 per cent). All tariff lines are subject to *ad valorem* duties except the 8 per cent of lines that since 2000 have been subject to compound rates (*ad valorem* plus minimum specific import duties). The tariff structure shows signs of escalation. Argentina applies the MERCOSUR Common External Tariff, with some exceptions.

2. Argentina has bound all its tariffs, thereby making its trade regime more predictable. Nonetheless, there is still a wide gap between applied and bound tariffs (the latter averaging 30.7 per cent). Argentina bound its other duties and charges at a level of 3 per cent.

3. In addition to tariffs, Argentina levies two other charges exclusively on imports: a statistical tax of 0.5 per cent on the vast majority of MFN imports, and levies on sugar imports that vary with the world price.

4. In general, imports receive national treatment as far as the application of domestic taxes is concerned. Nonetheless, excise duties on products such as cigarettes, beverages and automobiles are calculated by increasing the taxable base by 30 per cent in the case of imports. In 2002 a WTO Panel found, among other things, that the system of advance VAT payments and anticipated profits tax imposed a heavier fiscal burden on imports than on domestic products. Argentina has since taken steps to rectify this situation.

5. Argentina has made wide use of anti-dumping measures, particularly during the years leading up to the devaluation in 2002. Between January 1999 and December 2005, Argentina initiated 111 anti-dumping cases, and adopted 62 provisional and 88 final measures. As at December 2005, there were 35 product groups (all of them manufactured goods) subject to final anti-dumping duties. In contrast, the use of countervailing duties and safeguard measures has been relatively limited: between January 1999 and June 2004, Argentina adopted two safeguard measures with respect to mopeds and motorcycles and preserved peaches. The only safeguard measure in force as of June 2006 related to colour television sets.

6. Argentina prohibits imports in several product categories (such as vehicles, autoparts and used tyres). Since 1999, an automatic pre-importation licence has been required for all products. Furthermore, some products require a non-automatic import licence or prior authorization for sanitary or phytosanitary, safety, or environmental protection reasons. Argentina has notified the WTO of 96 sanitary and phytosanitary measures and 247 technical regulations during the period under review.

7. Following devaluation of the peso in 2002, the rates and scope of export duties were both increased. The stated objective of these duties is to attenuate the effects of exchange-rate fluctuations on domestic prices and counter the erosion of tax revenues. Although the higher export duties were introduced as temporary measures, no date has been set for ending them. Export duties accounted for nearly 10 per cent of total tax revenue on average between 2002 and 2005. In mid-2006, the applicable rates were 5, 10, 15, 20 and 45 per cent of the f.o.b. value. For various dutiable agricultural exports, official f.o.b. prices are established to discourage under- or over-invoicing. Suspensions or other restrictions on exports have also been used, as in the case of copper and aluminium tailings, bovine livestock on the hoof and selected cuts of bovine meat.

8. The export duties and quantitative restrictions adopted in recent years have helped keep the Argentine market prices of the products in question below their world levels, thereby discouraging exports by reducing the profits that Argentine producers earn on foreign sales. In general, primary products have been most affected, since these constitute the majority of Argentine exports and bear the highest rates of duty, while manufacturing and other consumer goods activities have benefited from inputs at lower prices than would prevail in the absence of such measures. On the other hand, Argentina promotes foreign sales of its manufactured products through various fiscal incentives and tax refunds on exports, as well as through special customs areas and the free zone regime.

9. Argentina has a number of horizontal investment incentive schemes in place that complement government assistance to specific activities. Such schemes generally aim to reduce the initial cost of an investment, promote research and development (R&D) and foster regional development. The benefits granted under two of these schemes (import regimes for used production lines and for goods to be used in large-scale investment projects) are subject to the purchase of domestic products. A number of credit lines, such as those used by certain programmes to stimulate microenterprises and small and medium-sized businesses (SMEs), are offered at preferential interest rates. Argentina has notified the WTO Committee on Subsidies and Countervailing Measures of two schemes providing horizontal incentives (the free zones regime, and the capital goods and information technology and telecommunications goods regime), as well as subsidies for mining and forestry activity and other programmes that provide subsidies.

10. Following an intensive privatization process in the 1990s, direct State participation in the economy is now confined to 17 enterprises in sectors such as energy, transport and finance. Argentina has notified the WTO that it does not have any State trading enterprise (as defined in Article XVII of the GATT 1994). Argentina has legislation on competition policy, but its institutional capacity to implement it has been hindered by budget constraints, a lack of independence for the antitrust authority and the fact that the country does not have a strong competition culture. A new competition law and the establishment of a National Tribunal for the Protection of Competition have been under consideration for several years. Strengthening of the legal and institutional framework of competition policy is an urgent task that would increase public trust in the market's capacity to set prices and allocate resources. Between January 2002 and December 2006, the Government has had the power to set prices in any area of the economy and to renegotiate the contracts of privatized enterprises. As at mid-2006, this had resulted in the renegotiation of 64 contracts and the signing of a number of pricing agreements with producers in a variety of areas.

11. Although Argentina is not party to the WTO Plurilateral Agreement on Government Procurement, it has had observer status since April 1997. In 2001, the system of domestic margins of preference (between 5 and 7 per cent) was reintroduced with the aim of promoting domestic production.

12. The Agreement on Trade-Related Aspects of Intellectual Property (the TRIPS Agreement) entered into force for Argentina in January 2000, and the country's intellectual property legislation was reviewed by the TRIPS Council in November 2001.

(2) MEASURES DIRECTLY AFFECTING IMPORTS

(i) Procedures, documentation and registration

13. The Federal Revenue Administration (AFIP), a self-governing entity of the Ministry of the Economy and Production (MEP), is responsible for implementing tax and customs policy.[1] The AFIP

[1] Decrees Nos. 1156/96 of 14 October 1996 and 618/97 of 10 July 1997.

was created in 1998 from a merger between the former National Customs Administration (ANA) and the Directorate-General of Taxation (DGI), and it now includes the Directorate-General of Customs (DGA) and the DGI. This merger led to a simplification of customs procedures, in addition to measures aimed at reducing administrative and payroll costs, and better exploitation of available tax data. In 2005, the organic structure of the AFIP was modified, particularly as regards the DGA, and a Subdirectorate-General of Customs Control was created to modernize customs control.

14. Import procedures are established in the Customs Code (approved by Law No. 22.415 of 2 March 1981, modified by Law No. 25.986 of 16 December 2004, and earlier amendments) and its Regulatory Decree No. 1001 of 21 May 1982 (as amended). Specific import procedures are applicable under special regimes (Section VI of the Customs Code).[2] The same customs procedures apply to imports from all sources including MERCOSUR; and the authorities stated that the procedure most frequently used in practice is direct customs clearance (Articles 278-284 of the Customs Code).

15. Importers and exporters must be listed in the relevant register at the DGA.[3] The general criteria for registration include evidence of registration and tax domicile with the DGI (via the tax identification number (CUIT)), together with proof of the necessary solvency or payment of a guarantee to the DGA.[4] Importers and exporters must also establish a special address in the country (an address for customs in the area near the port that they use).

16. For certain imports, the product and/or importer need to be registered in a specific register. For example, in the case of food imports for retail sale, both the importer and the product have to register with the National Register of Food Products (RNPA). Imports of reagents and materials for medical use also require registration of importers and products.[5] Importation of any apparatus or device for calculating or determining values of any kind must be approved and submitted for inspection by the National Legal Metrology Office, which also registers the importer.[6] Certain products or their importers also require registration for sanitary and phytosanitary purposes (see Section (2)(ix)).

17. An information form was introduced in 1999 and is applicable to numerous products (see Section (2)(vi)).[7] In the case of imports arriving through customs offices connected to the MARÍA (SIM) computer system, the information form must be registered with AFIP. If the customs office does not have a SIM connection, the information form must be approved by the Undersecretariat for Foreign Trade of the Secretariat of Industry, Trade and Mining. After registration with AFIP, the form becomes the automatic pre-importation licence (LAPI), which must be presented to customs before customs clearance. The LAPI is valid for 60 days.[8]

18. Other compulsory customs documents include a customs declaration accompanied by a commercial invoice, a bill of lading, a packing list and a declaration of customs value (where appropriate). Requirements for items subject to health, security, environmental or other controls

[2] Such as regimes for luggage; parcels carried free of freight charges (*pacotilla*); diplomatic allowances; postal shipments; samples; containers; re-importation of merchandise exported for consumption; border traffic; and shipments of assistance and emergency aid.

[3] Article 92 of Law No. 22.415 (Customs Code) of 2 March 1981, as amended.

[4] Customs Code, Decrees Nos. 2690/2002 of 27 December 2002 and 971/2003 of 25 April 2003.

[5] Decree No. 2505/85; Resolutions Nos. 551/86, 139/89, 607/93, 2015/93, 255/94 (Annex V), 460/95, 1380/95, and 446/96.

[6] Law No. 19.511, Decree No. 1157/72, and Resolutions Nos. 198/84 and 140/86.

[7] Resolution No. 17/99 of 20 January 1999.

[8] Resolutions Nos. 17/99 of 20 January 1999 and 820/99 of 30 June 1999.

include import licences and prior authorizations (see Section (2)(vi)), sanitary or phytosanitary certificates (see Section (2)(ix)), or certificates of conformity with technical regulations (see Section (2)(viii)). A certificate of origin may be required for imports subject to non-preferential tariff treatment or the application of trade remedies, or for statistical purposes (see Section (2)(iii)).

19. The customs service assigns channels both at random and on the basis of risk analysis (selectivity); in the latter case the channel allocation depends on the type of merchandise, the operators, origin, and import regimes. Imports must pass through one of the three selection channels: red (physical and document inspection), orange (document inspection) or green (no inspection). Use of the red channel is mandatory for goods subject to specific controls, such as pharmaceuticals and firearms; the orange or red channel is mandatory for goods subject to specific documentation requirements (see section (2)(vi)). In all three cases (green, orange or red channel), customs are authorized under the Customs Code to inspect the imported goods physically at the importer's warehouse, after customs clearance.

20. Between 1999 and 2005, a purple channel was used requiring a cash deposit or bank guarantee. In 2005, this was replaced by the red value channel under Resolution No. 1907/05, with or without a guarantee, and documentary value control. Related reference values were established by General Resolution No. 1661 (see Section (2)(ii)). Goods subject to value control are selected through risk analysis and are entered into the value monitoring module, which is administered centrally by the Subdirectorate-General of Customs Control.

21. As at July 2006, the proportions of imports passing through the various channels were: red channel 25.6 per cent; orange channel 29.6 per cent, and green channel, 44.8 per cent. According to the authorities, 84 per cent of goods subject to red channel verification were released within 48 hours in 2005.[9]

22. For operators considered highly trustworthy, an on-site customs regime (*aduanas domiciliarias*) has been in force since 1999, whereby customs clearance can be done at the enterprise's address.[10] Under this regime, goods are transported directly to the firm's premises, where the import documentation is verified and the goods may be inspected physically. As at October 2006, 11 firms were benefiting from this regime for their industrial plants.[11]

23. The Customs Code establishes appeal procedures for customs decisions concerning duty payments, prohibitions and tax incentives for exports, among other issues.[12] Valuation, tariff classification and other procedures prior to the payment of customs duties can only be contested in the context of a case involving duty payment. As a first step, the case has to be referred to the Director-General of Customs in whose jurisdiction the decision was reached, and also to the head of the DGA office responsible for reviewing the customs documents if additional duty payments are involved.[13] If the contested decision was taken by the DGA, then the Director-General of Customs will hear the case. Customs decisions can be appealed to the Tax Tribunal, but only where the amounts contested

[9] AFIP (2006b).

[10] Resolution No. 596/1999 of 17 May 1999, supplemented by Resolutions Nos. 671/99 of 30 August 1999, 40/99 of 24 November 1999, 21/2000 of 21 June 2000, and 14/2003 of 27 May 2003.

[11] ARCOR S.A.I.C. (food and food containers); Volkswagen Arg S.A. (automotive); General Motors Arg S.A. (automotive); SIDERCA S.A. (steel); MIGROR S.A.C.I.F. (autoparts supplier); Philips Argentina S.A.; Fiat Auto Argentina S.A. (automotive); Hewlett Packard Argentina S.R.L. (computer hardware); Kimberly Clark Arg S.A. KCK Tissue (paper); SADESA S.A. (leather products); and Siemens S.A. (electronics).

[12] Section XIV of Law No. 22.415 (Customs Code).

[13] Article 1018 of Law No. 22.415 (Customs Code).

are more than Arg$2,500 (about US$862.1). Rulings by the Tax Tribunal can then be appealed to Federal Chambers.

(ii) Customs valuation

24. Argentina was a signatory to the Tokyo Round Agreement on Customs Valuation and started to implement it in 1988. In 1996, Argentina informed the WTO[14] that the legislation notified under the Tokyo Round Customs Valuation Agreement had been modified by various resolutions.[15] Argentina never filed a reservation on the setting of minimum prices, but did enter a reservation concerning the reversal of the sequential order of the deductive method and computed value method (Article 3 of Annex III) and application of the deductive method (Article 4 of Annex III).[16] For other valuation methods, the sequence as stated in the WTO Agreement is used. Argentina has responded to the GATT checklist of customs valuation issues.[17]

25. The Argentine authorities have indicated that in 2005 the transaction value was used for customs valuation purposes in roughly 95 per cent of total imports.

26. The range of value system introduced in 1996[18] to monitor practices of under- or over-invoicing, was abolished in 2000 by Resolution No. 857/2000. Under this system, goods for which the declared value fell outside the price range had to be cleared through the red channel. When the value was below the price range floor, customs clearance required a 120-day guarantee equivalent to the difference between the duties and charges based on the declared value and those that would be collected on the average of the floor and ceiling prices.[19]

27. When preshipment inspection was discontinued in 2001 (see below), Resolution No. 1004/01 of 10 May 2001 gave the AFIP powers to use reference values for customs valuation purposes as a means to combat under-invoicing. These reference values were introduced in 2001 in respect of imports for consumption of specified products from certain countries or country groups.[20] In 2005, that resolution was superseded by Resolution No. 1907 which, among other things, replaced the concept of "reference values" with "criterion values", which the authorities state are defined with private-sector participation. The new resolution also authorized the AFIP (through the DGA) to establish criterion values. Imports with a declared value lower than the criterion value require payment of a guarantee equivalent to the difference in duties to be paid on the declared value and the criterion value as established by the DGA.[21] Criterion values can be consulted on the Internet[22] and in the specialist foreign trade journals familiar to users of the customs service.

28. The lists of products and country groups subject to reference or criterion values have been altered several times during the period under review. In mid-2004, reference values were applicable to 789 products from 15 country groups.[23] In June 2006, there were 24 products[24] subject to criterion

[14] WTO document G/VAL/N/1/ARG/1 of 6 November 1996.
[15] Resolutions Nos. 2778/87, 2779/90, 468/91 and 1649/92, together with Article 2 and Annex I of Resolution No. 1166/92, cited in WTO document G/VAL/N/1/ARG/1 of 6 November 1996.
[16] WTO document G/VAL/2/Rev.22 of 10 April 2006.
[17] GATT document VAL/2/Rev.2/Add.4 of 9 November 1987.
[18] Resolution No. 23432 of 16 July 1996.
[19] WTO document G/C/M/20 of 10 July 1997.
[20] Resolution No. 1008 of 11 May 2001.
[21] Resolution No. 1907/05 of 5 July 2005.
[22] See http://www.infoleg.gov.ar/.
[23] Resolution No. 1707 of 21 July 2004, repealed by Resolution No. 1716 of 2 August 2004.
[24] Relating to product groups such as rubber tubes for tyres of the type used in bicycles; kit holders, cut corduroy; gas lighters; and lighters used in kitchens.

values originating from four different country groups[25] (with certain countries belonging to more than one group).[26] Of the 24 products, 21 involved Asian countries only (Group 4).

29. Customs valuation is based on the official exchange rates notified by the Central Bank of the Argentine Republic (BCRA).

30. Between 1997 and 2001, Argentina used preshipment inspection (PSI)[27] on a range of goods specified by the Government[28] that had an f.o.b. value of US$3,000 or more. Inspection costs were covered by the authorities.[29]

(iii) Rules of origin

31. Argentina has notified the WTO of its rules of origin, both non-preferential and preferential[30], the most recent notification in both cases dating back to 1997.[31]

32. Under Resolution No. 763/96, certificates of origin may be required for merchandise imports subject to non-preferential trade policy instruments. Non-preferential rules of origin are governed by Resolutions Nos. 763/96 and 381/96 and are applicable in the case of trade remedies and import quotas, as well as for statistical purposes. According to these resolutions, the only imports requiring certificates of origin for statistical purposes are imports for consumption of fabrics, garments, made-ups and footwear, as well as products for which an investigation has been initiated (but not concluded) in relation to corrective action, irrespective of the goods' provenance.[32]

33. Under non-preferential rules of origin, a product is deemed to originate in a given country if it has been produced entirely in that country; or, if many countries have been involved in the production process, the country where the product underwent its last substantial transformation (as defined in the

[25] As at May 2006 four country groups were subject to reference prices for certain products: Group 1 (Brazil, Colombia, Chile, Ecuador, Paraguay, Uruguay); Group 3 (Canada, United States, Mexico); Group 4 (Democratic People's Republic of Korea, Republic of Korea, China, United Arab Emirates, Philippines, Hong Kong, India, Indonesia, Israel, Malaysia, Pakistan, Chinese Taipei, Thailand, Singapore, Viet Nam); and Group 12 (Democratic People's Republic of Korea, Republic of Korea, United Arab Emirates, Philippines, Hong Kong, India, Indonesia, Israel, Malaysia, Pakistan, Thailand, Singapore, Viet Nam).

[26] DGA, External Note No. 16/2006 of 27 April 2006.

[27] PSI was established by Decree No. 477 of 22 May 1997 and eliminated by Resolution No. 650/2001 of 2 November 2001.

[28] Inspections covered goods from the following product groups, as defined by Resolution No. 217/99 of 23 February 1999: bicycles tyres; woven fabrics, textile articles, and knitted or crocheted fabrics; iron and steel and products thereof; tools; machinery; automatic data processing machines and their parts and accessories; fixed line telephone sets with cordless handsets; electrical apparatus for line telephony or line telegraphy; electrical capacitors and apparatus; integrated circuits; parts and accessories of motor and other vehicles; medical instruments and appliances; automatic regulating or controlling instruments and apparatus; and zip fasteners.

[29] Decree No. 477/97 of 22 May 1997.

[30] WTO documents G/RO/N/2 of 22 June 1995, G/RO/N/10 of 16 August 1996, G/RO/N/12 of 1 October 1996, and G/RO/N/16 of 5 March 1997.

[31] The non-preferential rules of origin notified are as follows: Law No. 22.415/82 (Customs Code) of 2 March 1981, and MEOSP Resolutions Nos. 763/96 of 7 June 1996 and 381/96 of 1 November 1996. The preferential rules of origin notified are: MEOSP Resolutions Nos. 763/96 of 7 June 1996 and 381/96 of 2 November 1996; LAIA General Regime of Origin (Resolution No. 78 and Agreement No. 91 of the Committee of Representatives); and the origin regimes of partial scope agreements and the MERCOSUR Origin Regime (i.e. MERCOSUR Decisions Nos. 6/94 and 23/94).

[32] Resolution No. 39/96 of 8 January 1996 of the Ministry of the Economy and Public Works and Services (MEOSP).

general legislation on rules of origin). The certificate of origin should be issued in the country of origin by the competent government authority, or else by the entity to which this function is delegated.[33] Certificates of origin should be countersigned by the Argentine consulate in the country of origin and are valid for six months.[34]

34. In 1999 a certificate of origin requirement was introduced for all imports from non-WTO Members[35] but was abolished in 2002.[36]

35. Entities authorized to issue preferential certificates of origin in Argentina, in the framework of the Latin American Integration Association (LAIA), are listed on the Internet site of the Undersecretariat for Trade Policy and Management.[37] Non-preferential certificates of origin are not regulated.

36. Imports benefiting from preferences granted by LAIA, MERCOSUR or countries with which Argentina has concluded Economic Complementarity Agreements (ECAs) are subject to the preferential rules of origin defined in these agreements.[38]

37. The LAIA general rules of origin[39] grant originating status to products on the basis of specific criteria: if they have been processed in the territory of one of the signatories using exclusively materials from other signatory countries; or, where materials from non-participating countries have been used, there has been a change in the tariff heading; or, where this criterion cannot be met, the c.i.f. value of inputs of materials from third countries does not exceed 50 per cent of the f.o.b. value of the final product. Where goods are assembled, the c.i.f. value of the inputs from third countries may not exceed 50 per cent of the f.o.b. value of the final product, except in the case of less developed countries[40] for which the limit is 60 per cent. These rules apply to arrangements such as the bilateral agreements between Argentina and Mexico (ECA No. 6), Argentina and Cuba (ECA No. 45), and other agreements providing for regional tariff preferences (RTPs).

38. For intra-MERCOSUR preferential trade, rules of origin may be either general or specific.[41] Under the general rules, products must have been wholly obtained or manufactured within MERCOSUR; or, where materials from third countries are used in the production process, a change in the tariff heading must take place; or the f.o.b. value of the final product must not contain more than 40 per cent of inputs from third countries (c.i.f. value). The latter stipulation also applies to goods that are assembled or made up. Nonetheless, conclusion of the Agreement between MERCOSUR and Colombia, Ecuador and Venezuela (ECA No. 59) resulted in the minimum regional value-added content being reduced to 50 per cent for the first seven years of implementation of that agreement, and to 55 per cent as of the eighth year following its entry into force, with the aim of reaching 60 per cent of regional value-added by a later date which has yet to be fixed.[42] Special rules apply to chemicals, agrochemicals, steel, capital goods, telecommunications and computer equipment, dairy products, paper, textiles and footwear.

[33] MEOSP Resolution No. 763/96 of 7 June 1996.
[34] MEOSP Resolution No. 763/96 of 7 June 1996.
[35] Resolution No. 305/99 of 11 May 1999 of the Secretariat of Industry, Trade and Mining.
[36] Resolution No. 166/2002 of 7 October 2002 of the Secretariat of Industry, Trade and Mining.
[37] Ministry of the Economy and Production (2006a).
[38] MEOSP Resolution No. 763/96 of 7 June 1996.
[39] LAIA Resolutions Nos. 78 of 24 November 1987 and 252 of 4 August 1999.
[40] These countries are Bolivia, Ecuador and Paraguay.
[41] MERCOSUR Decisions Nos. 6/94, 23/94, 16/97, 3/00 and 01/04, Directive No. 4/00 and Resolution No. 27/01.
[42] Brazil and Argentina continue to apply a regional value-added of 60 per cent in their reciprocal trade.

39. In addition to MERCOSUR, other agreements signed by Argentina (either individually or as part of MERCOSUR) within the LAIA framework have their own rules of origin. Apart from the bilateral agreement between Argentina and Mexico (ECA No. 6), these are the MERCOSUR Agreements with Chile (ECA No. 35); Bolivia (ECA No. 36); Mexico (ECA No. 55, for the automotive industry only); Peru (ECA No. 58); and with Colombia, Ecuador and Venezuela (ECA No. 59) (see Chapter II(4) for further details on these agreements). The Argentina-Mexico Agreement contains specific rules of origin; in the case of the automotive sector (chapter 87 of the Harmonized System (HS)), the rules defined in ECA No. 55 apply. All MERCOSUR Agreements contain special rules of origin for certain products, generally based on a change in tariff classification. Where this method cannot be used, originating status granted if the c.i.f. value of the materials originating in third countries is no more than 40 - 60 per cent of the f.o.b. value of the final product (the exact percentage depending on the agreement and product).[43]

(iv) Tariffs

(a) Tariff structure

40. Argentina grants at least MFN treatment to all its trading partners.

41. In 2005, total import duties collected amounted to Arg$3,780 million (US$1,303.4 million) representing 2.86 percent of the country's total tax revenue.[44]

42. Argentina's 2006 tariff schedule contains 9,784 lines (at the 8-digit level), with rates ranging from 0 to 35 per cent. Ninety-two per cent of all tariff lines are subject to *ad valorem* duties, and the remaining 8 per cent to compound rates consisting of *ad valorem* duties plus specific levies known as "minimum specific import duties" or DIEMs (see Section (2)(v)). Tariffs are calculated on the c.i.f. value of the imported goods. Argentina does not levy seasonal, temporary or variable import duties.

43. Minimum specific duties were introduced in 2000. The 2006 tariff schedule submitted to the WTO contains 777 tariff lines subject to these duties, including products such as textiles, clothing and certain other textile products, footwear, and headgear, certain types of toys, and four items relating to information technology and telecommunications products. These minimum duties are levied on imports from all destinations apart from MERCOSUR; although they are specific duties, they may not exceed the bound tariffs for imports from WTO Members. DIEMs are activated only when the duty that results from their application is greater than that resulting from the *ad valorem* tariff. Although DIEMs on footwear were initially scheduled to expire on 30 June 2001, they have been successively extended; as at May 2006, they were scheduled to end on 31 December 2007.[45] The number of tariff lines involving footwear[46], textiles, textile clothing and apparel subject to DIEMs has been reduced with the passage of time.[47]

[43] Brief descriptions of the rules of origin applied in the MERCOSUR Agreements with Chile (ECA No. 35), Bolivia (ECA No. 36), Mexico (ECA No. 55), Peru (ECA No. 58), and with Colombia, Ecuador and Venezuela (ECA No. 59) can be found in WTO (2006), Chapter III(2)(iii).

[44] AFIP (2005).

[45] Resolutions Nos. 123/2000 of 23 February 2000 and 572/2000 of 21 July 2000.

[46] As at June 2006, DIEMs were levied on sports shoes (tariff lines 6402.12.00 6402.19.00; 6402.91.00; 6402.99.00; 6403.12.00; 6403.19.00; 6403.91.00; 6403.99.00 and 6404.11.00).

[47] Resolutions Nos. 245/2001 of 27 June 2001, 617/2001 of 30 October 2001, 580/2003 of 12 December 2003, 495/2004 of 22 July 2004, and 26/2005 of 18 January 2005; and Decree No. 690/2002 of 2 May 2002.

44. In 2006 the simple average MFN tariff was 10.4 per cent, having fallen from its 13.8 per cent level in 1998 mainly as a result of the elimination of temporary tariff increases (see below). In 2006, the average applied MFN tariff was 9.9 per cent for agricultural products (WTO definition) and 10.5 per cent for non-agricultural products (see Table III.1). The 2006 tariff is distributed over 66 tiers. Argentina's tariff structure shows relatively low dispersion, as indicated by a coefficient of variation of 0.9.

Table III.1
Summary of MFN tariff, 2006

Description	MFN (including DIEM)				Average bound tariff[a] (%)
	Number of lines	Average (%)	Range (%)	Coefficient of variation (CV)	
Total	**9,784**	**10.4**	**0 - 35**	**0.9**	**30.7**
HS 01-24	1,045	10.1	0 - 20	0.5	32.7
HS 25-97	8,739	10.5	0 - 35	0.9	30.5
By WTO category					
Agricultural products	961	9.9	0 - 20	0.5	32.1
- Animals and animal products	112	8.2	0 - 16	0.5	26.6
- Dairy products	34	15.1	12 - 16	0.1	35.0
- Coffee and tea, cocoa, sugar, etc.	171	13.8	0 - 20	0.3	32.4
- Cut flowers and plants	54	5.5	0 - 14	0.7	32.7
- Fruit, vegetables and garden produce	195	9.9	0 - 14	0.4	34.3
- Cereals	35	6.2	0 - 12	0.8	32.4
- Oilseeds, fats and oils and their products	111	7.9	0 - 12	0.4	34.3
- Alcoholic beverages and liquids	42	17.4	6 - 20	0.2	35.0
- Tobacco	18	15.3	10 - 20	0.2	35.0
- Other agricultural products n.e.s.	189	7.2	0 - 14	0.6	30.0
Non-agricultural products (including petroleum)	8,823	10.5	0 - 35	0.9	30.5
- Non-agricultural products (excluding petroleum)	8,797	10.5	0 - 35	0.9	30.5
- Fish and fish products	200	9.8	0 - 16	0.3	33.2
- Minerals, precious stones and metals	454	7.4	0 - 20	0.8	32.9
- Metals	769	11.0	0 - 18	0.5	34.0
- Chemicals and photographic products	3,110	7.0	0 - 35	0.8	23.9
- Leather, rubber, footwear, and travel articles	240	13.9	0 - 35	0.6	35.0
- Wood, wood pulp, paper and furniture	364	10.8	0 - 18	0.5	33.7
- Textiles and clothing	1,001	25.5	0 - 35	0.4	34.9
- Transport equipment	199	14.6	0 - 35	1.0	34.7
- Non-electrical machinery	1,144	5.6	0 - 20	1.3	34.9
- Electrical machinery	593	10.8	0 - 20	0.7	34.9
- Non-agricultural products n.e.s.	723	11.7	0 - 20	0.7	32.6
- Petroleum	26	0.7	0 - 6	2.4	34.9
By ISIC sector[b]					
Agriculture and fishing	422	7.1	0 - 16	0.6	30.8
Mining	139	3.3	0 - 10	0.6	34.9
Manufacturing	9,222	10.7	0 - 35	0.8	30.6
By HS chapter					
01 Live animals and animal products	342	9.0	0 - 16	0.4	30.4
02 Plant products	363	7.7	0 - 14	0.5	33.7
03 Fats and oils	71	9.6	4 - 12	0.2	33.8

Table III.1 (cont'd)

Description	MFN (including DIEM)				Average bound tariff[a] (%)
	Number of lines	Average (%)	Range (%)	Coefficient of variation (CV)	
04 Food preparations, etc.	269	14.8	2 - 20	0.3	33.2
05 Mineral products	214	2.5	0 - 6	0.7	34.9
06 Products of the chemical and related industries	2,951	6.6	0 - 35	0.8	23.9
07 Plastics and rubber	407	11.6	0 - 18	0.5	25.4
08 Hides and skins	121	11.1	2 - 20	0.5	34.9
09 Wood and articles of wood	107	7.8	0 - 14	0.5	31.1
10 Wood pulp, paper, etc.	230	11.5	0 - 16	0.4	34.9
11 Textiles and textiles articles	976	25.5	0 - 35	0.4	35.0
12 Footwear, hats and other headgear	62	23.4	16 - 35	0.3	35.0
13 Articles of stone	210	10.6	0 - 20	0.4	34.9
14 Precious stones, etc.	64	9.6	0 - 18	0.6	35.0
15 Base metals and articles of base metal	739	11.6	0 - 20	0.4	34.0
16 Machinery and mechanical appliances	1,774	7.6	0 - 20	1.0	34.9
17 Transport material	212	14.2	0 - 35	1.0	34.7
18 Precision instruments	480	9.3	0 - 20	0.9	31.6
19 Arms and ammunition	21	20.0	20 - 20	0.0	35.0
20 Miscellaneous manufactured articles	164	17.5	0 - 20	0.3	35.0
21 Works of art, etc.	7	4.0	4 - 4	0.0	35.0
By stage of processing					
First stage of processing	905	6.6	0 - 35	0.7	32.7
Semi-processed products	3,720	9.5	0 - 35	0.8	26.4
Fully processed products	5,159	11.8	0 - 35	0.8	33.4

a As the bound rates correspond to the HS96 classification and the applied rates to HS02, there may be a difference in the number of lines included in the analysis.

b ISIC (Rev.2), excluding electricity (1 line).

Source: WTO Secretariat estimates based on data provided by the Argentine authorities.

45. Out of all tariff lines, 14.6 per cent are duty free (Table III.2), and the average rate for all dutiable lines is 12.2 per cent. More than half have a rate of duty below 10 per cent (including duty-free lines), and 26 per cent of them have rates above 15 per cent (international tariff peaks). The most common rate of duty is 2 per cent (applicable to 19 per cent of tariff lines), followed by 0 and 14 per cent rates, applicable to 14.6 per cent and 14.5 per cent of all tariff lines respectively. In total, 4.4 per cent of lines are subject to the top rate of 35 per cent (including the compound rates); these encompass products such as carpets, woven, knitted or crocheted fabrics, articles of apparel and clothing accessories, textile articles, footwear and certain vehicles. Product groups subject to relatively high average tariffs include textiles and clothing, beverages and alcohols, tobacco and dairy products (Table III.1).

Table III.2
MFN tariff structure, 2006
(Percentage)

	2006
Total number of tariff lines	9,784
Non-*ad valorem* tariffs (% of all tariff lines)	7.9
Non-*ad valorem* tariffs without AVEs (% of all tariff lines)	0.0
Tariff quotas (% of all tariff lines)	0.0
Duty-free tariff lines (% of all tariff lines)	14.6
Average tariff on dutiable lines (%)	12.2
Domestic tariff peaks (% of all tariff lines)[a]	4.5
International tariff peaks (% of all tariff lines)[b]	26.1
Bound tariff lines (% of all tariff lines)	100.0

a Domestic tariff peaks are defined as rates exceeding three times the overall simple average of applied rates.
b International tariff peaks are defined as rates above 15 per cent.

Source: WTO Secretariat estimates based on data provided by the Argentine authorities.

46. The tariff structure shows signs of escalation, with imports of raw materials subject to lower rates than semi-processed products, while these in turn face lower tariffs than fully processed products (see Table III.1).

47. Since 1995, Argentina's tariff schedule has been based on the MERCOSUR Common External Tariff (CET). The latter follows the MERCOSUR Common Nomenclature (NCM), which is currently based on the Harmonized Commodity Description and Coding System (HS) 2002. A transition period for moving towards full conformity with the CET has been provided for some products and sectors. Along with other MERCOSUR members, Argentina initially filed three lists of exceptions: capital goods (the BK list); information technology and telecommunications products (the BIT list); and national exemptions, known as the basic list of exceptions (LBE).[48] These lists were phased out according to the timetable established in the Protocol of Ouro Preto.

48. The CET agreed upon for capital goods is 14 per cent for goods produced in MERCOSUR and 0 per cent for those produced outside the region. In 2001, MERCOSUR Decision No. 1/01 (and extensions) authorized Argentina to apply a zero per cent tariff on capital goods imported from outside the region until end-2008.[49]

49. In the case of information technology goods, MERCOSUR Decision No. 13/05 extended the period for negotiating a Common BIT Regime and authorized members to apply tariffs other than the CET until 1 July 2007.

50. The basic list of exceptions (LBE) was replaced by a list of 100 items (Decree No. 68/00).[50] Decision No. 38/05 established the maximum number of tariff lines that Argentina may include on the list: 75 items as from 1 February 2008, and 50 from 1 August 2008 until 31 December 2008, when the basic exceptions end.

51. The automotive sector is governed by a special regime (see Chapter IV(4)(iii)), as also is the sugar sector. As at July 2006, MERCOSUR members were continuing to negotiate a common regime

[48] For further information, see WTO (1999).
[49] MERCOSUR CMC Decision No. 40/05.
[50] Annex III to Decree No. 690/2002 of 26 April 2002 (as amended).

for the sugar sector on the basis of parameters defined in MERCOSUR Decision No. 19/94. In the meantime, MFN tariffs are applied with a 20 per cent preference for intra-zone trade.

52. Several changes were made to the CET during the period under review. In November 1997 there was a temporary increase of three percentage points, which raised the CET ceiling from 20 to 23 per cent[51], following Argentina's request to include the statistical tax within the tariff (see also Section (2)(v)). This tariff increase was reduced to 2.5 percentage points in 2001 and to 1.5 points on 1 January 2002, before total elimination as from 1 January 2004.[52] Capital goods, computer and telecommunications equipment, products on the Argentine list of exceptions to the CET and some other goods[53] were excluded from the increase.[54] Tariffs on sugar and automotive products were also excluded.

53. In addition, to protect local industry from the effects of the recession, Resolution No. 8/2001 raised the tariff to 35 per cent on numerous consumer goods (965 tariff items at the 8-digit level, listed in its Annex II) as from March 2001, and set tariffs of between 20 and 26.6 per cent on 87 tariff items (listed in Annex III), 30 per cent for HS chapters 58 (with one exception) and 60, and several items in chapters 51, 52, 53, 54, 55 and 56 (Article 5). The aforementioned resolution, and others complementing it, cut the tariff on capital goods imported from outside the zone to zero per cent (see above), to help to modernize domestic industry. This policy was partially reversed following the peso devaluation, and the tariff increases were phased out in December 2003 by Resolution No. 546/2003.

(b) Tariff bindings

54. During the Uruguay Round, Argentina bound all its tariff lines of HS chapters 1 through 97 at levels ranging from 0 to 35 per cent, with a total of 20 tiers. The overall average bound tariff is 30.7 per cent, with specific averages of 32.1 per cent for agricultural products (WTO definition) and 30.5 per cent for non-agricultural products.

55. Argentina bound its "other duties and charges" at a level of 3 per cent.

(c) Concessional entry

56. Argentina maintains its own concessional entry regime intended to promote domestic processing and product diversification, as well as avert input supply shortages.

57. Under the temporary admission regime (*destinación suspensiva de importación temporaria*)[55] goods may be imported duty-free provided they are re-exported in the same state or after undergoing transformation, elaboration, combination, mixture, repair or any other enhancement or benefit. Nonetheless, a guarantee must be posted to cover the duty that would payable if those goods were imported for consumption. In the case of re-exportation in the same state, the goods must be exported within three years in the case of capital goods, or 8 to 12 months in the case of other goods. Goods

[51] MERCOSUR Decision No. 15/97 and Decree No. 2.376 of 12 November 1997.

[52] MERCOSUR Decisions Nos. 67/00 and 06/01 and Common Market Council Decision No. 21/02.

[53] Products included in chapters 1, 3, 6, 7, 10, 12 and 27 and in headings 4901 and 4902 that pay a CET of zero per cent; tariff lines included in the General Regulations on Taxation of the Aeronautical Sector; and paper used for printing books, directories, newspapers and other general interest periodicals (subheadings 4801.00, 4802.53, 4802.60, 4810.11, 4810.21 and 4810.29).

[54] Resolution No. 12/98 of 6 January 1998 (as amended).

[55] Law No. 22.415/1981 (Articles 250-277) of 2 March 1981 (as amended), Decree No. 1001/1982 of 21 May 1982 (Articles 30-33) (as amended), and Decree No. 1439/1996 of 11 December 1996 (as amended).

undergoing modification or improvement must be re-exported within one or two years (extendable) depending on the process in question.[56]

58. Concessional entry is granted under the drawback regime, the refund regime, and the in-factory customs regime (RAF) (see Chapter III(3)(iv)). The corresponding goods imported into free zones are exempt from all import duties (see Section (3)(iv)(f)). Duty-free admission is also granted under various incentives regimes (see Section (4)(iii)).

59. Introduced in 2002, the RAF is a new regime providing for the deferred payment of import duties. This allows industrial establishments to import raw materials, parts, components, materials, packing, packaging and protection materials that are directly used for production and/or processing of goods either for subsequent exportation or importation for consumption.[57] The imported goods are subject to a guarantee payment, however. Implementation of the RAF is formalized for each branch of industry through a regulation issued by the Secretariat of Industry, Trade and SMEs of the Ministry of the Economy and Production. A precondition for this is a memorandum-agreement signed with the specific activity association or chamber, setting targets for production, employment and the use of locally manufactured components in the product being produced. As at October 2006, specific regulations had been adopted only for the automotive sector.[58]

60. MERCOSUR Decision No. 36/03 of 15 December 2003 established a common customs regime for goods to be used in scientific or technological research, allowing legally established non-profit entities to import such products duty-free for these purposes.

61. Pursuant to MERCOSUR Resolution No. 69/00 (as amended by Decision No. 33/05) allowing individual member countries to lower tariffs on a temporary basis, in August 2005 Argentina reduced the tariff (i.e. the extra-zone import duty or DIE) on imports of Phosphorus Trichloride to 2 per cent for a quota of 600 tonnes, for a one-year period.[59]

(d) Preferences

62. In July 2006, Argentina granted tariff preferences to imports from Brazil, Paraguay and Uruguay within the MERCOSUR framework; and from Bolivia, Chile, Colombia, Cuba, Ecuador, Mexico, Peru and Venezuela under various ECAs (see also Chapter II). For goods not covered by these agreements, the general LAIA regional tariff preference (RTP) mechanism applies.

63. Under the latter (RTP No. 4), LAIA members (Argentina, Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, Mexico, Paraguay, Peru, Uruguay and Venezuela) grant a preferential tariff reduction of 20 per cent on imports from other members at the same level of development (the reduction is less for imports from relatively more developed members and larger in the case of relatively less developed countries).[60] As a more developed member, Argentina grants reductions of 48, 28 and 20 per cent to the other members depending on their level of economic development, and can

[56] Decree No. 1439/1996 of 11 December 1996 (as amended).
[57] Decrees Nos. 688/2002 of 26 April 2002 and 2722/2002 of 30 December 2002, and Joint Resolution No. 14/2003 and 1424 of 17 January 2003.
[58] Joint Resolution No. 54/2003 and 1448 of 21 February 2003, and Resolution No. 1509 of 27 May 2003.
[59] Resolution No. 432/2005 of 10 August 2005.
[60] In the LAIA framework, countries are classified into three economic development groups: countries of relatively lower level of economic development (Bolivia, Ecuador and Paraguay); those of intermediate development (Colombia, Chile, Peru, Uruguay and Venezuela); and other member countries (Argentina, Brazil and Mexico).

maintain a list of exceptions containing up to 480 items. Argentina's list actually includes 360 tariff lines in the LAIA Nomenclature (NALADI) of 1984.

64. The Agreement between MERCOSUR and Bolivia (ECA No. 36) envisaged most products being duty-free as from 2006; in 2005, the margin of preference for these products ranged from 80 to 96 per cent. For goods such as agricultural products, textiles and clothing, machinery and equipment, and automobiles, tariff reductions began in 2005 and are due to reach 100 per cent in 2011 or 2014 (the latter date applies to agricultural products only).

65. Under the Agreement between MERCOSUR and Chile (ECA No. 35), Argentina grants duty-free entry for all Chilean products except for the "sensitive" and "special sensitive" items listed in Annexes 2 and 3. These include flowers, certain vegetables, chocolate, beer, wood, plastics, chemicals, glass, electrical appliances and toys), which enjoyed preferential margins of 90 and 86 per cent over MFN rates in 2005 and came under 519 headings. Some agricultural products (including those listed in Annex 5, e.g. garlic, avocados, apricots, "griñon" peaches and nectarines, cocoa powder, potatoes and fresh cut flowers), as well as certain manufactures, were either not given preferences or were granted temporary exemption from the tariff reduction pending their incorporation in Annexes 2 or 3. Other products, such as meat and other food products, motor vehicles, cement, some chemical substances, books and certain paper articles (Annex 6, 139 headings) will be subject to tariff reductions starting in 2006 and ending in 2011. In the case of sugar, reductions will start in 2007 and conclude in 2012; the reduction in tariffs on wheat, meslin, wheat flour and meslin flour commenced in 1997 and will end in 2014.[61]

66. The Agreement between MERCOSUR and Peru (ECA No. 58), which entered into force in late 2005, provides for trade liberalization under timetables that vary according to the product. The Agreement covers most of the tariff universe (6,524 tariff items). Products listed in Appendix A were expected to be liberalized when the Agreement entered into force, while liberalization for other products will occur in 2012 (Appendix B1), or between 2005 and 2010, depending on the product (Appendix C1). The latter appendix includes products that were covered by the previous agreement ECA No. 48, under which preferences were granted on 2,473 8-digit tariff lines with margins varying between 10 and 100 per cent.

67. The MERCOSUR Agreement with Colombia, Ecuador and Venezuela (ECA No. 59) provides for staged and automatic reduction of current tariffs, except on products listed in Annex 1 (for which the reduction will only apply to the tariffs listed in that Annex) and those that are excluded until a new agreement is concluded. Some products will be liberalized immediately, while others will only be fully liberalized in 2018. According to information provided by the authorities, 10 tariff headings, encompassing products such as sugar, ethyl alcohol and propane, are not granted preferences by Argentina under this agreement.

68. The Agreement between MERCOSUR and Mexico (ECA No. 55), which entered into force in January 2003, is intended to pave the way for the gradual introduction of free trade in the automotive sector by 30 June 2011 (see Chapter IV(4)(iii)).

69. Argentina has been granting preferences to Mexico under the Bilateral Agreement with Mexico (ECA No. 6) covering 2,026 tariff lines. This Agreement has now been incorporated in the MERCOSUR Agreement with Mexico (ECA No. 54), which entered into force in January 2006. The latter foresees negotiations to extend the scope of all bilateral agreements concluded between individual MERCOSUR members and Mexico. The agreement also incorporates ECA No. 55.

[61] The full lists of products and tariff reductions can be found at: http://www.sice.oas.org/Trade/msch/mschind.asp.

70. Argentina grants preferences on imports from Cuba under bilateral arrangements (ECA No. 45) for 82 tariff headings covering products from HS chapters 03, 04, 05, 09, 12, 16, 17, 18, 20, 22, 24, 25, 26, 30, 33, 47, 48, 49, 56, 63, 72, 74, 75, 76, 79, 85, 90, and 95, with margins of preference varying between 30 and 100 per cent.

71. Under the Agreement on Cooperation and Trade in Goods in the Cultural, Educational and Scientific Areas (AR No. 7), Argentina grants preferences on imports of cultural, educational and scientific goods from the other signatory countries.[62]

(e) Tariff quotas

72. Argentina does not apply tariff quotas to MFN imports.

73. Some Economic Complementarity Agreements provide for preferential tariff quotas. In the Agreement between MERCOSUR and Chile (ECA No. 35), the products listed in Annex 7 are subject to quotas (in Argentina's case, certain eggs, fresh grapes, apples, peaches, plums, some "other fruits" (0812.90.90), preparations for soups, copper sulphates, and certain motor vehicles. Argentina also applies quotas in the automotive industry agreements with Uruguay (ECA No. 57). Under the Agreement between MERCOSUR and Mexico (ECA No. 55), Argentina granted Mexico duty-free access through quotas for certain automobiles, but trade in these items was liberalized as from April 2006. During the reporting period, tariff quotas were also granted on a large number of products under ECA No. 6 between Argentina and Mexico. Lastly, ECA No. 59 between Argentina, Colombia, Ecuador and Venezuela established tariff quotas for sweets, chocolates and motorcycles.

(v) Other charges affecting imports

(a) Other levies and charges

Charges other than tariffs affecting imports only

74. During the Uruguay Round, Argentina bound its other duties and charges at a level of 3 per cent.

75. A 0.5 per cent statistical tax is levied on the c.i.f. value of all merchandise imports except those originating in MERCOSUR and its associate members Bolivia and Chile.[63] Certain goods are exempted from payment of the statistical tax[64], however, irrespective of origin.[65]

76. In 1998, a WTO Panel found that the imposition of the statistical tax was inconsistent with WTO rules, since "an *ad valorem* duty with no fixed maximum fee, by its very nature, is not limited

[62] The member countries are Argentina, Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, Mexico, Paraguay, Peru, Uruguay and Venezuela.

[63] Decrees Nos. 389/95 of 22 March, 37/98 of 9 January 1998 and 690/2002 of 26 April 2002; and MEOSP Resolutions Nos. 232/1996 of 1 October 1996 (imports originating from Chile) and 270/1997 of 28 February 1997 (imports originating from Bolivia).

[64] Exempted goods include products for animal or plant breeding contained in NCM chapters 1, 3, 6, 7 and 10, which are subject to a zero per cent tariff; mineral fuels and mineral oils in chapter 27, which are subject to a zero per cent tariff; goods included in the General Regulations on Taxation of the Aeronautical Sector, which are subject to a zero per cent tariff; books, newspapers and periodicals of headings NCM 49.01 and 49.02; new capital goods, and information technology and telecommunications products; goods imported under the temporary admission import regime; and works of art of headings NCM 97.01, 97.02 and 97.03.

[65] Decree No. 690/2002 of 26 April 2002.

in amount to the approximate cost of services rendered".[66] As result, in 1999 the Argentine authorities set caps for the statistical tax depending on the value of imports.[67] In 2005, revenue from the statistical tax amounted to Arg$96 million (US$33.1 million).

77. Charges are levied on sugar imports irrespective of origin, in addition to the prevailing *ad valorem* tariff.[68] These charges are calculated as the difference between an indicative price (*precio guía de base*) and a comparison price (*precio de comparación*); the former is calculated annually on the basis of the monthly average of the London price for white sugar over the past eight years, while the latter corresponds to the closing price of white sugar on the London commodity exchange on the day before the shipment arrives at its destination.[69] If the comparison price is higher than the indicative price, the difference between the two is credited in favour of the sugar importer for payment of up to 50 per cent of the *ad valorem* duty.[70] As a result of increases in sugar prices on world markets, in 2005 and 2006 the comparison price has been above the indicative price, so importers have benefited from a reduction in the *ad valorem* duty. The term of application of these charges has been extended successively, most recently in 2003 for an indefinite period.[71]

78. Between June 2001 and January 2002, a convergence factor was used[72] to adjust the exchange rate applied, among other things, to the valuation of imports. Importers of nearly all goods had to pay a charge equal to the c.i.f. value of the imports (in US$) multiplied by the convergence factor, in addition to any duties and taxes normally levied (see also Chapter I).[73]

Charges affecting both imports and domestic production

79. Although value added tax (VAT) rates have not changed since the last review, the products covered by the different VAT rates and exemptions has undergone several modifications. As at October 2006, the general rate of VAT charged on goods and services was 21 per cent, while certain services pay 27 per cent[74], and some other products and services are taxed at a lower rate of 10.5 per cent.[75] A relatively large number of goods and services are VAT-exempt.[76] In addition, certain

[66] WTO document WT/DS56/R of 25 November 1997.

[67] For imports valued under US$10,000, the maximum statistical tax payable is US$50; for imports of a value ranging from US$10,000 to US$20,000, the maximum is US$100; for imports between US$20,001 and US$30,000, the amount is US$200; for imports between US$30,001 and 50,000, the amount is US$300; for imports between US$50,001 and 100,000, the maximum is US$400; and for imports above US$100,001, the amount is US$500. Decree No. 108/99 of 11 February 1999.

[68] The additional duties were introduced by Decree No. 797/92 of 19 May 1992 and concern NCM items 1701.11.00, 1701.12.00, 1701.91.00 and 1701.99.00.

[69] Decree No. 797/92 of 19 May 1992 and Resolution No. 743/2000 of 1 September 2000.

[70] Decrees Nos. 797/92 of 19 May 1992 and 2275/94 of 23 December 1994.

[71] Law No. 25.715 of 4 April 2003.

[72] The convergence factor was equal to US$1 less the simple average of US$1 and €1quoted in US$ on the London interbank market, as calculated daily by the BCRA.

[73] Decree No. 803/2001 of 18 June 2001, repealed by Decree No. 191/2002 of 25 January 2002.

[74] Such as telecommunications; gas, electricity and water supply; sewerage and drainage.

[75] These products include live animals; meat, fruits and vegetables; honey and cereals (except rice); leather; newspapers and magazines; taximeter services; medical and paramedical services; sales and importation of propane, butane, and liquefied petroleum gas; certain works, leasing and services relating to obtaining live animals, fruits and vegetables, and cereals; and interest and commissions on loans granted by local financial institutions or foreign financial institutions that meet certain criteria.

[76] Among others items: books, leaflets and similar printed materials, premium or capitalization stamps and policies; basic necessities (water, bread and milk at retail level); pharmaceuticals (wholesale and retail); aircraft for passenger or freight transport; international passenger or freight transport; education services provided by private institutions; medical and paramedical services; certain services provided by the State; certain financial services and investments; and bareboat charter and the chartering of vessels on a time or

operations in the domestic market are subject to VAT withholding. The general regime[77] provides for three rates – 10.50, 8.40 and 16.80 per cent – depending on the transaction in question.

80. Imports are subject to VAT at the same rates as like domestic items. The tax is levied on the net price of the sale, lease or services rendered as shown on the invoice or equivalent document in the case of domestic goods and services, and on the customs value pursuant to the Agreement on Implementation of Article VII of the GATT, plus all applicable import duties.[78] In 2005, revenue from VAT amounted to Arg$39.7 billion (US$13.7 billion), equivalent to 33.3 per cent of Argentina's total tax income.

81. To facilitate the equipping of the productive sector, a payment facilities plan is in place that allows importers of certain capital goods to pay VAT in five equal monthly instalments.[79]

82. As noted in the Secretariat Report for Argentina's previous review, domestic taxes on imports of any origin, such as VAT and profits tax (IG), have required partial advance payment to ensure their collection in the Argentine market.[80] Advance VAT is charged on the same base value as ordinary VAT, and is applicable to VAT-registered entities at a rate of 10 per cent on imports of items liable for VAT at 21 per cent, and 5 per cent on imports subject to the 10.5 per cent VAT rate. Importers who are VAT-exempt do not make the advance payment. Those who do not provide evidence of being exempt or not covered by value-added tax should make advance VAT payments at a rate of 12.70 per cent, when importing goods subject to the 21 per cent VAT rate, and 5.8 per cent where the 10.5 per cent VAT rate is applicable.[81]

83. Since July 2005, if the declared f.o.b. value of certain products is less than 80 per cent of the criterion value established by the DGA, advance VAT is levied at a rate of 21 per cent in the case of goods subject to 21 per cent VAT rate and at 10.5 per cent for those subject to 10.5 per cent rate.[82] The list of products[83] and their criterion values are established in DGA External Note No. C.18 of 2005, and apply to imports from certain origins only.[84]

84. In the case of domestic products, where sales are made by certain registered taxpayers (listed in Article 1 of Resolution No. 3337/1991, as amended), the latter must collect an amount of 3 or 1.5 per cent as an advance payment (1.5 per cent in the case of products subject to the lower VAT rate, as listed in Article 28 of the VAT Law), in addition to ordinary VAT. Sales by certain parties are excluded from these payments, however.[85]

85. An anticipated profits tax (IG) is also levied on imports. The amount received in respect of imports constitutes an advance IG payment in the case of entities liable for that tax. As at mid-2006,

journey basis for international transport, when the lessor is an Argentine shipping operator and the lessee is a foreign enterprise registered abroad.

[77] Resolution No. 18/97 of 11 September 1997.

[78] Law on Value Added Tax, codified text of 1997, approved by Decree No. 280/97 of 26 March 1997.

[79] AFIP Resolution No. 1834 of 28 February 2005. Goods eligible under this plan are defined in the Annex to Resolution No. 2049 and include certain capital goods (of HS chapters 84, 85, 87, 90, and 94).

[80] WTO (1999) Chapter III(2)(v).

[81] DGI Resolution No. 3431/91 of 19 November 1991, as amended.

[82] Resolution No. 1908 of 5 July 2005.

[83] Products of HS chapters 39, 42, 58, 60, 64, 69, 84 and 85.

[84] Group 1 (Brazil, Colombia, Chile, Ecuador, Paraguay, Uruguay); Group 2 (Germany, Belgium, Denmark, Spain, France, Netherlands, Italy, Japan, Portugal); and Group 4 (Democratic People's Republic of Korea, Republic of Korea, China, United Arab Emirates, Philippines, Hong Kong, India, Indonesia, Israel, Malaysia, Pakistan, Chinese Taipei, Thailand, Singapore, Viet Nam).

[85] Resolution No. 3337/91 of 27 March 1991.

the anticipated profits tax on imports was being levied at rates between 3 per cent and 11 per cent[86], with exemptions for certain goods.[87] In the case of domestic sales the withholding rate is 2 per cent, and for unregistered entities, the levy is 10 per cent. The IG tax base is identical to the VAT base. Resolution No. 2784/88, which had set the anticipated IG levy on domestic sales at between 2 and 4 per cent was repealed by Resolution No. 830/2000 of 26 April 2000 (in force since 1 August 2000).

86. In 1999, advance payment of VAT and anticipated profits tax were cited in a case brought against Argentina at the WTO. The Panel found, among other things, that the system of advance VAT payments imposed an additional tax burden on imports because taxable persons have to bear the opportunity cost of the payment in the time that elapses between prepayment of the tax and its crediting.[88] In relation to anticipated profits tax, the Panel also ruled that this tax subjected imports to a greater tax burden than that imposed on like domestic products.

87. Imports and domestic products are also subject to excise duties (referred to as *impuestos internos*). During the period under review, these duties have undergone changes in terms of product scope and rates. As at mid-2006, excise duties were charged on a wide variety of items, including cigarettes, alcoholic beverages, automobiles and petrol engines, electronic goods and cellular phone services. Rates ranged from 4 to 60 per cent.[89] Law No. 24.674 provides for excise duty to be charged on products at one of the stages of their circulation only, except for luxury goods, for which the duty is payable on each transaction. A lower 4 per cent rate of excise duty applies to certain non-alcoholic beverages, including those prepared with a minimum amount of fruit juice, and mineral waters.

88. In the case of domestic goods, excise duties are levied on the net sale price shown on the invoice or equivalent document. No deduction is allowed either for the tax itself or for any other duties levied on the operation except for the VAT debit, such that the excise duty itself is included in the tax base. In the case of imported goods, excise duties are levied on 130 per cent of the amount resulting from adding to the normal price defined for the application of import duties all import taxes including the excise duty itself.[90] Subsequent sale of the imported goods is subject to excise duty, but the duty paid at the time of importation can be set against the amount due, as an advance payment.[91] Revenue from excise duties in 2005 amounted to Arg$3.7 billion (US$1.3 billion), equivalent to 3.1 per cent of Argentina's total tax revenue.

89. The application of excise duties to certain products has been temporarily suspended at various times since 1999, among other things to address competition issues (e.g. in the case of syrups for soft

[86] The relevant provisions include Resolutions Nos. 3543/1992 of 7 July 1992, as amended; 3955/1995 of 28 December 1995; 3964/1995 of 23 March 1995; 591/99 of 13 May 1999; and 1908 of 5 July 2005.

[87] Resolutions Nos. 3543/1992 of 7 July 1992, as amended; 3955/1995 of 28 December 1995 and 3964/1995 of 23 March 1995.

[88] WTO document WT/DS155/R of 19 December 2000.

[89] The products and rates were as follows: cigarettes (60 per cent); cigars, "*cigarritos*", "*rabillos*", "*trompetillas*" and other tobacco products (16 per cent); tobacco consumed in leaf form, off the stalk (*despalillados*), chopped, shredded, crushed (*rapé*), or in cord, tablet or bud form (20 per cent); whisky (20 per cent); cognac, brandy, gin, pisco, vodka or rum (15 per cent); other alcoholic beverages with more than 10° alcohol content (wine excluded) (12 or 15 per cent depending on the alcohol content); beers (8 per cent); non-alcoholic beverages, syrups, extracts, and concentrates (8 per cent); automobiles and petrol engines (10 per cent); luxury goods (20 per cent); recreational or sporting vessels and aircraft – with a sale price greater than Arg$15,000 and up to Arg$22,000 (4 per cent), or with a sale price above Arg$22,000 (8 per cent); electronic goods (17 per cent); and cellular and satellite phone services (4 per cent).

[90] Law No. 24.674 (Domestic Tax Law) of 17 July 1996, codified text.

[91] Law No. 24.674 of 13 August 1996.

drinks) or to increase investment and competitiveness (e.g. in the case of champagne and certain motor vehicles).[92]

90. In addition to VAT and excise duties, two other taxes are levied on the retail price of cigarettes: the emergency supplementary tax on cigarettes and the tax for the Special Tobacco Fund. In 2005, these two taxes generated Arg$392 million (US$135.2 million) in revenue.

91. Various additional taxes have been levied on petroleum products during the period under review: the fuel tax on liquid fuels and natural gas; the water infrastructure tax on nafta; and a tax on diesel (see Chapter IV(3)). A tax is also levied on bulk electric power imports by large-scale users or distributors (see Chapter IV(5)).

(vi) Import prohibitions, restrictions and licensing

92. The Customs Code divides import (and export) prohibitions into different categories according to their purpose (economic or non-economic)[93] and their scope (absolute or relative)[94]; and it defines the objectives set for each category. Prohibitions for economic reasons can usually only be imposed on consumer goods, and generally they have been introduced mainly for safety and environmental protection reasons. The list of goods subject to prohibitions has been altered several times. Prohibitions in force at May 2006 are listed in Table III.3.

Table III.3
Import prohibitions in force in May 2006

Product	Reason	Legal basis
Absolute prohibitions		
Used accumulators for metal recovery	Environmental protection	Law No. 23.922 of 21 March 1991 and Law No. 24.051 of 17 December 1991
Sewage sludge for use as fertilizer	Environmental protection	Law No. 24.051 of 17 December 1991 and Decree No. 181/1992 of 24 January 1992
Ash from combustion furnaces	Environmental protection	Law No. 23.922 of 21 March 1991 and Law No. 24.051 of 17 December 1991
Paper waste, unclassified and with high plastic content	Environmental protection	Decree No. 181/92 of 24 January 1992, Law No. 24.051 of 17 December 1991 and Regulatory Decree No. 831/1993 of 23 April 1993
Private wireless telephony equipment, operating at a frequency above 1,880 MHz but no higher than 1,900 MHz	To prevent harmful interference with duly authorized services	Secretariat of Trade Resolution No. 1994 of 13 October 1999
Narcotics, precursors and psychotropic substances (i.e. goods listed in Annex III, and goods defined as medicines based on narcotics and psychotropic substances, except in quantities that are strictly necessary for medical and scientific research and clinical experiments with narcotics, performed under Health Authority supervision and inspection)	Health protection	ANA Resolutions Nos. 2017/93 and 543/95

Table III.3 (cont'd)

[92] The excise duty on champagnes has been suspended for a three-year period starting 2 February 2005 (Decree No. 58/2005). Excise duty on motor vehicles is suspended until 31 December 2006 (Decrees Nos. 731/2001, 1120/2003, 1655/2004, and 1286/2005).

[93] Economic prohibitions are defined as those for purposes such as to ensure adequate income for the domestic workforce or to reduce unemployment; to implement fiscal, monetary, exchange-rate or foreign trade policy; to protect domestic production of goods and services; and to stabilize domestic prices. Non-economic prohibitions are defined as those for reasons such as protecting the political institutions of the State; public morals or health, food or animal or plant health policy; environmental conservation.

[94] Absolute prohibitions are those that prevent any person from importing or exporting certain goods, while relative import or export prohibitions provide for exceptions in favour of one or more persons.

Product	Reason	Legal basis
Absolute prohibitions		
Medical materials that are obsolete, unusable or expired	Health and environmental protection	Decree No. 181/92 of 24 January 1992
Substandard plastic materials and second-hand manufactures	Health and environmental protection	Decree No. 181/92 of 24 January 1992
Used motorcycles and mopeds (line 8711)	Safety; protection of the consumer and the domestic industry	MEOSP Resolution No. 790 of 29 June 1992
Retreads and used tyres of tariff headings 4012.10.00 and 4012.20.00	Safety; protection of the consumer and the environment	Law No. 25.626 of 8 August 2002
Pesticides that are prohibited in their places of origin	Environmental protection	Law No. 24.051 of 17 December 1991 and Law No. 23.922 of 21 March 1991
Wine products in bottles of a capacity exceeding 5 litres	To preserve the identity of wine products in each State Party	MERCOSUR Resolution No. 45/96 of 21 June 1996 and Resolution No. C 22/2002 of the National Wine Institute of 14 August 2002, incorporating MERCOSUR Resolution No. 12/2002 (MERCOSUR Wine Regulation)
Hazardous residues, scrap or waste material	Environmental protection	Law No. 24.051 of 17 January 1992; Decree No. 181/1992 of 24 January 1992
Used automobiles and autoparts	Safety; protection of the consumer and the domestic industry	Decree No. 110 of 15 February 1999
Relative prohibitions		
Used articles of clothing of tariff headings NCM 6309.00.10, 6309.00.90	Health protection	MEP Resolution No. 367 of 30 June 2005 (prohibition extended until 30 June 2010)
Used machinery, instruments, appliances, parts thereof and transport material (NCM chapters 84- 90), except parts and/or components of goods that have been rebuilt by their original manufacturer, with a certificate of guarantee issued by the manufacturer	To increase the efficiency, productivity and quality of Argentina's industrial output of production and consumer goods	MEOSP Resolution No. 909 of 29 July 1994 (as amended)

Source: WTO Secretariat.

93. In 2003, Argentina notified the WTO that it did not maintain quantitative restrictions.[95] As at mid-2006, a quota was applied to imports of colour television sets in the context of safeguard measures (see Section (vii) below).[96]

94. Under the transitional safeguard mechanism of the Agreement on Textiles and Clothing, in 1999 Argentina introduced annual quotas for cotton textiles and mixtures thereof originating in Brazil[97], China[98] and Pakistan[99]; the measures for Brazil and Pakistan were eliminated in 2000[100], and those relating to China[101] were lifted in 2002.

95. Since its last review, Argentina has submitted several notifications on import licensing procedures.[102] It has also updated its replies to the questionnaire on import licensing procedures[103]

[95] WTO document G/MA/NTM/QR/1/Add.9 of 18 March 2003.
[96] Resolution No. 43 of 4 February 2005.
[97] Resolution No. 861/99 of 13 July 1999.
[98] Resolution No. 862/99 of 13 July 1999.
[99] Resolution No. 863/99 of 13 July 1999.
[100] Resolutions Nos. 265/2000 of 11 April 2000 and 337/2000 of 26 April 2000.
[101] Resolution No. 862/1999 of 13 July 1999.
[102] WTO documents G/LIC/N/2/ARG/4 of 5 March 1999, G/LIC/N/2/ARG/5 of 15 October 1999, G/LIC/N/2/ARG/6 of 21 December 1999, G/LIC/N/2/ARG/7 of 19 August 2004, G/LIC/N/2/ARG/8 of 20 October 2005 and G/LIC/N/2/ARG/9 of 20 October 2005.
[103] WTO document G/LIC/N/3/ARG/3 of 15 September 2006.

and provided answers to the questions posed by one Member concerning the implementation of certain provisions of its import licensing legislation.[104]

96. Two types of import licence – automatic and non-automatic – are administered by various agencies. The LAPI is a general system of automatic pre-importation licensing that was introduced for statistical purposes to monitor imports of certain products for consumption[105], among other reasons to be able to undertake a rapid analysis for the adoption of trade remedies.[106] Automatic import licences are also granted subject to compliance with all prescribed formalities and are approved in all cases. Table III.4 lists the products subject to automatic and non-automatic licensing. Licence validity periods are: 60 days (LAPI, Footwear Import Certificate, Washing Machine Import Certificate, Toy Import Certificate, Tyres and Inner Tube Import Certificate, and Bicycle Import Certificate); 120 days (Paper Import Certificate); or 360 days (Sworn Statement of Product Composition (DJCP)).

97. Imports of certain products require prior authorization for sanitary or phytosanitary reasons (see Section (2)(ix)), or have to show conformity with technical regulations (see Section (2)(viii)). Preshipment inspection certificate requirements were abolished in 2001.

Table III.4
Import licensing

Products	Document/Issuing authority	Legal basis
Automatic licences		
Products of HS chapters 01, 02, 04, 07, 11, 13, 16, 17, 20, 24, 25, 28, 29, 32, 36, 38, 39, 40, 42, 44, 48, 49, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 68, 69, 70, 72, 73, 74, 76, 82, 83, 84, 85, 87, 90, 94 and 96	Automatic pre-importation licence (LAPI)/SICM Undersecretariat for Trade Policy and Management	Resolutions MEOSP No. 17/99, SICM Nos. 59/99 and 150/99, MEOSP No. 820/99, SICM No. 465/99, Provisions AFIP No. 451/99, SICM No. 75/00, SSPGC Nos. 2/02, 9/03, 14/03, 7/04, 14/04, 26/04, 8/2005, 9/2005 and 15/2005
Textiles and clothing	Sworn Statement of Product Composition (DJCP)/SICM Undersecretariat for Trade Policy and Management	Resolutions MEOSP No. 622/95, SCI No. 26/96, MEOSP Nos. 39/96, 763/96, 850/96 and 1318/98
Non-automatic licences		
Carpets and other floor coverings of heading 5703.30.00	Non-automatic pre-importation licence (LNAP) (requirement not yet in effect)	Resolution MEP No. 54/2004 of 23 January 2004
Bicycles	Import certificate (CIB)/SICM Undersecretariat for Trade Policy and Management[a]	Resolutions SICPME Nos. 220/2003 and 114/2004, Joint Provisions SsI No. 1/2004, SsPGC No. 3/2004, SsI No. 4/2004, SsPGC No. 5/2004, SsI No. 11/2005, SsPGC No. 16/2005
Footwear (NCM 6401.10.00, 6401.91.00, 6401.92.00, 6401.99.00, 6402.12.00, 6402.19.00, 6402.20.00, 6402.30.00, 6402.91.00, 6402.99.00, 6403.12.00, 6403.19.00, 6403.20.00, 6403.30.00, 6403.40.00, 6403.51.00, 6403.59.00, 6403.91.00, 6403.99.00, 6404.11.00, 6404.19.00, 6404.20.00, 6405.10.10, 6405.10.20, 6405.10.90, 6405.20.00, 6405.90.00)	Import certificate (CIP)/SICM Undersecretariat for Trade Policy and Management	Resolutions SICM No. 508/1999 and MEP No. 486/2005

Table III.4 (cont'd)

[104] WTO document G/LIC/Q/ARG/1 of 25 May 2004.

[105] The list of products has been subject to numerous modifications; as at May 2006 it included products from HS chapters 01, 02, 04, 07, 11, 13, 16, 17, 20, 24, 25, 28, 29, 32, 36, 38, 39, 40, 42, 44, 48, 49, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 68, 69, 70, 72, 73, 74, 76, 82, 83, 84, 85, 87, 90, 94, 95 and 96.

[106] The products are listed in Provision No. 9/99 of 4 February 1999, as amended.

Products	Document/Issuing authority	Legal basis
Toys (NCM 9501.00.00, 9502.10.10, 9502.10.90, 9502.91.00, 9502.99.00, 9503.10.00, 9503.20.00, 9503.30.00, 9503.41.00, 9503.49.00, 9503.50.00, 9503.60.00, 9503.70.00, 9503.80.10, 9503.80.20, 9503.80.90, 9503.90.00, 9504.90.90, 9506.62.00, 9506.99.00 (swings and slides only))	Import certificate (C.I.J.) required for definitive importation for consumption/SICM Undersecretariat for Trade Policy and Management	Resolutions MEP No. 485 of 30 August 2005 and SICM No. 851/1998
Washing machines of tariff heading NCM 8450.11.00	Non-automatic pre-importation licence (LNAP)/SICPME	Resolution MEP No. 444/2004, amended by Resolution No. 177/2004
Bicycle tyres	Import certificate (CIN)/SICM Undersecretariat for Trade Policy and Management	Joint Provisions SsI No. 15/2005, SsPGC No. 18/2005, SsI No. 18/2005, SsPGC No. 21/2005, Resolutions SICPME Nos. 153/2005, 7/2005 and 94/2006, MEP No. 73/2006
Non-covered papers for printing, writing or other graphic purposes, excluding newsprint (NCM 4802.52.30, 4802.52.90, 4802.53.90, 4823.59.00)	Import certificate (CIP)/SICM Undersecretariat for Trade Policy and Management	Resolutions SICM No. 653/99, MEOSP No. 1117/99, SICM Nos. 798/99 and 119/2002
Other documents		
Foodstuffs (for human consumption)	Pre-intervention authorization/National Food Institute	Resolution ANA No. 1946/93
Firearms, ammunition and other classified materials for military or civil use	Prior authorization/National Firearms Registry (RENAR) prior to intervention by the Directorate-General of Military Industry (DGFM)	Law No. 20.429 of 1973, Decrees Nos. 395/75 and 302/83, Resolution ANA No. 3115/94
Toiletries, cosmetics and perfumes	Prior authorization/ MSA	Resolution ANA No. 2016/93, amended by Resolutions ANA Nos. 262/94 and 518/96 (Annex IV), MSyAS No. 337/92 (Annex VI)
Nuclear elements and materials	Prior authorizations/Nuclear Regulatory Authority (ARN) of the National Atomic Energy Commission (CNEA)	Decree No. 5423/57, Law No. 22.477 of 1956, Resolutions AFIP No. 996/2001, ANA Nos. 2018/93, 3342/95, 451/96 and 2400/96
Narcotics, precursors and psychotropic substances	Prior authorization/MSA	Laws Nos. 17818 and 19.303, Resolutions ANA Nos. 2017/93 and 3945/96 (Annex VII), Provisions Nos. 4855/96 and 4861/96 of the National Drug, Food and Medical Technology Administration (Annex VII)
Narcotics and psychotropic substances	Prior authorization/Office of the President, Secretariat for the Prevention of Drug Addiction and the Campaign against Drug Trafficking	Law No. 23.737; Decrees Nos. 2064/91 and 1095/96, Resolutions ANA Nos. 2020/91 and 454/96
Wild fauna and flora	Authorization for importation/Secretariat of the Environment and Sustainable Development	Laws Nos. 22.344 and 22.421, Decrees Nos. 691/81 and 177/92, Resolutions SAGP No. 144/83, SSRN No. 34/93, ANA Nos. 2513/93 and 443/96 (Annex XII)
Importation of sensitive products and war material	Import certificate/National Commission for the Control of Sensitive Military Exports	Decrees Nos. 603/92 and 1291/93
Medicaments	Prior authorization/Secretariat of Health, Ministry of Health and Social Action	Decrees Nos. 2505/85, 150/92 and 177/93, Resolutions ANA Nos. 2014/93, 262/94, 461/95 and 455/96, MSAS Nos. 139/89 and 551/86 (Annex IV)
Condoms	Authorization for importation/MSA	Resolutions MSAS No. 255/94 (Annex V), ANA No. 459/95 (Annex X)
Wine products (HS 22.04)	Authorization prior to intervention/National Wine Institute (INV)	Resolution INV No. C-121/93, Provision INV No. 1139/93
Publications which describe or represent continental, island and Antarctic territory, either totally or partially	Prior authorization/Military Geographical Institute	Law No. 22.963 of 1983, Resolution ANA No. 2514/1993
Reagents and materials for medical use	Importer and product registration certificates/Health Secretariat, MSA	Decree No. 2505/85, supplemented by Resolution No. 255/94 (Annex V), ANMAT Provision No. 4324/1999

Table III.4 (cont'd)

Products	Document/Issuing authority	Legal basis
Vehicles of tariff headings 8704.23.10 (more than two-wheel drive), 8705.10.00, 8705.20.00, 8705.40.00, 8705.90.10, 8705.90.90	Prior authorization/SICM, subject to a report by the National Directorate of Industry	Resolution No. 91/1995 of the Secretariat of Industry

[a] Domestic products are subject to the same quality control.

ANMAT	National Drug, Food and Medical Technology Administration
MEOSP	Former Ministry of the Economy and Public Works and Services
MEP	Ministry of the Economy and Production
MSA	Ministry of Health and Social Action
SAGP	Secretariat of Agriculture, Livestock, Fisheries and Food
SC	Secretariat of Communications
SCI	Secretariat of Domestic Trade
SICM	Secretariat of Industry, Trade and Mining (of the MEP)
SICPME	Undersecretariat for Industry, Trade and SMEs (of the MEP)
SsI	Undersecretariat for Industry (of the MEP)
SsPGC	Undersecretariat for Trade Policy and Management (of the MEP)
SSRN	Secretariat of Natural Resources and the Human Environment

Source: WTO Secretariat.

(vii) Contingency measures

(a) Anti-dumping and countervailing measures

98. Since the last review of Argentina, a number of amendments have been made to the legal framework governing contingency measures, while the institutional framework applicable to investigations and the corresponding reviews have remained unchanged. The legal framework is based on Law No. 24.425 of 1994 (adopting the Uruguay Round Agreements), Decree No. 2121 of 1994 (containing operating regulations), Decree No. 1326 of 1998 (introducing procedural amendments); Decree No. 1219 of 2006 (containing the procedure applicable to imports from countries without market economies or those with economies in transition), Resolution No. 826/99 of 1999 (relating to the submission of applications for final review of an anti-dumping or countervailing duty by region of expiry of its term of duration or changed circumstances), and other amending resolutions and rules.[107]

99. Argentina has notified the WTO of its legislation for implementing aspects of the WTO provisions[108], and this was reviewed by Members in 1996.[109]

100. Argentina has notified the WTO that the competent authority for the initiation of anti-dumping and countervailing investigations is the MEP Secretariat of Industry, Trade and SMEs. The competent authority for determining the dumping margin or subsidy, recommendations, and initiation of investigation is the Undersecretariat for Trade Policy and Management; and the authority responsible for analysis of injury and threat of injury is the National Foreign Trade Commission (CNCE).[110]

[107] Decree No. 1088/2001 (introducing, among other measures, the possibility of adopting retroactive definitive anti-dumping duties) was adopted on 28 August 2001, but Decree No. 421/2002 delayed its entry in force until 15 days after the adoption of the supplementary regulations required for its implementation; as at October 2006, these regulations had not been adopted.

[108] WTO documents G/ADP/N/1/ARG/1-G/SCM/N/1/ARG/1 of 12 June 1995 and G/ADP/N/1/ARG/1/Suppl.1-G/SCM/N/1/ARG/1/Suppl.1 of 19 March 1996.

[109] WTO documents G/ADP/W/286-G/SCM/W/294 of 5 March 1996, G/ADP/W/308-G/SCM/W/314 of 19 March 1996 and G/ADP/Q1/ARG/2-G/SCM/Q1/ARG/2 of 19 November 1996.

[110] WTO document G/ADP/N/14/Add.21-G/SCM/N/18/Add.21 of 25 October 2005.

101. During the period under review, Argentina has regularly submitted semi-annual reports to the Committee on Anti-Dumping Practices and the Committee on Subsidies and Countervailing Measures, describing actions taken under the two Agreements.[111]

102. Between 1998 and mid-2005 Argentina initiated the fourth largest number of anti-dumping cases per year among all WTO Members. Its use of anti-dumping actions increased considerably during the years of economic recession (1999-2001), as measured by the number of anti-dumping investigations and measures adopted. After the peso devaluation in 2001, there were fewer applications for anti-dumping measures.[112]

103. In contrast, Argentina has made little use of countervailing duties (Table III.5), and according to its notifications to the WTO, no investigation has been initiated during the period under review.

104. As at December 2005, there were 35 product groups (involving industrial products only) subject to definitive anti-dumping duties and three subject to countervailing duties (one of them since 1996, and two since 1998).[113] The main target countries have been China, Brazil and Chinese Taipei. Most applications for anti-dumping duties have come from the steel and steel products industry and the chemical industry.

Table III.5
Anti-dumping and countervailing measures, 1998-2005

	1998	1999	2000	2001	2002	2003	2004	2005
Anti-dumping								
Initiations	6	21	32	26	10	1	12	9
Provisional measures imposed	4	6	8	21	25	0	1	1
Definitive anti-dumping measures imposed	13	9	16	14	21	19	1	8
Revocations	0	0	0	0	0	0	0	0
Countervailing duties								
Initiations	0	0	0	0	0	0	0	0
Definitive countervailing measures imposed	2	0	0	0	0	0	0	0
Revocations	0	0	0	0	0	0	0	0

Source: Information provided by the Argentine authorities.

105. Investigations are initiated at the request of the domestic industry or ex officio. The Undersecretariat for Trade Policy and Management examines the application in question, and the CNCE produces a report on the existence of a like domestic product. Upon receiving the report, the Undersecretariat has 35 days to examine any evidence of dumping or subsidy and to determine whether this is sufficient to initiate an investigation, while the CNCE examines the accuracy and adequacy of the evidence submitted. After the establishment of both reports, the CNCE has three days in which to prepare a report on causal link for submission to the Secretary of State for Industry, Trade and Mining, with a copy to the Undersecretariat. Upon receipt of the copy, the Undersecretariat has five days in which to recommend whether an investigation should be initiated, "evaluating other circumstances relating to general foreign trade policy and the public interest" in order to substantiate a recommendation that it would be inappropriate to do so. According to the authorities, however, the public interest clause has never been invoked. Investigations have to be concluded within one year of

[111] WTO documents in the G/ADP/N and G/SCM/N series.
[112] Finger, J. Michael and Nogués, Julio J. (2006).
[113] For further details see WTO document G/ADP/N/139/ARG of 31 January 2006.

their initiation, except in special circumstances, and on no account may they extend beyond 18 months.[114]

106. Between two and four months following initiation the CNCE must decide whether there are any preliminary results supporting the existence of injury, while the Undersecretariat is required to establish whether any preliminary evidence points to dumping or subsidization. The CNCE has ten days to establish causal link. On the basis of these reports, the Undersecretariat formulates recommendations on the adoption of provisional measures, "in the light of other circumstances relating to general foreign trade policy and the public interest." The Minister of the Economy and Production decides whether to proceed with the adoption of provisional measures. All resolutions closing the investigation, whether or not anti-dumping or countervailing measures are adopted, are to be published in the Official Journal (hereinafter O.J.) and communicated to all interested parties.[115]

107. Anti-dumping and countervailing duties, whether provisional or definitive, can be either *ad valorem* or specific. To determine specific duties, the MEP may establish "minimum f.o.b. export values."[116] The anti-dumping duty is set prospectively and may not exceed the dumping margin. The amount of countervailing duties is also set prospectively and may not exceed the amount of the subsidy.[117] Such duties should remain in force only for as long as is necessary to offset the dumping or subsidies but may not last longer than five years from their application or last review. Resolutions imposing duties can be reviewed one year after their establishment or last review.

108. Since the last trade policy review of Argentina, minimum export values have been established for various products.[118] When imports from the country subject to anti-dumping/countervailing duties are made at a price below the minimum export value the importer is required to pay an anti-dumping duty equivalent to the difference between this value and the declared f.o.b. value of the exports in question.

109. During the period under review, the WTO dispute settlement mechanism has been used three times against anti-dumping duties and twice against countervailing duties applied by Argentina. In 1999, the European Union (EU) requested consultations concerning Argentina's definitive anti-dumping duties on drill bits from Italy, but no panel was established. In 2000, the EU requested the

[114] Decree No. 1326 of 10 November 1998.
[115] *Idem.*
[116] *Idem.*
[117] *Idem.*
[118] Minimum export values have been established for the following products originating from the following countries: certain iron or steel sheet products (Australia, Korea, South Africa and Chinese Taipei); paper and coated paperboard used in making cartons (Austria, Poland, Spain and Sweden); certain steel rods (Czech Republic, South Africa and Turkey); laminated iron or steel sheets, certain compensated phenolic panels, gutted chickens, and certain drill bits (Brazil); certain types of air-conditioning equipment (Brazil and China); certain types of iron section (Brazil, Czech Republic, South Africa and Turkey); steel granules and filings excluding stainless steel (Brazil and Spain); playing cards, stainless steel cutlery, articles for fireworks, certain types of bronze padlock, certain drill bits, crayons and graphite pencils, certain microwave ovens – both mechanical and digital, certain thermos flasks and isothermic containers, tap sets for bathrooms and kitchens, sets of Spanish, French and English playing cards, certain types of sunglasses, and certain metal frames, certain types of ball bearings (China); spokes and spokes with nipples for bicycles and motorcycles (China and Chinese Taipei); certain hypodermic syringes (China and Korea); certain textiles (Chinese Taipei and Korea); polystyrene foam trays for food products (Chile); certain fibreglass products (Chile and South Africa); certain drill bits (Italy); certain types of automatic washing machine (Italy and Spain); certain straight handsaw blades for manual work (Ireland and United Kingdom); certain iron or steel sheet products (Kazakhstan, Korea, Romania, South Africa and Ukraine); pure fabrics of dyed acetate filaments (Korea); certain straight handsaw blades for manual work (Mexico); and steel discs for agricultural machinery (Spain).

establishment of a panel to examine Argentina's anti-dumping measures on ceramic tiles from Italy. In 2001, the Panel found that Argentina had acted in a manner inconsistent with four Articles of the Anti-Dumping Agreement concerning issues such as determination of dumping and evidence.[119] Argentina withdrew the measures in 2002. In 2002, Brazil requested a panel to examine Argentina's anti-dumping measures on poultry from Brazil; in 2003 the Panel found the measure to be inconsistent with various WTO rules on issues such as determination of dumping and injury, initiation and subsequent investigation, evidence, and public notice of determinations.[120] Before the Panel's report was adopted, Argentina lifted the measures through Resolution No. 79/2003 of 26 February 2003.

110. In 1998, the EU sought consultations concerning Argentina's application of countervailing duties on wheat gluten from the EU, but no panel was established. In 2005, EU requested consultations concerning Argentina's imposition of countervailing duties on olive oil, wheat gluten and peaches. In July 2006, Resolution No. 593/2006 abolished the countervailing duty on imports of olive oil in bottles and in bulk originating from the EU.

(b) Safeguard measures

111. There has been no change in the legal or institutional framework on safeguards, except for Decrees Nos. 1059/2004 and 1860/2004 relating to point 16 of the Protocol on the Accession of the People's Republic of China. The legal framework consists of the WTO Agreements, adopted by Law No. 24425 of 1994, and safeguard regulations (Decree No. 1059 of September 1996). Argentina has notified the WTO of its legislation, which Members reviewed in 1996-1997.[121]

112. Argentina initiated three safeguard investigations between 1999 and mid-2005; two of these resulted in the imposition of definitive safeguard measures (Table III.6). The only other safeguard measure in force during the period under review related to high-performance footwear.[122] As at June 2006, the only safeguard measure in force was on colour television sets, adopted by Resolution No. 43/05 of 9 February 2005, for a period of three years.[123]

Table III.6
Safeguard investigations and measures notified to the WTO, 1999-June 2004

Product	Origin of imports subject to investigation	Decision	Relevant notifications to the WTO
Mopeds and motorcycles of up to 100 cc. cylinder capacity	Everywhere, except Thailand, Hong Kong, Peru and MERCOSUR	Specific duties (ranging from US$297 to US$444 per unit, decreasing to levels between US$208 and US$311 per unit).	G/SG/N/10/ARG/4-G/SG/N/11/ARG/4 of 23 July 2001
Peaches preserved in water containing added sweetening matter, including syrup, preserved in any other form or in water	Everywhere except South Africa and MERCOSUR	Specific duties (US$0.50/kg net, decreasing to US$0.40/kg net)	G/SG/N/8/ARG/4/Suppl.1-G/SG/N/10/ARG/3/Suppl.1 of 27 September 2001
Colour television sets	Brazil	Provisional duty of 21.5 per cent Definitive measure (quotas)	G/SG/N/6/ARG/5-G/SG/N/7/ARG/3 of 17 September 2004 Not notified

Source: WTO Secretariat.

[119] WTO document WT/DS189/R of 28 September 2001.
[120] WTO document WT/DS241/R of 22 April 2003.
[121] WTO documents G/SG/N/1/ARG/3 of 13 January 1997, G/SG/Q1/ARG/4 of 23 December 1996 and G/SG/Q1/ARG/9 of 20 August 1997.
[122] WTO document G/SG/N/8/ARG/1/Suppl.2-G/SG/N/10/ARG/1/Suppl.5-G/SG/N/11/ARG/1/Suppl.5 of 14 August 2000.
[123] CNCE (2006).

113. The MEP is the implementing authority for safeguard measures. Applications for such measures must be filed with the Secretariat of Industry, Trade and SMEs (hereinafter the Secretariat), together with an adjustment plan for the domestic industry in question. On receipt of the application, the Secretariat refers the matter to the Undersecretariat for Foreign Trade (hereinafter the Undersecretariat) and to the CNCE (see Section (2)(vii)), which have 50 days in which to issue two separate reports on whether or not there have been increased imports of the product in question that have caused or threaten to cause serious injury to the domestic industry.

114. On the basis of these reports, the Secretariat has 20 days to decide, in the light of public interest and overall economic policy considerations, whether it is appropriate to initiate an investigation. If it is so decided, the decision is published in the Official Journal. A safeguard investigation may not generally last longer than nine months from the date of its initiation. If provisional measures are applied, the investigation may not take more than 200 days. Provisional safeguard measures may take the form of an increase in import duties over the existing level.

115. Definitive safeguard measures may take the form of an increase in import duty, a quantitative restriction, or any other available measure. The duration of a definitive safeguard measure is limited to the period necessary to prevent or remedy any injury or threat of injury and to facilitate adjustment of the affected domestic industry. The period may not exceed four years, including the time for which any provisional measure was applied. The initial period may be extended if this is deemed necessary to prevent or remedy injury or threat of injury. The total period of application of a safeguard measure, including the application of any provisional measure and any extension thereof, may not generally exceed eight years. Decisions to impose safeguard measures are published in the Official Journal. Decree No. 1059 also contains provisions on the review of measures.

116. Since the last review of Argentina, the WTO dispute settlement mechanism has been used against Argentine safeguard actions on five occasions (of which three concerned footwear). In 1998, the EU requested the establishment of a panel to review Argentina's safeguard measures on footwear. The Panel found the measures to be inconsistent with certain provisions of the relevant WTO Agreement regarding the conditions and determination of injury[124]; Argentina informed the WTO that the safeguard would remain in force until 25 February 2000 and that it would adopt measures to comply with the recommendations and ruling of the Dispute Settlement Body (DSB). The measure that gave rise to the establishment of the Panel expired on 21 July 2003. Indonesia also requested consultations concerning safeguard measures on footwear in 1998, but the request was later withdrawn. In 1999, the United States requested the establishment of a panel concerning safeguards on footwear from non-MERCOSUR countries, but the panel was never established.

117. In 2000, Brazil requested consultations concerning transitional safeguard measures on woven fabric products of cotton and cotton mixtures originating in Brazil; a mutually agreed solution was adopted the same year. In 2001, Chile requested the establishment of a panel concerning definitive safeguard measures on preserved peaches; the Panel found the measure to be inconsistent with certain provisions such as those relating to demonstration of the existence of unforeseen developments, determination of increased imports, and evaluation of all relevant factors.[125] The measure was withdrawn by Argentina in 2003.

118. Argentina has reserved the right to apply the transitional safeguard mechanism provided for in Article 6 of the Uruguay Round Agreement on Textiles and Clothing[126], but not the special safeguard

[124] WTO document WT/DS121/R of 25 June 1999.
[125] WTO document WT/DS238/R of 14 February 2003.
[126] Article 1.6 of the WTO Agreement on Textiles and Clothing (WTO document G/TMB/N/15 of 6 March 1995).

provisions in the WTO Agreement on Agriculture. Argentina submitted its lists of textile and clothing products that were included in the first, second and third phases of integration into the GATT 1994.[127]

119. During the period under review, Argentina imposed transitional safeguard measures on imports of woven fabrics of cotton and cotton mixtures originating in Pakistan.[128] These were eliminated in 2000, following the recommendations by the Textiles Monitoring Body, adopted in January 2000, that Argentina rescind the measures.[129] Safeguards were also introduced in 1999 for the same products from Brazil and China (see Section (2)(vi)). In 1999, Argentina also notified the WTO that it had decided not to apply the safeguard measure planned for imports of polyester fibre yarn from Korea, Indonesia and Malaysia, and for imports of polyester fibre from Korea.[130]

(viii) Standards and technical regulations

(a) Transparency

120. The WTO Agreement on Technical Barriers to Trade (TBT) has been incorporated in domestic legislation by Law No. 24.425[131], and therefore provides the general framework for adopting technical regulations. The legal framework for standards-related activities consists of Decree No. 1474/94, which created the National Standards, Quality and Certification System, and its regulations (Resolutions Nos. 90/95 of 26 September 1995 and 330/99).

121. The National Standards, Quality and Certification System comprises two non-profit civil associations: the Argentine Standards Institute (IRAM) and the Argentine Accreditation Agency (OAA). IRAM is a private institute recognized by the Government as the country's only official standardization body and is also a certification organization (for products and for systems). The OAA is responsible for accreditation of certification bodies and laboratories. Technical regulations are established by various government agencies (see below).

122. Argentina has designated the National Foreign Trade Directorate (DNCI) as its enquiry point and notified the WTO of this.[132] The DNCI is also responsible for implementing notification procedures at national level. The latest notification concerning the implementation and administration of the TBT Agreement dates from 2003.[133]

123. During the period under review, trade concerns were raised in the TBT Committee regarding the MERCOSUR Technical Regulation on Definitions Relating to Alcoholic Beverages (Other Than Fermented), which had been notified by Argentina for future implementation[134], and regarding the legal appellation system for wine products.[135] Questions were raised by Members[136] concerning

[127] WTO documents G/TMB/N/51 of 28 April 1995, G/TMB/N/51/Add.1 of 15 February 1996, G/TMB/N/225 of 13 February 1997 and G/TMB/N/357 of 17 November 2000.
[128] The measures were introduced through Resolution No. 983/99 of 13 July 1999, amended by Resolution No. 919 /99 of 30 July 1999.
[129] WTO document G/TMB/22 of 2 February 2000.
[130] WTO document G/TMB/N/347 of 12 November 1999.
[131] Law No. 24.425 of 7 December 1994.
[132] WTO document G/TBT/2/Add.21/Suppl.3 of 29 August 2003.
[133] WTO document G/TBT/2/Add.21/Suppl.3 of 29 August 2003 (enquiry point).
[134] WTO documents G/TBT/M/33 and G/TBT/M/34 of 5 January 2005 and 31 August 2004, respectively. The Regulation was notified in WTO document G/TBT/N/ARG/159 of 16 April 2004.
[135] WTO document G/TBT/M/34 of 5 January 2005. The Regulation was notified in WTO document G/TBT/N/ARG/107 of 26 May 2003.
[136] WTO document G/TBT/M/32 of 19 April 2004.

resolutions relating to the sulphate content in wine and wineries[137]; labelling of pre-packaged food[138]; amendment of the Argentine Food Code's provisions concerning olive oil[139]; and the legal appellation system for wine products.[140]

(b) Technical regulations

124. According to information provided by the authorities, the following bodies may establish technical regulations: the Secretariat of the Environment and Sustainable Development of the Office of the Chief of Cabinet of the National Government; the executive branch; and the National Institute of Industrial Technology (INTI). The provinces can also prepare and adopt technical regulations, pursuant to national legislation, but only to regulate intra-provincial trade.

125. The preparation of draft technical regulations is governed by Decrees Nos. 333/1985 and 1172/2003 (Annex V).[141] There is no central mechanism for publishing these drafts, but they are usually disseminated through the web sites of the bodies adopting technical regulations. Notifications to WTO Members are made after an analysis of their consistency with the provisions of the Agreement on the Application of Sanitary and Phytosanitary Measures. Where appropriate, notification is made of drafts prepared by the National Food Commission (CONAL) and MERCOSUR Working Subgroups (SGTs) 3 and 11, as well as the INV. In all cases a period of 60 days is allowed for comments. Argentine notifications to the WTO are published on the focal point's Internet site[142], and are also distributed through a subscription service or upon request. Comments are generally discussed among the focal points of WTO Members, with intervention by the body with jurisdiction over the matter in question. The issuing body is responsible for adopting and implementing the measure, which is published in the Official Journal.

126. Benchmarks used in the preparation of technical regulations include international and MERCOSUR standards, the standards and recommendations issued by the International Organization for Standardization (ISO) and the Pan American Commission on Technical Standards (COPANT), the Codex Alimentarius Commission, the International Organization of Legal Metrology (OILM), and the regulations of the International Electrotechnical Commission (IEC). The choice of a standard to be used in a technical regulation depends on factors relating to the market, as well as regional, climatic and technological considerations.

127. The mechanism for abolishing technical regulations is the same as for applying new ones; and they are amended on the basis of technological changes or international standards.

128. MERCOSUR "technical regulations" (i.e. standards that must be adopted by MERCOSUR members) are endorsed by MERCOSUR members in Working Subgroup 3 (technical regulations and conformity assessment) for areas such as food, toys, electrical products, automotive industry, metrology, and conformity assessment. Separate working subgroups on issues such as telecommunications (SGT 1) and health (SGT 11) develop technical requirements for their respective sectors.

[137] WTO document G/TBT/N/ARG/101 of 23 of May 2003.
[138] WTO document G/TBT/N/ARG/104 of 22 May 2003.
[139] WTO document G/TBT/N/ARG/90 of 14 May 2003.
[140] WTO document G/TBT/N/ARG/107 of 26 May 2003.
[141] Decree No. 333/1985 of 19 February 1985 on rules for the preparation, drafting and formalization of draft acts and administrative documentation; and Annex V (General regulation for participatory preparation of regulations) to Decree No. 1172/2003 of 3 December 2003 on access to public information.
[142] See http://www.puntofocal.gov.ar.

129. Since 1998, technical regulations governing safety and mandatory certification have been adopted for electrical equipment, toys, footwear, gas appliances and products, construction steel, elevators, and personal protective equipment, among others. Although there is no inventory or register of the technical regulations in force, they can be found in databases such as Infoleg[143], the site of Argentina's focal point, or the databases of each of the competent bodies.

130. Since January 1998, Argentina has submitted notifications concerning 247 technical regulations, of which 135 were notified as draft technical regulations (Article 2.9.2), 32 as technical regulations adopted to address urgent problems (Article 2.10.1), 59 as draft conformity assessment procedures (Article 5.6.2), and 21 as conformity assessment procedures adopted to address urgent problems (Article 5.7.1).

131. Argentina has not notified any equivalent technical regulations or mutual recognition agreements. The Mutual Recognition Arrangement in the Field of Quality Management Systems, to which the OAA is party, has been notified by Brazil.[144]

(c) Conformity assessment

132. The steps involved in adopting conformity assessment procedures are the same as those for adopting technical regulations (see above).

133. Entities that engage in testing and certification of regulated products have to be accredited by the OAA and recognized by the competent authority.[145] To obtain recognition, these entities must, *inter alia*, follow the guidelines established in ISO Guides 65 and 25, depending on the case. Regulations on certification correspond to those contained in the ISO and IEC guides, so as to facilitate the establishment of mutual recognition agreements.[146]

134. Certification is the responsibility of a variety of institutions, such as IRAM, INTI, the National University of Buenos Aires and the National Technological University, each of which is free to set prices for assessing product conformity.

135. IRAM provides certification for products, processes, and services, as well as for management systems and software. SENASA has also recognized IRAM as the certification body for organic[147] and agrifood products[148] (see Section (2)(ix)). At the international level, it participates in IQNet (for the certification of management systems) and as liaison member in the Quality Excellence for Suppliers of Telecommunications Forum (QuEST FORUM), and it serves as the national certification body for the IECEE CB Scheme (for electrical equipment).[149] To facilitate the acceptance of conformity assessment results, IRAM maintains bilateral certification agreements (products and/or quality systems) with organizations in some 22 countries.[150]

136. As a government agency, INTI also performs product testing and certification.

[143] See http://infoleg.mecon.gov.ar/.
[144] WTO document G/TBT/10.7/N/40 of 12 December 2002.
[145] Decree No. 1474/94 of 23 August 1994 and Resolution No. 123/99 of 3 March 1999.
[146] IRAM, *Convenios de Certificación* (Certification Agreements), consulted at: http://iram.com.ar//quienes.htm.
[147] SENASA Resolution No. 247/97 of 1997.
[148] SENASA Resolution No. 280/2001 of 8 August 2001.
[149] IRAM, *Certificación*, consulted at: http://iram.com.ar//certificacion/certificacion.htm.
[150] IRAM, *Convenios de Certificación*, consulted at: http://iram.com.ar//quienes.htm.

137. The authorities stated that, in the mandatory domain, first- and second-party conformity assessments are not widely applied but are only used for certain low-risk products.

138. Market surveillance at the national level is performed by official bodies for food or pharmaceuticals and by specific surveillance agencies for other products. In the case of imported products, customs inspections ensure compliance with current legislation. When products are non-conforming but this can be rectified by the user, they are only released into the market once they have been brought into conformity. When the problem cannot be corrected, the products are destroyed. Penalties for making false or misleading statements are provided for under Laws Nos. 22.082 and 24.240, as well as in specific legislation concerning each type of product.

(d) Standards

139. IRAM is the only institution that develops standards in Argentina. At the regional level, it participates in the Pan American Standards Commission (COPANT) and the MERCOSUR Standardization Association (AMN). IRAM has technical cooperation agreements for examining standards with the following foreign agencies: ABNT (Brazil), AENOR (Spain), AFNOR (France), COVENIN (Venezuela), DIGENOR (Dominican Republic), DSTU (Ukraine), NFPA (United States), and SIRIM (Malaysia). It has accepted the WTO Code of Good Practice for the Preparation, Adoption and Application of Standards.[151]

140. International standards are widely used as a reference for developing national standards. European standards are also used.

141. The first stage in the development of standards is the preparation of a draft standard by a study body comprising representatives of the specific area. The draft is then submitted for public discussion during a minimum of 30 and a maximum of 180 days (with exceptions). The draft, with revisions if necessary, is then submitted to the General Committee on Standards, which makes it official and passes it on to the IRAM Directorate-General for approval as a standard.[152]

142. Standards based on regional standards (COPANT and MERCOSUR) are made available for comment for 30 to 60 days, and the intention to adopt such a standard is publicized by IRAM. For the adoption of international standards, the provisions of ISO/IEC Guide 21 are used to determine whether the standard in question is identical, modified or not equivalent to the international standard.[153]

143. IRAM standards can be cancelled following consultation with the study body and publication of the intention to do so in the IRAM Bulletin.[154]

144. The standardization plan lasts at least one year. It is prepared by the coordinator in charge of the study body and the heads of respective departments, in consultation with each study body. Once a final consensus has been reached, the document is approved as a draft and submitted to the General Committee on Standards, which reviews it from the formal standpoint and then sends it on to the IRAM Directorate-General for approval as a standard.[155] The standards study plan for 2006 is

[151] IRAM accepted the Code of Good Practice for the Preparation, Adoption and Application of Standards on 31 July 1997 (WTO document G/TBT/CS/2/Rev.12 of 17 February 2006).
[152] IRAM (1999).
[153] *Idem.*
[154] *Idem.*
[155] *Idem.*

available on the Internet.[156] As at June 2006, Argentina had not notified the standards work programme to the WTO.

145. Argentina and other MERCOSUR countries have taken steps to harmonize standards across the region. The regional institution responsible for this task is the MERCOSUR Standardization Association (AMN). Standards are being developed by 16 technical committees and mostly concern cement and concrete, steel products, and electrical safety. As at June 2006, there were 514 standards at the MERCOSUR level.[157] MERCOSUR standards are voluntary, but if States Parties decide to incorporate them in a MERCOSUR technical regulation they become mandatory for all Parties.

(ix) Sanitary and phytosanitary measures

(a) Transparency

146. The WTO Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures has been incorporated in domestic legislation by Law No. 24.425.[158] Pursuant to the transparency requirements of the SPS Agreement, Argentina has designated the National Agriculture and Food Quality and Health Service as the national enquiry point and the National Agrifood Market Directorate of the Secretariat of Agriculture, Livestock, Fisheries and Food as the national notification authority.[159]

147. Argentina actively participates in meetings of the SPS Committee and has submitted communications on topics such as equivalence[160], transparency[161], and regionalization.[162] With the aim of strengthening transparency, Argentina has also submitted communications on the strengthening of the national certification authorities[163], food-and-mouth disease measures, and difficulties in international trade in grains, fruit, vegetables and tubers, arising from restrictions imposed because of foot-and-mouth disease.[164] Between January 1998 and October 2006, Argentina submitted 96 SPS notifications: 18 were notified as emergency measures (3 were adopted owing to the lack of an international standard or guideline), and 78 as other measures (12 were adopted owing to the lack of an international standard or guideline).[165] Of these 78, all but six were notified as draft measures.

148. As at February 2006, six of Argentina's SPS measures[166] had been raised as trade concerns by its trading partners, of which three have been reported as solved.[167] Argentina itself had raised

[156] See http://iram.com.ar//normalizacion/Proceso/plan/plan.htm.
[157] Online AMN information, consulted at: http://www.amn.org.br.
[158] Law No. 24.425 of 7 December 1994.
[159] WTO documents G/SPS/ENQ/19 and G/SPS/NNA/9, both of 25 January 2006.
[160] WTO documents G/SPS/GEN/268, G/SPS/W/116, G/SPS/W/117, G/SPS/W/123, G/SPS/W/123/Add.1, G/SPS/W/123/Add.2 and G/SPS/W/130 of 15 August 2001, 25 February 2002, 11 March 2002, 25 October 2002, 20 May 2003, 8 October 2003 and 24 March 2003, respectively.
[161] WTO document G/SPS/W/167 of 22 of December 2004.
[162] WTO documents G/SPS/GEN/433, G/SPS/W/167 and G/SPS/GEN/606 of 22 October 2003, 22 December 2004 and 5 December 2005, respectively. It also cosponsored WTO document G/SPS/W/189 of 24 May 2006.
[163] WTO document G/SPS/GEN/425 of 18 September 2003.
[164] WTO documents G/SPS/GEN/269, G/SPS/GEN/269/Rev.1, G/SPS/GEN/315, G/SPS/GEN/323, G/SPS/GEN/377 and G/SPS/GEN/654 of 27 July 2001, 17 September 2001, 23 April 2002, 17 June 2002, 26 March 2003 and 27 March 2006, respectively.
[165] WTO document in the G/SPS/N/ARG series.
[166] These measures are: BSE-related measures (raised by Switzerland); temporary prohibition of fresh pork and its by-products (European Union); import restrictions on bovine semen, milk and dairy products

31 trade concerns concerning measures affecting its exports. During the period under review, Argentina has participated only once in a dispute involving SPS measures, as complainant in the case regarding measures adopted by the EU affecting the approval and marketing of biotech products, and bans introduced on a number of agricultural products by some individual EU member countries.[168]

149. Argentina participates in the work of the three international standard-setting organizations referred to in the SPS Agreement, namely the FAO/WHO Codex Alimentarius Commission, the World Organization for Animal Health (OIE), and the International Plant Protection Convention (IPPC).

150. As a State party to MERCOSUR, Argentina is also a member of the MERCOSUR Animal Health Commission, Plant Health Commission and Seeds Commission. The Argentine authorities stated that the sanitary and phytosanitary requirements regulating trade between States Parties and imports from outside the zone have been harmonized through technical groups. SGT 8 (on agriculture) and SGT 3 (on technical regulations and conformity assessment) have defined criteria to facilitate the establishment of mutual recognition agreements on sanitary and phytosanitary control systems within MERCOSUR. Argentina has established two mutual recognition arrangements, both with Brazil: one to simplify sanitary control procedures for food products at the border; and the other, not yet operational as at October 2006, to recognize the equivalence of plant and animal health control systems.

151. Argentina is a signatory to the agreement for the establishment of a Southern Cone Plant Protection Committee (COSAVE) along with Brazil, Chile, Paraguay and Uruguay. Argentina is also a signatory to the agreement establishing the Standing Committee on Animal Health, which has the same signatories as COSAVE. Argentina has also joined Bolivia, Brazil, Chile, Paraguay and Uruguay in signing the agreement establishing the Southern Agricultural and Livestock Council (CAS).

152. According to the authorities, as a member of MERCOSUR Argentina lobbies in all negotiations on preferential trade agreements for the incorporation of chapters on sanitary and phytosanitary issues. The following agreements signed by Argentina include provisions on sanitary and phytosanitary measures: Economic Complementarity Agreements Nos. 6 (Argentina-Mexico), 18 (MERCOSUR), 35 (MERCOSUR and Chile), 36 (MERCOSUR and Bolivia), 58 (MERCOSUR and Peru), and 59 (MERCOSUR and Colombia, Ecuador and Venezuela); and the Preferential Tariff Agreement between MERCOSUR and India.

(b) Implementation

153. Various government agencies, including SENASA and CONAL, are involved in the drafting and implementation of legislation on SPS measures.[169] Acting through the National Food Institute (INAL) under its authority, ANMAT regulates processed food products (including alcoholic and non-alcoholic beverages, apart from wine) and the INV regulates wine production and imports and issues the necessary import certification.

(European Union); import restrictions affecting BSE-free countries (Bulgaria, Croatia, Czech Republic, Estonia, Latvia, Poland, Romania, Slovak Republic, and Slovenia); BSE risk assessment (Canada); and pest risk assessment requirements (United States).

[167] WTO document G/SPS/GEN/204/Rev.6 of 19 May 2006.

[168] WTO documents in the WT/DS293 series.

[169] SPS legislation is available at: http://www.senasa.gov.ar/marcolegal/mlegal.php.

154. SENASA is an autonomous body attached to the MEP Secretariat of Agriculture, Livestock, Fisheries and Food, with responsibility for implementing government policy on animal and plant health. It is also involved in food quality inspection. The health authorities in each province and in the Autonomous Government of the City of Buenos Aires register products and establishments that apply for authorization for the manufacturing, preparing, storage, bulk-breaking, distribution and marketing of food products, under standard requirements.[170]

155. Among other things, SENASA is responsible for establishing SPS measures based on risk assessment, and for verifying imports (and exports) and issuing the corresponding certificates.[171] The Laboratories and Technical Control Department is the referral laboratory for SENASA and is in charge of quality control for agricultural products and inputs, protection of animal and plant health, and public health. The referral laboratory adheres to good laboratory practices and implements the ISO/IEC 17025/IRAM 301 Standard on the accreditation of analytical tests, so as to facilitate mutual recognition agreements.[172] CONAL is attached to the Health Ministry, and its main function is to propose amendments to the Food Code.[173] In 1999, the National Food Control System was established by Decree No. 815/99, to ensure implementation of the Code.

156. According to the authorities, Argentina uses international standards developed by international organizations such as the FAO/WHO Codex Alimentarius Commission, the OIE and the IPPC as a basis for harmonizing SPS measures within MERCOSUR, and for adopting national SPS measures. National sanitary and phytosanitary standards are compiled in a database maintained by the SENASA Sanitary Legislation Coordination Unit (COLESA). All current measures are available for consultation on the Internet.[174]

157. Products are inspected at their point of entry into the country (customs, port and airport).

158. SENASA Resolution No. 816/2002 establishes the procedure for approving and notifying sanitary and phytosanitary requirements for the importation of products under SENASA jurisdiction (products and by-products of animal and plant origin).[175] All importers of live animals, and animal or plant products and by-products, must be registered with SENASA.[176] Other import requirements vary according to the product and the agency responsible (see also Section (2)(i)).

159. In the case of animal products and by-products, only those produced by establishments authorized by the official veterinary and/or sanitary authorities in their countries of origin, or by SENASA, may be imported. Meat plants exporting such products to Argentina are also subject to SENASA inspection. Products must be registered according to their final use: those destined for human consumption are registered with the Animal Product Inspection Department; and those intended for animal consumption must be registered with the Agro-Chemical, Pharmacological and Veterinary Products Department. Products destined exclusively for industrial uses do not require registration.

[170] Decree No. 815/99 of 26 July 1999.
[171] Decree No. 1585/96 of 19 December 1996.
[172] Resolution No. 55/03 of 21 March 2003.
[173] The Argentine Food Code, implemented by Law No. 18.284, regulated by Decree No. 2126/71. Consulted at: http://www.conal.gov.ar/CAA.asp.
[174] On the web sites of SENASA (www.senasa.gov.ar), CONAL (www.conal.gov.ar) and the Ministry of the Economy and Production (www.infoleg.gov.ar).
[175] SENASA Resolution No. 816/2002 of 4 October 2002.
[176] SENASA Resolution No. 491/2001 of 6 November 2001 established the register of exporters and/or importers of animals, plants, reproductive or breeding material, products, by-products and/or those derived from animals or plants, or goods that contain ingredients of animal and/or plant origin among their components.

160. Prior to importation, importers must obtain SENASA's approval of their import application, which is valid for one year. The imports must be accompanied by a health certificate, written in or translated into Spanish, from the official competent authority in the country of origin, which must be recognized by SENASA.[177]

161. In addition, at least three business days before arrival of the products, a notice of arrival has to be presented for validation to the Product Importation Coordination Unit.[178] SENASA charges Arg$10 for each notice of arrival, which remains valid for 15 days extendable for one further equal period.[179] Fees for SPS-related services are established through resolutions.[180] The cost of sanitary inspection of foreign food-producing plants is borne by the importer.[181] Foreign facilities are inspected by SENASA technical staff, appointed by the authorities of each area according to the type of facility in question.

162. In 2000, the Residues and Food Hygiene Control Plan (CREHA) applicable to domestic production was extended to imports of products of animal origin for the purpose of detecting residues, prohibited substances and micro-organisms in amounts above the permitted limits, and rules were established making imports subject to control and defining the procedures to be followed when the limits are exceeded.[182]

163. SENASA is also responsible for international trade-related risk analysis, for which it generally uses, *inter alia*, the recommendations and procedures in the OIE Guidelines for Risk Analysis. The cost of risk assessment is borne by the State.

164. In 2002, a risk assessment methodology was introduced for imports of live animals, their reproductive material, and products and by-products of animal origin, in order to prevent the outbreaks of Bovine Spongiform Encephalopathy (BSE).[183] Risk is assessed in the light of origin, product and destination factors.

165. Imports of plant products and by-products[184] require a phytosanitary certificate issued in the country of origin, as well as the Phytosanitary Import Authorization (AFIDI) from the Plant Quarantine Office, issued by SENASA. The AFIDI details all the necessary phytosanitary requirements for importing such products; no time-limit is set for issuing the document, however.[185] The importer must submit the AFIDI to the national phytosanitary protection organization in the exporting country, which in turn has to certify that the product satisfies the specified requirements. Upon arrival of the imports in Argentina, SENASA verifies that the AFIDI phytosanitary requirements are added to the phytosanitary certificate. The AFIDI is valid for two months in the case of imports for consumption, and also for peat and seeds for laboratories, and nine months for imports

[177] SENASA Resolution No. 816/2002 of 4 October 2002.
[178] *Idem*.
[179] SAGPyA Resolution No. 670/00 of 18 October 2000.
[180] See, for example, SAGPyA Resolutions Nos. 220/2004 of 5 February 2004 and 29/2006 of 20 January 2006.
[181] Former-SENASA Resolution No. 10/93 of 22 July 1993.
[182] SENASA Resolution No. 119/00 of 25 February 2000; the measure was notified to the WTO in 1999 (see WTO document G/SPS/N/ARG/46 of 17 May 1999).
[183] SENASA Resolution No. 117/02 of 22 January 2002, as amended by SAGPyA Resolution No. 315/2006 of 13 June 2006; the measure was notified to the WTO in 2002 (see WTO document G/SPS/N/ARG/65 of 20 February 2002.
[184] Inspection and certification procedures for imports of plant origin are detailed in IASCAV Resolution No. 409/96, of 30 September 1996.
[185] SENASA Resolution No. 55/03 of 1 October 2003.

for propagation purposes. It can be used to cover several shipments during its period of validity.[186] The importation of biological control agents are subject to authorization from the SENASA National Plant Protection Department.[187]

166. In the area of plant health, SENASA works on the basis of positive lists, so that only plant products or by-products for which phytosanitary entry requirements have been established may be imported. Imports of raw cotton are expressly prohibited.[188]

167. Phytosanitary inspection fees are charged at pre-established rates.[189] Fees for import authorizations, the AFIDI and post-entry quarantine, which are paid by the importers, are generally established in Resolution No. 782/99; fees for authorization to import fruits and vegetables for industrial use are set forth in Resolution No. 209/00.

168. To import processed food products, the importer must apply (once only) for registration with the INAL National Register of Establishments (RNE), and then register the product to be imported for retail sale with the National Register of Food Products and Dietary Supplements (RNPA). Once the product has been registered, the importer needs to obtain a free movement certificate, which unlike the registration, is required for every shipment.[190]

169. Wine importers must be registered with the INV and submit a document known as the "*Guía de importación*", whereby the importer notifies the INV of imports of wines or grape juice and requests analysis and shipment control by the INV. This must be accompanied by a document issued by the appropriate official laboratory in the country of origin, stating the products' analytical specifications. If the results of the analysis are satisfactory, the INV issues the free movement certificate.

170. Release into the environment or commercial use of a genetically modified organism (GMO) must be authorized by the competent national authority. Before reaching the Argentine market, a GMO is evaluated in terms of its effects on the agro-ecosystem (responsibility of the National Agricultural Biotechnology Advisory Commission (CONABIA)); food suitability (SENASA); and the commercial impact of its authorization (National Markets Board).[191] The reports resulting from these three evaluations are sent for consideration by the Secretary of State for Agriculture, Livestock, Fisheries and Food. The inspections are conducted by the Secretariat of Agriculture, Livestock, Fisheries and Food (SAGPyA), the National Seed Institute (INASE) and SENASA.

171. Importers of GMOs for breeding purposes are required to complete the SENASA import application. Importers must also be registered with INASE. Importers (as well as domestic producers

[186] SENASA Resolution No. 816/2002 of 4 October 2002.

[187] Resolution No. 758/973 of 13 October 1997.

[188] Resolution No. 208 of 5 May 2003.

[189] The relevant provisions are Resolutions Nos. 582/93 of 27 July 1993; 944/93 of 28 December 1993; 7/94 of 3 November 1994; 60/95 of 4 August 1995; 296/95 of 5 June 1995; 242/98 of 7 May 1998; 271/99 of 12 August 1999 and 461/99 of 24 September 1999.

[190] ANMAT, *Guía de Trámites y Servicios* (Guide to Procedures and Services), consulted at: http://www.anmat.gov.ar/formularios/guia_alimentos.htm.

[191] The regulations applied for the three evaluations are the following: SAGyP Resolution No. 656/92 (for development of GM micro-organisms and/or their products for use in animals); SAGPyA Resolution No. 39/03, amending Resolutions Nos. 656/92, 837/93 and 289/97 (for development of GM plant organisms); SAGPyA Resolution No. 57/03 (for GM animal experimentation projects); SAGPyA Resolution No. 644/03 (for production of GM maize seed in the evaluation stage); and SENASA Resolution No. 412/02 (for evaluation of GMOs in terms of food suitability).

and exporters) of GMOs that have not been authorized for marketing are required to register with SAGPyA's National Registry of Operators Working with Genetically Modified Plant Organisms.

172. As at mid-2006, the following transformation events had been authorized for commercial use: lepidopteran insect-resistant maize (176, Bt11 and Mon810), herbicide-tolerant maize (T25, NK603 and GA21), lepidopteran insect-resistant and herbicide-tolerant maize (TC1507), herbicide-tolerant soybean (40-3-2), lepidopteran insect-resistant cotton (Mon53), and herbicide-tolerant (Mon1445) cotton.

173. The use of anabolizing veterinary products in animals to be used in the production of food for human consumption is prohibited throughout Argentina.[192] The prohibition covers natural, synthetic, or semi-synthetic anabolic products with androgenic, estrogenic or progestogenic effects for growth-promotion purposes. The prohibition does not apply to veterinary products used in the treatment of pathologies of the reproductive apparatus or for control of breeding. This measure was adopted to guarantee effective access for Argentine agrifood exports to the main international markets. According to the authorities, the importation of products containing hormones is not prohibited.

(3) MEASURES DIRECTLY AFFECTING EXPORTS

(i) Procedures, documentation and registration

174. Export procedures are governed by the Customs Code, Law No. 22.415, O.J. of 23 March 1981, as amended; Decree No. 1.001/1982 and amendatory regulations; and AFIP General Resolution No. 1.921/2005.

175. Exporters must be registered in the Register of Exporters and Importers of the Republic of Argentina maintained by the Directorate-General of Customs (DGA). The procedures and conditions governing registration are regulated by Resolution No. 145/1993 of the former National Customs Administration (ANA), as amended; General Resolutions Nos. 269/1998 and 582/1999; General Instruction No. 514/2000 (DPNF); and Decrees Nos. 2.690/2002, 971/2003 and 1.214/2005. The procedure may be completed by a customs agent, and the authorities have indicated that it takes roughly three working days. It is possible to register as an "occasional exporter" for the purpose of undertaking a specific export operation. In addition to general registration requirements, specific registration is necessary for certain products.[193]

176. The number of requirements to be met for listing in the Register of Exporters and Importers has increased in recent years.[194] Both natural and legal persons must give proof of registration and tax domicile with the Directorate-General of Taxation (DGI), via the tax identification number (CUIT), and either provide evidence of the necessary solvency or post a guarantee of fulfilment of its

[192] SAGPyA Resolution No. 447/2004 of 16 April 2004.

[193] For example, the following have been instituted for sanitary reasons: the National Sanitary Register of Agricultural Producers (RENSPA) (Resolutions Nos. 777/1997 and 116/1998 of the former Secretariat of Agriculture, Livestock, Fisheries and Food); the register of exporters and/or importers of animals, plants, reproductive and/or breeding material, products, by-products and/or derivatives of animal or plant origin, or goods that contain ingredients of animal and/or plant origin among their components (SENASA Resolution No. 492/2001); and the Register of the National Wine Institute (INV Resolution No. C 14/2005). There is also a National Register of Exporters of Fresh Citrus Fruit to European Countries (Resolutions Nos. 652/2004 and 911/2005 of the Secretariat of Agriculture, Livestock, Fisheries and Food).

[194] Under Article 29 of Decree No. 2284/1991, the only requirement for registration was to possess a tax identification number (CUIT); this was amended by Decrees Nos. 2690/2002 and 971/2003.

obligations in favour of the DGA. Legal persons must also be registered in the Public Commerce Register of the General Inspectorate of Justice.

177. The procedures for processing export destinations registered through the MARÍA computer system (SIM) are set out in AFIP General Resolution No. 1.921. Export destinations are subject to verification of freight and/or documentary control by the customs service and are processed through different channels: green, orange and red, each of which entails a higher level of control. The channels are basically determined by applying the regulations, risk-based selection criteria and random assignment. In the green channel, once the export destination has been presented officially, the customs service performs a visual inspection to check that the information shown on the detailed customs declaration coincides with that contained in the system. The orange channel is used when the export regime requires the submission of further documentation. If documentary control reveals the need to perform a physical verification, the process continues through the red channel. The red channel involves documentary control and physical verification (type and quality) of the merchandise. According to the authorities, roughly 60 per cent of export destinations were processed through the green channel in the first half of 2006, and 30.06 per cent through the red channel.

178. Applications for export (shipping permits) are valid for 31 days. Those relating to operations under the overland transit regime (truck and/or rail) are valid for 45 days. The DGA can renew applications once only for a period not exceeding the original period.

(ii) Export taxes and duties

179. Following the peso devaluation in 2002, all Argentine exports were again made subject to export duties. Resolution No. 11/2002 of the former Ministry of the Economy and Infrastructure established export duties of 10 per cent on a specific set of goods and of 5 per cent on all other goods except fuels, in addition to duties existing at that time. As noted in the previous report on Argentina, most export taxes had been suspended or abolished in the early 1990s, having applied to a wide range of goods for three decades.

180. Since 2002, successive resolutions have altered export tax rates, with increases on a significant number of products.[195] As at mid-2006, the applicable duties were 5, 10, 15, 20, 25 and 45 per cent on the f.o.b. value, depending on the goods in question (Table III.7).[196]

[195] Resolutions Nos. 35/2002, 160/2002, 307/2002 and 530/2002 of the former Ministry of the Economy; Resolutions Nos. 532/2004, 406/2005, 653/2005, 19/2006, 113/2006 and 149/2006 of the Ministry of the Economy and Production; and Decree No. 310/2002, as amended. MEP Resolution No. 35/2002 provided for the application of export duties of 20 per cent on a list of products, which was subsequently amended by Resolutions Nos. 160/2002 and 307/2002 and Decree No. 690/2002. Resolution No. 655/2002 of 18 November 2005 reduced export duties on fresh bovine hides (salted, pickled and wet-blue) to 3 per cent; Resolution No. 149/2006 of 27 March 2006 repealed that reduction and re-established the original rates.

[196] The c.i.f. value of goods imported under the temporary admission regime is exempt from export duties to the extent that such goods are incorporated in exported products.

Table III.7
Rates of export duties, mid-2006

Rate (%)	Products affected	Observations
5	Products not specified in Annex I to Resolution No. 11/2002 of the former Ministry of the Economy and Infrastructure, as amended.	Export duties set by this Resolution and its amendments will be added to those already in effect, whether permanent or temporary.
10	Various categories of live animals such as breeding stock of equine, porcine, ovine and caprine species; live fish, molluscs and crustaceans, live, refrigerated, chilled or salted; certain plants and vegetables such as beans; fruits including bananas, figs, pineapples, dates, cherries, peaches, strawberries and raspberries; powdered milk; coffee; rice; malt; sausages; tobacco; mineral materials such as pumice stone, marble, granite and gypsum; metal minerals and their concentrates; rubber; certain hides and skins; firewood and raw timber; and various textile fibres such as wool, cotton and flax.	As hides were previously subject to a 5 per cent rate, the total export duty is now 15 per cent.
15	Refrigerated and frozen beef; preparations and preserves of bovine meat.	Export duties on these goods were set at 15 per cent by MEP Resolutions Nos. 653/2005 and 113/2006.
20	Various categories of cereals such as wheat, rye, barley, oats and maize (corn); cereal flour and oleaginous fruits; soybean and sunflower seed oil, other fats and vegetable oils and margarine; paper and paperboard for recycling; and gaseous hydrocarbons such as propane and butane.	Resolution No. 160/2002 of the Ministry of the Economy set a 20 per cent duty on exports of scrap and waste material from various metals such as copper, nickel, aluminium, lead, zinc and tin. MEP Resolution No. 4/2003 raised the rate of duty to 40 per cent for a 90-day period. This regulation was renewed successively by MEP Resolutions Nos. 256/2003, 579/2003, 389/2004 and 788/2004. Exports of scrap and waste material from copper and aluminium and their alloys were subsequently suspended. Oilseeds and cereals and their main by-products (oil and flour), were already subject to an export duty of 3.5 per cent, so that the total rate is now 23.5 per cent.
25	Crude oils of petroleum and bituminous minerals	The rate rises in line with the price of West Texas Intermediate when the latter is above US$32 per barrel (MEP Resolutions Nos. 532/2004 and 537/2004). Given the price prevailing in July 2006, the total rate amounted to 45 per cent at that time.
45	Natural gas	MEP Resolution No. 534/2006 set the export duty on natural gas at 45 per cent, and established the basis for valuation as the price set for this product in the framework agreement between Argentina and Bolivia for the sale of natural gas and implementation of energy integration projects of 29 June 2006. The purpose of the measure is to prevent the higher cost of natural gas arising from the aforementioned agreement from being passed on to domestic consumers with repercussions on goods and services supply costs.

Source: WTO Secretariat.

181. Although export duties have been applied on a temporary basis under Resolution No. 11/2002, neither the resolution itself nor its complementary or amendatory regulations contain any timetable for phasing out the duties.

182. As stipulated in the relevant instruments, export duties were introduced as price policy tools, to cushion the effect of exchange-rate fluctuations on domestic prices, particularly those of household necessities, and to counter the sharp fall in tax revenue. As a result, export duties have again become a major source of public revenue. Between 2002 and 2005, revenue collected from these duties averaged nearly 2.2 per cent of GDP, the highest level recorded in the historical series that began in 1932. During that period, income from export duties represented 9.2 per cent of exports and 9.9 per

cent of total public revenue. In 2005, it accounted for 62 per cent of the primary surplus. Table III.8 shows export duties actually collected by section of the MERCOSUR Common Nomenclature.

Table III.8
Export duties as a percentage of exports 2002-2005
(Current values)

Sections of the MERCOSUR Common Nomenclature		2002	2003	2004	2005
I	Live animals and animal products	4.0	5.6	5.3	5.7
II	Plant products	8.0	17.8	17.2	17.0
III	Animal or vegetable fats and oils, and their cleavage products; prepared edible fats; animal or vegetable waxes	9.0	19.7	17.8	18.2
IV	Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured tobacco substitutes	6.8	15.0	14.7	14.4
V	Mineral products	6.2	7.8	9.6	13.9
VI	Products of the chemical or allied industries	2.8	4.0	3.7	3.8
VII	Plastics and articles thereof; rubber and articles thereof	2.9	4.0	3.7	3.8
VIII	Raw hides and skins, leather, furskins and articles thereof; harness and saddlery; travel articles, handbags and the like; articles of animal gut	2.9	4.3	4.3	4.3
IX	Wood and articles of wood, wood charcoal; cork and articles of cork; basketwork and wickerwork	2.9	3.9	3.3	4.1
X	Pulp of wood or of other fibrous cellulosic material; paper or paperboard for recycling (waste and scrap); paper or paperboard and articles thereof	3.1	4.7	4.3	4.2
XI	Textiles and textile articles	3.0	4.9	4.3	4.2
XII	Footwear, hats and other headgear, umbrellas, sunshades, walking sticks, whips, riding crops and parts thereof; prepared feathers and feather articles; artificial flowers; manufactures of human hair	2.6	4.5	4.6	4.4
XIII	Articles of stone, plaster, cement, asbestos, mica or similar materials; ceramic products; glass and glassware	2.9	4.3	3.7	3.7
XIV	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewellery; coins	0.1	0.2	0.2	0.2
XV	Base metals and articles of base metal	3.0	4.3	4.2	4.0
XVI	Machinery and mechanical appliances, electrical equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, etc.	2.7	3.9	3.8	3.9
XVII	Transportation equipment	2.9	3.1	3.0	2.8
XVIII	Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; clocks and watches; etc.	2.8	3.2	2.9	3.4
XIX	Arms, ammunition; and parts and accessories thereof	2.8	5.0	4.6	4.6
XX	Miscellaneous manufactured articles	2.5	4.0	4.3	4.3
XXI	Works of art, collectors' pieces and antiques	2.0	1.8	2.2	2.3

Source: WTO Secretariat, on the basis of information provided by AFIP and the IEC.

183. As shown in Table III.9, duties levied on exports from the five chapters of the MERCOSUR Common Nomenclature accounted for over 80 per cent of total annual export duty revenue.

184. Official f.o.b. prices are set for several dutiable agricultural exports, and the declared f.o.b. value of a given sale is accepted only if it corresponds to the value previously established by the competent authority.[197] This procedure aims to establish the basis on which rates are applied in settlement of export duties, refunds, drawback, contributions, charges, services and other items that

[197] The legal basis for these measures is provided by Law No. 21.453, Official Journal (hereinafter O.J.) of 11 November 1976, and its complementary and amendatory regulations; Decrees Nos. 2488/1991, 1177/1992, 654/2002 and 1094/2002; Resolutions Nos. 331/2001, 53/2002 and 835/2005 of the Secretariat of Agriculture, Livestock, Fisheries and Food (SAGPA); AFIP Resolution No. 1256/2002; and Resolution No. 296/2002 of the former Ministry of the Economy.

are levied on, or benefit, the exportation of goods listed in Law No. 21.453.[198] Exports of these goods must be registered with the DGA through a sworn statement.[199]

Table III.9
Export duties: Distribution of revenue collected, 2002-2005
(Per cent**)**

Chapter of the MERCOSUR Common Nomenclature		2002	2003	2004	2005
27	Mineral fuels, mineral oils and products of their distillation; bituminous materials, mineral waxes	21.1	14.2	17.9	23.9
23	Residues and waste from the food industry; prepared animal fodder	15.7	21.1	20.8	18.0
15	Animal or vegetable fats and oils, and their cleavage products; prepared edible fats; animal or vegetable waxes	13.2	18.0	16.1	14.2
12	Oilseeds and oleaginous fruits; miscellaneous seeds and fruits; industrial or medicinal plants; hay and forage	11.2	13.6	11.1	12.1
10	Cereals	9.6	14.0	14.2	11.9
87	Automobiles, tractors, mopeds and other land vehicles; parts and accessories	3.4	1.6	1.8	1.9
2	Meat and edible offal	1.1	0.9	1.3	1.6
4	Milk and dairy products; poultry eggs; natural honey; edible products of animal origin, not elsewhere specified	1.1	0.8	1.0	1.3
8	Edible fruits and nuts; peel of citrus fruits, melons or watermelon	1.5	1.1	1.1	1.2
3	Fish and crustaceans, molluscs and other aquatic invertebrates	2.0	1.7	1.5	1.1
39	Plastics and articles thereof	1.2	0.9	1.0	1.0
73	Articles of iron or steel	1.2	0.7	0.8	1.0
84	Nuclear reactors, boilers, machinery, and mechanical appliances; parts thereof	1.3	0.8	0.9	0.9
41	Raw hides and skins (other than furskins) and leather	1.4	1.0	1.0	0.8
72	Iron and steel	1.3	0.9	0.7	0.8
	Other	13.9	8.5	8.8	8.2
	Total	100.0	100.0	100.0	100.0

Source: WTO Secretariat, on the basis of information provided by AFIP.

185. Official export prices are determined by the Agrifood Markets Department of the Secretariat of Agriculture, Livestock, Fisheries and Food, on the basis of the following: consultations with operators in the domestic export market; monitoring of the situation and trends in international and domestic prices; an analysis of consistency between f.o.b. export prices, available or future domestic prices and export or manufacturing profit margins; and information provided by the DGA.[200] Products covered by this rule are wheat, maize (corn), sorghum, barley, malt, rice, soybean, sunflower, flax, turnip, rapeseed; oils of soya, sunflower, flax, turnip, cotton and groundnut; and soya, sunflower, flax, turnip and groundnut by-products (e.g. flour).

(iii) Import prohibitions and restrictions and licensing regimes

186. Since the previous trade policy review of Argentina, export prohibitions have been reintroduced for commercial reasons. In July 2005, it was decided to suspend exports of tailings of copper and aluminium and their alloys for 90 days.[201] The export ban was extended in March 2006 for a period of 180 days.[202]

[198] In early 2002, the time at which the tax becomes due was altered owing to the critical situation in Argentina, but this was later reversed.

[199] SAGPA Resolution No. 35/2002, O.J. of 27 March 2002, temporarily closed the register of sworn statements of foreign sales established by Law No. 21.453, which meant *de facto* temporary suspension of exports. Registration was reopened by Resolution No. 53/2002, O.J. of 12 April 2002.

[200] SAGPA Resolution No. 331/2001, which also specifies reference markets for each product for price control purposes.

[201] MEP Resolution No. 395/2005, which also provided for the creation of the National Register of Producers and Exporters of Tailings and Waste of Copper and its Alloys, attached to the MEP Secretariat of

187. MEP Resolution No. 114 of 8 March 2006 suspended exports of bovine livestock on the hoof and of certain cuts and preparations and preserves of bovine meat for a period of 180 days, except for foreign sales of "Hilton beef" subject to tariff quotas and sales covered by bilateral agreements. The MEP justified the measure as necessary to maintain the stability of beef prices in the face of price increases caused partly by external demand. This was prompted by the National Government's priority of maintaining supply to the domestic market at reasonable prices.[203] In May 2006, the export ban was replaced by a quantitative restriction under MEP Resolution No. 397/2006. Specifically, an export quota was set for the period between 1 June and 30 November 2006, equivalent to 40 per cent of the volume recorded in the same period in 2005, with a requirement not to exceed 50 per cent of this total in each quarter. The established quota is shared among exporters in proportion to the physical volume exported in the reference period. Exports included in the tariff quotas granted by the European Union for high-quality chilled and frozen beef cuts off the bone, are exempted.

188. In addition to the rules officially restricting exports, the Government has concluded an agreement whereby wheat exporters undertake to ensure that the domestic market is supplied first and foremost.[204]

189. Exports of controlled substances that deplete the ozone layer, included in Annexes A-E of the Montreal Protocol, whether new, used, recycled or regenerated, are subject to a system of licensing and quotas.[205] Exporters of such substances must be listed in the Register of Importers and Exporters of Ozone Depleting Substances (RIESAO) maintained by the Secretariat of the Environment and Sustainable Development of the Ministry of Health and the Environment. The Secretariat annually distributes and awards 95 per cent of the total quota among licence applicants in the form of non-transferable quotas. The remaining 5 per cent is held as a reserve to avoid exceeding the level of consumption and/or production resulting from the control measures in force.

190. Exports of certain products are also subject to pre-certification requirements to ensure application of the necessary sanitary and quality controls, or to guarantee fulfilment of international commitments relating to safety (e.g. weapons and nuclear material) and wildlife conservation.

191. Certain measures adopted by other countries have had a restraining influence on Argentine exports during the period under review. For example, between 1995 and 2005, Argentine exports were subject to 12 anti-dumping measures applied by six countries: Brazil (3), Chile (1), Paraguay (1), Peru (1), Thailand (1) and the United States (5). Four of these measures were applied between 2002 and 2005. The sectors involved were: live animals and animal products (2); plant products (1); animal or vegetable oils and fats (1); products of the chemical and allied industries (2);

Industry and Trade and SMEs. The products previously involved were charged an export duty of 40 per cent (Resolution No. 4/2003 of the former Ministry of the Economy, and MEP Resolutions Nos. 256/2003, 579/2003, 389/2004, 788/2004 and 46/2005).

[202] MEP Resolution No. 200/2006.

[203] MEP Resolutions Nos. 114/2006 and 210/2006. Given the negative implications for sector employment, the Government has introduced an Employment Assistance Programme for Workers in the Meat Industry (Decree No. 516/2006 and Resolution No. 356/2006 of the Ministry of Labour, Employment and Social Security; and Joint Resolution No. 216/2006 and 272/2006 of the Secretariat of Labour and the Secretariat of Employment, respectively), which provides technical assistance to employees and employers, as well as temporary non-wage economic assistance guaranteeing the coverage of medical/welfare benefits.

[204] Press summary of the MERCOSUR Joint Parliamentary Commission of 19 May 2006, consulted at http://www.cpcmercosur.gov.ar/cpcprensa/2006/2006-05/20060519.htm.

[205] Laws Nos. 24.040, O.J. of 8 January 1992, and 25.389, O.J. of 12 January 2001; Decree No. 1.609/2004; Resolutions Nos. 296/2003 and 953/2004 of the Secretariat of the Environment and Sustainable Development; and AFIP General Resolution No. 1.852/2005.

plastics and plastic products, and rubber and rubber products (1); and base metals and articles of base metal (5).[206]

192. In December 1998, the European Union requested consultations with Argentina in relation to measures prohibiting the exportation of bovine hides, in particular Resolution No. 2235/1996 of the former National Customs Administration (ANA).[207] The Panel set up in 2000 found that the aforementioned resolution was inconsistent with Argentina's obligations under GATT Article XI:1 (which *de jure* outlaws export prohibitions and measures of equivalent effect) but was consistent with Article X:3 (which requires the regulation to be applied in a reasonable way), since it authorized the Argentine tanning industry to participate in customs control procedures prior to exportation of the hides. At its meeting of 16 February 2001, the Dispute Settlement Body adopted the Panel's report. In March 2002, the two parties notified the DSB that they agreed to the procedures provided for implementing its recommendations.[208] In that same year, Decree No. 1399/2002 came into effect, repealing Resolution No. 2235/1996.

(iv) Tariff and tax concessions

(a) Export drawback and refunds

193. Argentina applies a drawback scheme under which exporters are refunded all or part of the taxes they pay on imported inputs (import duties, statistical tax, and VAT) used in the production of an exportable good and in the packaging or presentation of another exportable good.[209] The refund is received as a tax credit.[210] The drawback system, along with the temporary admission regime (see below) can be used in intra-MERCOSUR trade until 31 December 2010 (Decision No. 32/2003 of the Common Market Council).

194. The export drawback system, regulated by Decrees Nos. 1011/1991, 2275/1994 and 690/2002, together with their amendments or supplementary provisions, reimburses all or part of the internal taxes paid at the various stages of production and marketing of goods manufactured in Argentina, which are exported new and unused for consumption on a commercial basis.[211] The drawback is made in cash, and is calculated on the basis of domestic value added; so if a product has been manufactured from inputs directly imported by the exporter, the rate is applied on its f.o.b. value minus the c.i.f. value of the imported inputs.[212]

195. Drawback rates are decided upon by the MEP. In September 2006 they varied between zero and 6 per cent.[213] Exports not eligible for drawback include various products in the following

[206] A total of 24 anti-dumping investigations involving Argentine exports were initiated between 1995 and 2005, 11 of which corresponded to the period 2002-2005.

[207] WTO document WT/DSI55/I-G/L/287 of 4 January 1999.

[208] WTO document WT/DS155/12 of 26 February 2002.

[209] The drawback system is regulated by Decrees Nos. 1012/1991, 2182/1991 and 313/2000; Resolutions Nos. 288/1995 and 1041/1999 of the former Ministry of the Economy and Public Works and Services; Resolution No. 177/1991 of the former Undersecretariat for Industry and Trade; and Resolutions Nos. 108/2002 and 265/2002 issued by the Export Promotion Directorate of the Secretariat of Industry, Trade and Mining.

[210] AFIP (2006a).

[211] The amount refunded may not exceed the amount paid in taxes.

[212] Refunds are not exempt from profits tax; the exemption was suspended by Law No. 25.731, O.J. of 7 April 2003, and successively renewed by Laws Nos. 25.868, O.J. of 8 January 2004, 25.988, O.J. of 31 December 2004, and 26.073, O.J. of 10 January 2006, which extended the renewal until 31 December 2006.

[213] Export Promotion Directorate (2006a). In 2002, the rate for export drawback on all goods was reduced by 50 per cent (Resolution No. 56/2002 of the former Ministry of the Economy).

categories: meat; fish, molluscs and crustaceans; milk; green vegetables; coffee, tea and mate; rice; products of the milling industry; vegetable and animal fats and oils; and meat, fish, crustacean, mollusc and cereal preparations; starches and milk.[214] The drawback is paid by the DGA once the exporter presents documentation accrediting shipment of the merchandise.[215] The procedure takes between 30 and 60 days.[216] The amounts refunded reached almost US$630 million in 2005, or 1.5 per cent of total export value. This proportion has remained broadly constant since 2002, but it is below the 2.5 per cent recorded in 1997.[217]

196. The drawback and reimbursement modalities are combined in the refund regime.[218]

(b) Special regime for turnkey exports

197. Exports of complete industrial plants or engineering works receive specific drawback treatment, which includes the standard drawback plus an additional amount equivalent to the difference between the rate determined by the MEP and the 10 per cent rate, while a 10 per cent drawback is granted for the services part of the domestic component.[219] The benefit is subject to two conditions: first, the export should be made under a "turnkey export contract"; and secondly, the domestic component (physical goods and services) may not be less than 60 per cent of the contractual f.o.b. value, and physical goods should represent at least 40 per cent of that value.[220] There are also special regimes for importing goods for large-scale investment projects and used production lines (Section (4)(iii)).[221]

(c) Value added tax

198. The regime for recovering VAT on exports has a number of specific features.[222] In this case, the refund, which has to be processed with the DGI, can be effectuated by means of offsetting (against VAT debits arising from operations in the domestic market); crediting (against liabilities arising in operations and owed by the exporter in respect of taxes due to the DGI other than VAT itself);

[214] MEP Resolution No. 616/2005, O.J. of 11 November 2005, established the original list of goods excluded from drawback. Successive resolutions, such as Resolutions Nos. 654/2005, 18/2006 and 254/2006, gradually removed certain goods from the list, including meat, poultry and dairy products, re-establishing positive export drawbacks for these products, while Resolution No. 530/2006 incorporated margarine. It was decided to re-establish export drawback for certain poultry products as part of an agreement between the Government and the Chamber of Poultry Processing Plants, to ensure that wholesale prices did not rise above Arg$2.70 plus VAT per kilogram of whole gutted chicken.

[215] Export Promotion Directorate (2006a).

[216] Investment Promotion Agency (ADI) (2006b).

[217] WTO Secretariat calculations based on AFIP data.

[218] AFIP (2006a).

[219] Law No. 23.101, O.J. of 2 November 1984; Decree No. 870/2003 and Resolutions Nos. 12/2004 and 335/2004 of the Secretariat of Industry, Trade and SMEs.

[220] Export Promotion Directorate (2006a).

[221] Export Promotion Directorate (2006b).

[222] Laws Nos. 23.101, O.J. of 2 November 1984, and 23.349 (Value Added Tax), O.J. of 25 August 1986; and AFIP General Resolution No. 1351/2002. The refund of VAT is subject to a number of conditions (AFIP, *Recupero del Impuesto al Valor Agregado por exportaciones* (Recovery of Value Added Tax on Exports)), consulted at: http://www.afip.gov.ar/ComercioExterior/archivos/Recupero.del.Impuesto.al.Valor.Agregado.por.Exportaciones.pdf). A simplified recovery regime is available for exporters whose total drawback applications do not exceed Arg$600,000 in 12 months, and who make a single monthly application not exceeding Arg$50,000. Consulted at: http://www.afip.gov.ar/ComercioExterior/archivos/Recupero.Simplificado.del.Impuesto.al.Valor.Agregado.por.Exportaciones.pdf.

transfer (transfer of the tax credit to another taxpayer for a consideration); or repayment (in cash or bonds).[223] In 2004-2005, VAT refunds amounted to 0.50 per cent of GDP.

199. Between 1995 and 2005, Argentina operated a VAT financing scheme[224] under which the State would finance up to 12 per cent of the effective annual rate applied by participating banks on a loan equivalent to the VAT paid on the purchase of capital goods. Eligibility for this benefit was subject to certain conditions, one of which was that the productive process in which the said capital goods were used was for the export market (Section (4)(iii) below)).

(d) Temporary admission

200. Under the temporary admission regime, exporters are entitled to import, free of tariffs and other duties, inputs or materials used to produce export goods, including accessory items of normal commercial practice (e.g. containers and packaging) to the extent that the goods are exported.[225] Goods that are imported under this regime may remain in the country for one year (extendable to two years) in the case of common goods, and two years (extendable to three years) in the case of mass produced goods. A further 12-month extension may be granted in exceptional cases (e.g. in the event of an agricultural emergency, fire, and so forth).

(e) Regime of additional refunds for exports channelled through Patagonian ports

201. Since 1984, Argentina has applied a regime of additional refunds for all exports channelled through ports in the Patagonia region, between San Antonio Este and Ushuaia.[226] As at mid-2006, the additional refund varied from 1 to 6 per cent of the f.o.b. value of the exports net of inputs, depending on the port.[227] The goods can be exported in their natural state or may be manufactured in industrial facilities in the region using either local or imported inputs, in which case the production process must lead to a change in tariff heading and should not merely involve assembly. Pursuant to Law No. 24.490, O.J. of 5 January 1996, the additional refund has been reduced by one percentage point each year since 2000, and this will continue until the regime is brought to an end.[228]

[223] AFIP (2006a).

[224] Law No. 24.402, O.J. of 9 December 1994, and Decrees Nos. 779/1995 and 1343/1999. The regime ended on 31 December 2005.

[225] The regime is regulated by Law No. 23.101; Decrees Nos. 2284/1991, 1439/1996 and 1330/2002; Resolutions Nos. 72/1992, 477/1993, 789/1998 and 1.113/1998 of the former Ministry of the Economy and Public Works and Services; Resolution No. 67/2003 of the former Ministry of Production; MEP Resolution No. 42/2004; and Resolutions Nos. 18/1992 and 18/1995 of the former Secretariat of Industry and Trade (Export Promotion Directorate, http://www.comercio.gov.ar/dngce/dpe/admisiontemporaria.html).

[226] Laws Nos. 23.018, O.J. of 13 December 1983, and 25.454, O.J. of 7 September 2001. The refund also applies to exports of goods originating in the province of Neuquén, which are shipped through the ports in question, provided that their destination is abroad.

[227] Export Development Directorate, Province of Neuquén, consulted at: http://www.neuquen.gov.ar/org/comex/datosf.htm. The refund is 1 per cent for San Antonio Este and Puerto Madryn, 2 per cent for Comodoro Rivadavia, 4 per cent for Puerto Deseado and San Julián, 5 per cent for Punta Quilla, Río Gallegos and Río Grande, and 6 per cent for Ushuaia.

[228] Export Development Directorate, Province of Neuquén, consulted at: http://www.neuquen.gov.ar/org/comex/datosf.htm. The additional refund is due to be phased out according to the following timetable: San Antonio Este (2007), Puerto Madryn (2007), Comodoro Rivadavia (2008), Puerto Deseado (2010), San Julián (2010), Punta Quilla (2011), Río Gallegos (2011), Río Grande (2011) and Ushuaia (2012).

(f) Free zones and special customs zones

202. Law No. 24.331, O.J. of 17 June 1994, authorized the National Government to create a free zone in each Argentine province and to establish up to four additional free zones in geographic regions whose critical economic situation and/or border status with other countries justify exceptional conditions.[229] As at mid-2006, nine free zones were in operation, seven had contracts awarded, seven were in the bidding process, and one had to draw up operating regulations before calling for bids.[230]

203. Free zones can be used for commercial, services and industrial activities, as well as storage.[231] In general, goods manufactured in such zones must be exported to third countries, but the legislation provides an exception for capital goods which have not previously been produced in the general customs territory of Argentina and which can be exported to that territory under the tariff conditions contained in the general import regime and corresponding tax regulations (Article 6 of Law No. 24.331).

204. Goods entering free zones are exempt from duties on importation for consumption, apart from charges paid for services actually provided (Article 24 of Law No. 24.331). They are also exempt from national taxes on basic utilities (telecommunications, gas, electricity, mains water, sewerage and drainage) provided within the zones (Article 26 of Law No. 24.331). Goods transferred from free zones to third countries are eligible for the refund of taxes actually paid only when the taxes in question are refundable to exporters domiciled in general customs territory (Article 30 of Law No. 24.331).[232] Free zone users are not entitled to the benefits and tax incentives under the regional or sectoral industrial promotion regimes available in national territory (Article 32 of Law 24.331).

205. Goods exported from Argentine customs territory to a free zone and subsequently exported to third countries either in the same state or having undergone transformation, processing, combination, mixture, or any other enhancement within the free zone are covered by the general export duties regime. Nonetheless, the value added to the goods through processing or transformation in the free zone are exempt from such duties.[233]

206. The free zone regime has been notified by Argentina to the WTO Committee on Subsidies and Countervailing Measures. No statistics have been provided on the per-unit subsidy or on the total amount of subsidies under the free zone regime, because of a lack of data for calculation purposes.[234]

[229] The free zone regime is also governed by Laws Nos. 5.142 of 22 September 1907, 8.092 of 30 September 1910, 24.756, O.J. of 2 January 1997, 25.005, O.J. of 18 August 1998, and 25.956, O.J. of 2 December 2004; AFIP General Resolution No. 270/1998 and its amendment No. 1879/2005; and MEP Resolution No. 42/2004.

[230] The free zones operating at that date were: La Plata (Buenos Aires), Córdoba (Córdoba), Luján de Cuyo (Mendoza), Puerto Iguazú (Misiones), Justo Darat (San Luis), Cruz Alta (Tucumán), General Pico (La Pampa), Comodoro Rivadavia (Chubut) and General Güemes (Salta). National Foreign Trade Management Directorate, *Zonas Francas* (Free Zones) consulted at: http://www.comercio.gov.ar/zonasfrancas/zonasfrancas.html.

[231] The fact that free zones can be used for warehousing makes it possible to undertake staged imports with consequent financial benefit.

[232] Article 31 of Law No. 24.331 requires provincial governments to undertake not to grant exemptions from provincial taxes except for charges paid for services actually provided; they may, however, apply the national exemption from taxes levied on basic services.

[233] DGA/AFIP General Instruction No. 6/2004.

[234] WTO document G/SCM/N/48/ARG/Suppl.1-G/SCM/N/60/ARG-G/SCM/N/71/ARG-G/SCM/N/95/ARG of 7 October 2004.

According to information provided by the Argentine authorities, exports from the free zones represented roughly 1.30 per cent of the country's total exports in the 2004-2005 biennium.[235]

207. In addition to the free zone regime, there is a special customs regime for the province of Tierra del Fuego. The Tierra del Fuego Special Customs Area was created by Law No. 19.640, O.J. of 2 June 1972. The special regime provides exemption from payment of any national tax levied on events, activities or operations conducted in that province. Firms enjoy the following benefits: exemption from VAT, relief from profits and capital taxes, exemption from import duties and VAT on capital goods and from import duties on inputs generally, and an additional refund on exports transported by sea. The only provincial tax paid by enterprises operating in Tierra del Fuego is gross income tax.[236] In 2003, Decree No. 490/2003 authorized the establishment of new enterprises and allowed existing firms to submit projects for new products, diversifying the range of production benefited by the regime. Firms had until 31 December 2005 to join the new regime. The Tierra del Fuego Special Customs Area is allowed to operate until 2013.

208. Under MERCOSUR regulations, re-exports from free zones in any member State to national territory or to the territory of any other member State are liable for payment of the common external tariff, or domestic tariffs when applicable.[237] Argentina and Uruguay agreed upon an exception to this rule in 2003, under which Argentina allows Uruguay an annual quota of 2,000 tonnes of the product "Preparations of the type used for beverage making" originating in and shipped from the Colonia Free Zone; while Uruguay grants Argentina an annual quota of US$20 million of exports originating in and shipped from the Tierra del Fuego Special Customs Area.[238]

(v) Financing, insurance and guarantees

209. The Argentine State provides financing for medium- and long-term investment and foreign trade projects through the *Banco de Inversión y Comercio Exterior* – BICE (Investment and Foreign Trade Bank). BICE was created as a national State bank through Decree No. 2.703/1992, O.J. of 6 January 1992. Its shareholders are *Banco de la Nación Argentina* (97.96 per cent) and the Ministry of the Economy and Production (2.04 per cent). As BICE was created as a second-tier bank, it cannot receive deposits in any form. In October 2003, its charter was amended to allow it to lend directly to enterprises.

210. Since 1992 BICE has operated a credit line for pre-financing exports in the agricultural sector, denominated in US dollars with maturities ranging up to 180 days. It has also offered an export finance credit line for goods in general since 1998. This allows for the purchase of shipping documents and the discounting of bills of exchange relating to exports, implemented through documentary credits at term or collections, with or without recourse. The currency of the credit line is the United States dollar, and maturities range up to 360 days from the date of the application for purchase or discount of bills of exchange. In the case of loans "with recourse" for export pre-financing and financing the applicable interest rates depend on the size of the firm, the amount of financial support, and the risk involved. The spread applied on LIBOR varies from 4.0 to 8.5 per cent per year, depending on the same factors.[239]

[235] The values reported potentially underestimate the proportion of exports that genuinely originate in the free zones, because they do not include external sales of goods produced in the zones which are processed by customs services in general customs territory.

[236] Investment Promotion Agency, consulted at: http://www.inversiones.gov.ar/documentos/razon02.pdf.

[237] Decision 08/1994 of the MERCOSUR Common Market Council.

[238] Decision 01/2003 of the MERCOSUR Common Market Council.

[239] In the case of export-financing loans "without recourse", the spread applied on LIBOR is 4.75 per cent.

211. The Argentine State operates an Export Credit Insurance Scheme for which the legal framework is provided by Law No. 20.299, O.J. of 2 May 1973, and Decrees Nos. 3145/1973 and 1803/1994. The scheme covers political, disaster and any other risk which, under current insurance market regulations, is not covered by insurance companies established in Argentina. BICE is the implementing authority on behalf of the State, and operates the scheme through its agent *Compañía Argentina de Seguro de Crédito a la Exportación S.A.* – CASCE (Argentine Export Credit Insurance Company).[240] CASCE is an international consortium, whose majority shareholder is the *Compañía Española de Seguro de Crédito a la Exportación* – CESCE (Spanish Export Credit Insurance Company).

212. In December 2005, BICE signed a new agency contract with CASCE, under which the latter contracts credit insurance against exceptional risks, on behalf of the State, under conditions established by Law No. 20.299 and its regulations, together with the clauses of the contract and the resolutions issued by the implementing authority. In the same month, BICE and CASCE also launched a global policy covering both commercial risks (bankruptcies, insolvencies, lengthy arrears) on behalf of CASCE and political and exceptional risks (such as confiscation, appropriation and nationalization of goods and services, wars and revolutions) on behalf of the State. Private policy holders are insured up to 95 per cent of the value exported, and public holders are insured up to 90 per cent.

213. A total of 558 policies were issued between December 1994 and August 2006, of which 504 covered credit risk, 44 insured against manufacturing risk, five covered credit risk in respect of public purchasers and five were global policies. The total cover extended in that period was roughly US$249 million. Very few individual policies have been issued since the crisis in 2002, because, according to the authorities, firms have preferred to obtain insurance abroad where premiums are lower.

(vi) Export promotion

214. Export activity by Argentine firms is supported by the Export-Ar Foundation, and some provinces also have their own export promotion agencies. The Export-Ar Foundation is the executive arm of the trade promotion actions of the Secretariat of Trade and International Economic Relations of the Ministry of External Relations, International Trade and Worship (MRECIC). The support provided by this institution includes: provision of trade data (lists of importers and trade opportunities abroad) based on market intelligence and research; preparation and coordination of participation by Argentine firms in international trade fairs; organization of business trips, trade missions, Argentina promotion weeks in consumption centres abroad, and international buyer fairs; assistance to SMEs in accessing international markets by establishing, organizing and coordinating sector-level exporter groups or consortia; and training in the export business (particularly for SMEs).[241]

[240] CASCE performs administrative tasks in evaluating proposals made by exporters to cover exceptional risks and issuing the corresponding policies, and it extends cover against commercial risks on its own account. Other private companies that cover commercial risks are: *Aseguradora de Créditos y Garantías* and COFACE Argentina.

[241] There are also two portals that disseminate information relevant for export operations and business opportunities, with the explicit aim of contributing to the growth and diversification of Argentina's exports: *Argentina Trade Net* (http://www.argentinatradenet.gov.ar/sitio/institucional/mision.htm), maintained by the Ministry of External Relations, International Trade and Worship through the Undersecretariat for International Trade and *ProArgentina* (http://www.proargentina.gov.ar/qs_proargentina.asp) run by the Undersecretariat for Small and Medium-Sized Enterprises and Regional Development.

215. In 2005, Export-Ar coordinated participation by Argentine enterprises in 54 international fairs; organized 22 business rounds, 15 trade missions and 62 business programmes; held 121 courses and seminars; and helped establish 11 exporter groups in addition to the 31 that already existed in 2004.[242] Roughly 4,000 Argentine firms and 320 foreign enterprises work with Export-Ar.[243]

(vii) Foreign exchange regulations

216. Since its last review, Argentina has amended its foreign-exchange regulations in relation to the entry and outflow of foreign currency. Foreign-exchange earnings from goods exports must be surrendered on the unified free foreign exchange market created in 2002, within a period that varies between 60 and 360 days from the shipment date, depending on the type of product.[244] The deadline for selling foreign exchange in the foreign exchange market can be extended for 120 business days; and, if the operation is unpaid by the buyer and the foreign exchange entering the country corresponds to the collection on an export credit insurance, for 180 working days. There are special provisions for exports of capital goods, technological goods and turnkey plants.

217. Foreign exchange earnings from services exports must also be surrendered on the unified free foreign exchange market. The amount to be sold is 100 per cent of the amount actually received, net of withholdings or discounts abroad made by the customer. In the case of services provided in Argentina to non-residents, 100 per cent of any amount received in foreign exchange must be surrendered. Income in respect of services provided to non-residents must be sold within 135 working days from the date when it either was received abroad or in Argentina or credited in accounts abroad.

(4) OTHER MEASURES AFFECTING PRODUCTION AND TRADE

(i) Establishment and taxation of enterprises

218. The establishment, functioning and liquidation of commercial companies is regulated by the Law on Commercial Companies, No. 19.550, O.J. of 25 April 1972, and by regulations issued by corporate regulators. The Federal Revenue Administration (AFIP), attached to the Ministry of the Economy and Production (MEP), is responsible for enforcing regulations governing the establishment of companies.

219. Commercial companies may be set up as public limited companies, limited liability companies, general partnerships, limited partnerships or partnerships limited by shares, capital or industrial companies with majority State ownership, cooperatives, branches of foreign enterprises, joint ventures or franchises. In addition to these corporate types, economic interest groups, consortia, cooperative companies or financial investment companies may also be created. The types of corporation most frequently used in Argentina are public limited companies, limited liability companies, and branches of foreign enterprises. Any contract establishing or modifying a commercial company must be registered in the Public Trade Register.

220. To set up a new enterprise in Argentina requires permanent or temporary residence in the country. Although there are no restrictions on the nationality of company directors, a foreign firm

[242] A total of 992 Argentine firms attended the international fairs; 701 Argentine firms and 98 foreign enterprises took part in the business rounds; 185 Argentine firms participated in the trade missions; and 51 Argentine and 226 foreign firms were involved in the business programmes.

[243] Export-Ar (2006).

[244] BCRA (2006b).

must appoint a legal representative and keep separate accounts for its operations in Argentina. To be able to operate as a branch of a foreign enterprise, the branch must prove the existence of its parent company abroad; register the latter's founding contract, articles of association or social contract in the Public Trade Register; and likewise appoint representatives and register them.

221. Public limited companies must have at least two shareholders; shares can either be held privately or traded publicly. The company is owned by its shareholders, whose liability is limited to the capital they have contributed. The board of directors is responsible for management of the company.[245]

222. In Argentina income and capital gains are taxed by national government and also by provincial and municipal authorities. Enterprises pay a national profits tax (IG) amounting to 35 per cent of their taxable earnings. All profits are taxable, including capital gains; and enterprises resident in Argentina pay tax on their worldwide income. IG accounted for 22.7 per cent of total revenue in the 12 months ending in September 2005. Taxes are also levied on property and on the production of certain goods and services (Table III.10). Provincial and municipal taxes vary from jurisdiction to jurisdiction, the most common being Gross Income Tax, which is levied on every commercial transaction at variable rates.

Table III.10
Principal taxes applicable to production and investment

Tax, legal framework/scope	Rates
A. At the national level	
1. Taxes on income, profits and capital gains	
Profits tax Codified Text, Decree No. 649/97, O.J. of 06/08/97	Enterprises: 35 per cent Individuals: 9-35 per cent
Enterprises: Enterprises resident in Argentina pay tax on their worldwide income, but amounts paid in respect of analogous taxes on their activities abroad can be considered as on-account payments. Non-resident firms are liable for tax on their income and capital gains sourced in Argentina.	
Tax on Presumed Minimum Profits	1 per cent
Law No. 25.063, O.J. of 31/12/1998, Title V, Article 6, as amended by Laws Nos. 25.123 (O.J. 28/7/99), 25.239 (O.J. 31/12/99) and 25.360 (O.J. 12/12/2000). Persons liable are taxed on their assets located in Argentina and on assets located permanently abroad. Taxes paid on earnings and on credits and debits can be considered as on-account payments of the Tax on Presumed Minimum Profits.	Minimum exempt: Arg$200,000
Emergency Levy on Winnings from Certain Games of Chance and Sporting Contests	31 per cent tax on 90 per cent of the winnings
Law No. 20.630, O.J. of 22/01/1974 as amended. The obtaining of winnings in games of chance and sporting contests organized in Argentina by authorized entities.	Minimum: Arg$1,200
2. Property Taxes	
Personal Property Tax	Property valued between Arg$102,300 and Arg$200,000 and shares: 0.5 per cent; More than Arg$200,000 and persons abroad: 0.75 per cent; Firms abroad: 1.5 per cent
Law No. 25.5853.966, O.J. of 15/05/2002 and Decree No. 988/2003, O.J. of 29/04/2003. Applicable to natural persons resident in Argentina that have personal assets valued at more than Arg$102,300. Shareholdings in firms located in Argentina and held in portfolio for a year are exempt.	
Taxes on Bank Account Debits and Credits	General: 6 per cent; Fund movements: 12 per cent; Transactions in tax-exempt regime: 2.5 or 5 per cent; Reduced rates: 0.5, 0.75, 1 per cent
Law No. 25.413, O.J. of 26/03/01 and Decree No. 380/01 of 30/03/01 as amended. Encompasses all credits and debits in current accounts held in financial entities, and all fund movements in financial entities, including those relating to credit cards. This tax can be considered as an advance payment for the purposes of the taxes on Profits and Presumed Minimum Profits, and the Special Levy on the Capital of Cooperatives.	
Levy on the Capital of Cooperatives	
Law No. 23.427, O.J. of 3/12/1986 as amended. Capital of cooperatives	2 per cent

Table III.10 (cont'd)

[245] For further information on the establishment of companies see www.inversiones.gov.ar.

B. At the provincial level	
Gross Income Tax	Variable. Between 1.5 per cent and 4 per cent.
This tax is levied on every commercial transaction, and there is no fiscal credit in respect of taxes paid at previous stages. Primary and industrial activities are generally exempt.	
Stamp Duty	Variable. Generally 1 per cent
Levied on transactions that are formalized in public and private instruments. Repealed in some jurisdictions for certain transactions.	
Property Tax	Variable.
Provinces and municipalities both tax properties located in their respective jurisdictions.	

Source: Ministry of the Economy and Production (2006), *Tributos Vigentes en la República Argentina a Nivel Nacional* (updated to 31 March 2006). Viewed at: http://www.mecon.gov.ar/sip/dniaf/ ributes_vigentes.pdf.

(ii) Price controls and competition policy

(a) Price control provisions

223. In the 1990s, the State withdrew almost entirely from its role as a producer of goods and services, and it abandoned price-fixing practices to focus on regulating markets that were considered natural monopolies or subject to imperfect competition, in which the production of goods or services was in the hands of privatized firms. Since then, and as stipulated in the various concession contracts, the rates charged for public utilities or services classified as of public interest, and the supply price of certain goods in markets where competition is limited, have generally been regulated by the competent supervisory authority. This intervention is generally confined to fixing maximum rates, and ensuring that price increases abide by the provisions established in the respective concession contracts.

224. Nonetheless, following approval of Law No. 25.561 (Public Emergency and Reform of the Exchange Rate Regime), O.J. of 7 January 2002, and for as long as the public emergency situation continues (31 December 2006 at the time of writing this report), the Government is authorized to fix prices in any area, including relevant public utility rates, and to renegotiate the privatized firms' contracts. Law No. 25.561 also abolished the dollarization and indexation of utility rates and prices, which would henceforth be set at an exchange rate of Arg$1 = US$1.[246] This legislation also requires contracts to be renegotiated to take account of the effects of utility rates on competitiveness and income distribution.

225. The Public Utility Contracts Renegotiation and Analysis Unit (UNIREN), created as part of the MEP in 2003 through Decree 311/2003, is responsible for the contract renegotiation process. A total of 64 contracts have been identified for renegotiation in sectors such as postal services, maritime transport, port and airport administration, highway management, metropolitan transit, telecommunications, electric energy, water and others. As at May 2006, 23 of the 64 contracts had been renegotiated, and seven of these had been ratified by the Government.[247]

226. According to the authorities, Argentina has no price control policy, administered prices or marketing arrangements. Nonetheless, the Government intervenes to analyse the reasons for any price increase in products that could affect the price index or supply to the population (i.e. sensitive

[246] A study by the Latin American Faculty of Social Sciences (FLACSO) shows that for a decade privatized firms enjoyed a number of privileges and advantages that enabled them to obtain exceptional profits (amounting to over US$9 billion by the end of 2000), and that their average profitability in the 1990s was seven to eight times higher than in the rest of the country's largest enterprises. Basualdo, E. M., Azpiazu , D. *et al.*, FLACSO (2002).

[247] Public Utility Contracts Renegotiation and Analysis Unit (2006b).

products). In this context, the Government has made use of price agreements with producers in various activities and also with distributors such as supermarket chains and stores. In some cases, commitments have been made to not raise prices, while in others the extent of the price increase has been agreed upon. In the specific case of meat, agreed prices are established with the private sector (see Chapter IV (2)).

227. Although these price agreements have helped restrain price rises in the short term, they have put pressure on supply and caused shortages among certain products. Partly to address such shortages while maintaining low prices, in October 2006 the Government reactivated an Article of Law 20.680 on Supply and the Repression of Speculation, (O.J. of 25 June 1974), and applied it to the supply of diesel. Law No. 20.680 provides pecuniary and penal sanctions for persons who engage in the following practices: raise prices artificially or unjustifiably; hoard raw materials or products, or form larger-than-necessary stocks; unjustifiably deny or restrict the sale of goods or provision of services; or, without reason, reduce normal production, or fail to increase it, having been called upon to do so, among other things.[248] Another instrument used to maintain low domestic prices has been export taxes (see Section (3)(ii) above).

(b) Competition policy

228. The National Commission for the Protection of Competition (CNDC), attached to the MEP, is responsible for implementing competition policy in Argentina. The Commission intervenes in all suits filed under the Law on the Protection of Competition (Law No. 25.156), until the Tribunal for the Protection of Competition (TNDC) is established in accordance with the guidelines provided in Chapter IV of that Law. Until the TNDC is created, the CNDC has the mission of protecting free market movements through preventive and penalty procedures; and it is authorized to make cease and desist orders and/or call for modification of any conduct or act that distorts or impairs competition.[249]

229. The Law on the Protection of Competition (No. 25.156, O.J. of 20 September 1999) sets out the fundamental principles of competition policy in Argentina, while Resolution No. 164/2001 of 27 November 2001 contains key guidelines for analysing operations involving economic concentration. According to the Law on the Protection of Competition any act or conduct relating to the production and exchange of goods or services is prohibited if it has the aim or effect of limiting, restricting, undermining or distorting competition or market access; or if it constitutes an abuse of a dominant market position that could harm the general economic interest. The practices themselves are not prohibited, but only their effects. The Law is applicable to all natural or legal persons, public or private, that undertake economic activities in all or part of Argentine territory; and it also covers persons who undertake economic activities outside the country, insofar as their acts, activities or agreements have potential effects on the Argentine market.

230. The Law on the Protection of Competition provides for the creation of a National Tribunal for the Protection of Competition, but this had not been established as at June 2006. The authorities stated that, although a selection board had been established and applications invited for membership of the court in February 2003, the selection process had been interrupted by the change of Government and alterations to the structure of the executive branch. This had resulted in a draft amendment to Law 25.156, making a number of changes both in the court's powers and in the requirements for setting it up.

[248] Decree No. 2284/91, O.J. of 1 November 1991, suspended the exercise of powers granted by Law No. 20.680 which can only be re-established to use all or each of the measures contained therein, following a declaration of supply emergency by Congress.

[249] See http://www.mecon.gov.ar/cndc/objetivos.htm.

231. The Law on the Protection of Competition envisages monetary sanctions for anti-competitive practices: (a) cessation of acts or conducts and reversal of their effects where appropriate; (b) fines of between Arg$10,000 and Arg$150 million (between US$3,300 and US$50 million approximately), with doubled amounts for a recurrent offence[250]; (c) in cases of abuse of dominant position, conditions can be imposed to neutralize the distortion to competition; (d) in cases of delay in notifying mergers or failure to comply with a cessation order, fines of up to Arg$1 million per day can be imposed. In addition, natural persons can be subject to supplementary sanctions involving loss of authorization to trade for between one and ten years. CNDC decisions can be appealed within 15 days of notification of the ruling, or as established in the Penal Code. The appeal is lodged with the National Chamber of Civil and Commercial Appeals of the Autonomous City of Buenos Aires, or the corresponding Federal Court elsewhere in the country. The CNDC refers its recommendation to the Secretary of State for Domestic Trade, who is responsible for making the final decision on mergers and anti-competitive practices until such time as the TNDC is established. The authorities stressed that in most cases the Secretary of State upholds CNDC recommendations.

232. All mergers must be notified when the total business volume of the group of enterprises involved in Argentina exceeds Arg$200 million. Notification must be made no later than one week after the date of signing of the agreement or publication of the corresponding offer of purchase or exchange of shares. Exemptions from the obligation to notify include the takeover of a single enterprise by an individual foreign firm that does not hold assets or shares in other enterprises in Argentina, and takeovers of enterprises in liquidation.

233. The CNDC conducts investigations to decide whether a merger should proceed or not. As a result it may: authorize the merger operation; subject the merger to compliance with certain conditions; or deny authorization. The competition authority must make its decision within 45 days following presentation of the application. The CNDC investigated some 30 prominent mergers between 2000 and early 2006, involving a wide range of markets including electric power, air transport, maritime transport and port services, telecommunications, television broadcasting, medical services, financial services, oil, gas, beverages, food, and wood and furniture. Most of the investigations focused on the effects of merger applications in Argentina and, with one exception, have resulted in authorization of the merger. In several cases, however, authorization has been made conditional on fulfilment of certain requirements, such as divestment of specific activities or transfer of assets.[251]

234. Investigations to determine the existence of a dominant position or other anti-competitive practices can be initiated by the CNDC either ex officio or at the request of a complainant. Between 1999 and May 2006, some 20 investigations of this type were conducted in markets including cement, medicinal oxygen, detergents, steel, urea, gas, medical services, air transport services, telecommunications, audiovisual services and insurance. For the most part they analyse the effects on the domestic market of practices such as cartelization, price-fixing, share-out of customers, and general abuse of dominant position. Some practices affect more limited markets (region, province or city). In one case (the market for laminated sheets) the investigation has considered the effects of the practice in question throughout MERCOSUR, with domestic and foreign firms being investigated. Also during the period under review, the CNDC has issued recommendations to improve certain

[250] In determining the amount of any fine, account will also be taken of factors such as the seriousness of the offence, the damage caused, the degree of intentionality, the offender's market share, the size of the market, the duration of the practice, the offender's economic capacity and whether the practice represents a recurrent offence.

[251] Detailed information on these cases and on the corresponding rulings can be found at the Internet site of the National Commission for the Protection of Competition, at http://www.mecon.gov.ar/cndc/conducta.htm and http://www.mecon.gov.ar/cndc/dictamenes.htm.

aspects of competition in three markets: compressed natural gas (service stations); liquefied petroleum gas (subsidies policy) and mobile telephony (call termination charges).

235. In the latest Peer Review of Argentina's competition policy, conducted in October 2006, the OECD stated that progress on competition policies in Argentina has been variable in recent years. The OECD acknowledged that Argentina had passed a new law in 1999 creating an independent competition body and providing it with adequate enforcement instruments, and, for the first time, introducing control over mergers. Nonetheless, it noted that since 2001, the competition body had been obstructed by an insufficient budget and insufficient independence, reflecting a more general lack of a strong competition culture in the country. The OECD nevertheless notes that this did not prevent the body from issuing rulings on certain large mergers; and legal actions were taken against two large cartels in 2005.

236. The OECD report makes several recommendations for improving free competition policy in Argentina: set up the National Tribunal for the Protection of Competition; increase the budget of the competition protection body; strengthen anti-trust activity; make investigations into anti-competitive conduct more efficient; broaden the role of the competition protection authority in regulated sectors; tighten the current notification regime enabling parties to effect a merger before the competition authority completes its review; and extend programmes to strengthen the competition culture in Argentina.[252]

237. The scope of the MERCOSUR Protocol on the Protection of Competition ("Fortaleza Protocol"), signed in 1996, covers effects on trade between States parties and on important markets for goods and services in MERCOSUR, with an emphasis on controlling abuse of dominant position. The regulation to the Protocol was approved by the top-level MERCOSUR bodies in the second half of 2002. In relation to cooperation, MERCOSUR States parties negotiated two four-party understandings: (a) Common Market Council Decision No. 04/04, which approved the "Understanding on Cooperation between Competition Protection Authorities in MERCOSUR States parties in Applying Domestic Competition Legislation;" and (b) Common Market Council Decision No. 15/06, approving the "Understanding on Cooperation between Competition Protection Authorities in MERCOSUR States parties for the Control of Regional Economic Concentrations." The CNDC coordinates the National Section of Technical Committee No. 5 (TC5), Protection of Competition in MERCOSUR, whose function is to design regulatory instruments to implement the competition protection regime in MERCOSUR. As at May 2006, both the Fortaleza Protocol (undergoing revision in the framework of TC5 activities) and its regulations, still remain to be ratified by the Argentine Congress.

(iii) Incentives

238. Argentina operates a number of horizontal schemes of investment incentives to supplement government aid for specific activities.[253] Horizontal schemes are generally aimed at financing, reducing initial investment costs and promoting research and development (R&D), along with regional development.

239. Argentina has notified to the WTO Committee on Subsidies a number of incentives that include both assistance for specific sectors and horizontal incentives. The most recent full notification, corresponding to 2005, includes subsidies for mining, forestry activity, the free zone regime, and the regime governing capital goods and information technology and telecommunication

[252] OECD and IDB (2006).

[253] The Investment Promotion Agency, Secretariat for Industry, Trade and SMEs, Ministry of the Economy and Production (2006).

products (see below).[254] Argentina also maintains a number of sector-level incentive regimes in activities such as the software industry and publishing, and in several of the sectors described in Chapter IV.

(a) Horizontal tax incentives

240. The main horizontal promotion mechanism is the Investment Promotion Law (Law No. 25.924, O.J. of 6 September 2004), which established a scheme to promote investments in capital goods and infrastructure works (Table III.11). Its benefits accelerated depreciation and advance refund of VAT – are mutually exclusive, except in investment projects producing exclusively for the export market. Other export-linked incentive programmes are described in Section (3) above. Programmes such as the Import Regime for Used Production Lines make benefits conditional on the purchase of domestic products.

241. Horizontal tax incentives also include a number of R&D promotion programmes, e.g. for the promotion and development of technological innovation and exemption from import duties on research inputs (Table III.11). Law No. 25.467, O.J. of 28 March 1995, sets out a general framework to structure, stimulate and promote science, technology and innovation activities.

Table III.11
Main horizontal tax incentives applicable to production and investment at the national level

Promotion of investments in capital goods and infrastructure works **Scope:** Investments in new capital goods destined for industrial activity (except automobiles) and the execution of infrastructure works, excluding civil works. **Beneficiaries:** Natural persons domiciled in Argentina, and legal persons established or authorized to operate within Argentine territory, who carry out productive activities in Argentina or are established there for that purpose and can demonstrate the existence of an investment project in industrial activities or the execution of infrastructure works to be undertaken in the following 36 months. Beneficiaries cannot make use of the VAT financing scheme (see below). **Benefits:** (a) Advance refund of VAT on goods or works for infrastructure included in the proposed investment project; or (b) alternatively, accelerated depreciation thereof for IG purposes. These benefits are mutually exclusive except in the case of investment projects in which production is exclusively for the export market; and they require the goods purchased to remain the property of the taxpayer for three years. **Implementing authority:** MEP. The benefits are subject to a tax quota, and are granted through public tenders held at least every six months. **Duration:** 1 October 2004 until 30 September 2007. **Fiscal cost (forgone payments or revenue):** The authorities stated that it was impossible to calculate the fiscal cost of this measure because the tax quotas in projects granted to firms are used gradually as the deadlines in the investment project unfold. Nonetheless, they provided an estimate of Arg$262 million (US$87 million) for 2005 for advance refund of VAT, and Arg$250 million (US$83 million) in respect of accelerated depreciation. **Legal Framework:** Law No. 25.924, O.J. of 6/09/2004; PEN Decree No. 1152/2004 (Regulation of Law No. 25.924; MEP Resolution No. 728/2004 of 12/11/2004; AFIP General Resolution No. 1943/2005; MEP Resolutions Nos. 6/2006 and 37/2006; and Resolution No. 23/2006 of the Legal and Administrative Secretariat.
Reduction of the import tariff on capital goods to 0 per cent. **Scope:** Tariff headings of the MERCOSUR Common Nomenclature (NCM) corresponding to new capital goods. **Beneficiaries:** Capital goods importers. **Benefits:** Establishment of an extra-zone import duty (DIE) of 0 per cent; exemption from payment of the statistical tax. Regime created to offset the effects on domestic industry of lowering import duties on capital goods to 0 per cent.

Table III.11 (cont'd)

[254] WTO document G/SCM/N/123/ARG of 25 September 2006. The previous notification is in WTO document G/SCM/N/48/ARG/Suppl.1-G/SCM/N/60/ARG-G/SCM/N/71/ARG-G/SCM/N/95/ARG of 7 October 2004.

Implementing authority: DGA

Duration: 31 December 2008

Fiscal cost (forgone payments or revenue): For 2005 the fiscal cost was US$195,556,835 (taxes no longer paid).

Legal Framework: MEP Resolution No. 8/2001 as amended, Decree No. 502/2001, Decree No. 690/2002, MERCOSUR CMC Decision 40/2005 MERCOSUR, Resolution No. 62/2005.

Imports of goods forming part of large-scale investment projects

Scope: Importation of capital goods from outside MERCOSUR destined for large investment projects. The goods must be new, exclusively form part of a new complete and autonomous production line, and be essential for the production process in question. The goods must be allocated to new industrial plants, or to expansions and/or modernization of existing plants, destined for the production of tangible goods or for the treatment and/or elimination of polluting substances. Spare parts may not exceed 5 per cent of the f.o.b. value to be imported. The firm must purchase goods of domestic origin amounting to at least 30 per cent of the investment project.

Beneficiaries: Investors in large projects.

Benefits: Tariff reduced to 0 per cent**.** Those gaining access to the benefit can obtain a list of goods that can be imported at 0 per cent. The benefits (i.e. tariffs not paid) are calculated after four years.

Implementing authority: SEPYME

Duration: Indeterminate

Fiscal cost (forgone payments or revenue): There are no estimates because the programme has been little used.

Legal Framework: SEPYME Resolution No. 256/2000 as amended.

Importation of used production lines

Scope: Used goods forming part of complete and autonomous product lines, mainly consisting of imported used machinery.

Beneficiaries: Domestic or foreign firms located in the country producing tangible goods, and financial entities or companies that deal in leasing contracts. The used goods to be imported must be essential for the production process in question and still have 50 per cent of their useful life remaining. The firm must purchase new goods of domestic origin amounting to 30 per cent of the investment. Two thirds of that amount must correspond to the purchase of new machinery and equipment of local origin; the other third may be included in repairs.

Benefits: Exemption from the payment of import duties, verification of destination charges and statistical tax.

Implementing authority: SEPYME

Duration: 31 December 2006.

Fiscal cost (forgone payments or revenue): Revenues not received for fiscal 2005 amounted to US$2,847,364.78

Legal Framework: MEP Resolutions Nos. 157/2003, 255/2003 and 353/2004 of 21 of May 2004, re-establishing the validity of Resolution No. 511/2000.

Temporary importation of capital goods

Scope: Capital goods to meet temporary demand that cannot be satisfied with installed capacity or technology available.

Beneficiaries: Any firm

Benefits: Duty-free importation for up to three years.

Implementing authority: DGA

Duration: Indeterminate

Fiscal cost (forgone payments or revenue): Not available

Legal Framework: Law No. 22.415, O.J. of 23 March 1981, Decree No. 1001/1982, DGA Provision 34/1998.

Table III.11 (cont'd)

Financing of VAT on the investment
Scope: Purchase or importation of capital goods that strengthen export potential

Beneficiaries: Firms with exporter potential

Benefits: Financing of the full amount of VAT paid on new capital goods purchases thereby reducing the cost of financing: the State pays lending institutions a percentage of the interest on bank loans obtained for that purpose. The proportion cannot exceed 12 per cent of the effective annual rate on the loan amount. Maximum terms: Four years for mining and six years for other sectors.

Implementing authority: SEPYME

Duration: 31 December 2005.

Fiscal cost (forgone payments or revenues): The authorities stated that no calculation has been made of the fiscal cost.

Legal Framework: Law No. 24.402, O.J. of 9 December 1994, Value Added Tax Payment Financing Scheme, as amended by Decree No. 779/1995 and Decree No. 349/2000

Capital goods, information technology and telecommunications regime

Scope: Incentive for manufacturers in the capital goods, information technology and telecommunications sectors that have establishments in Argentine territory. As Resolutions Nos. 8/2001 and 27/2001 reduced the corresponding tariffs to 0 per cent, the regime aims to keep domestically produced capital goods competitive in relation to imported ones.

Benefits: Receipt of a tax voucher to be used in paying national taxes, in an amount equivalent to 10 per cent of the result of the good's sale price minus the value of its imported inputs, parts and components that entered the country at 0 per cent duty.

Beneficiaries: Manufacturers of capital goods, information technology and telecommunications products that have industrial establishments located in Argentine territory.

Implementing authority: MEP Secretariat for Industry

Duration: 31 December 2008

Fiscal cost (forgone payments or revenue): The fiscal cost in 2005 was Arg$669,513,418 (US$223 million).

Legal Framework: Decrees Nos. 379/2001, 502/2001, 594/2004 and 201/2006. Resolutions Nos. 8/2001 and 27/2001 of the MEP Secretariat for Industry.

Reduction of VAT on capital goods, information technology and telecommunications

Scope: Sale and importation of (finished) capital goods and information technology and telecommunications products: finished products and parts.

Beneficiaries: Any user or producer firm.

Benefits: Reduced VAT rate (10.5 per cent).

Implementing authority: Federal Administration of Public Revenue (AFIP).

Duration: Indeterminate
Fiscal cost (forgone payments or revenue): The fiscal cost in 2005 was US$618,385,617.67.

Legal Framework: Decrees Nos. 493/2001, 496/2001, 615/2001, 733/2001, and 959/2001.

Facilities for payment of VAT on capital goods imports

Scope: Capital goods imports

Beneficiaries: Importers of capital goods

Benefits: Optional facility for payment, in five consecutive monthly instalments, of VAT on definitive importation of finished goods for use in productive processes, provided no other specific VAT benefits are applicable. The minimum f.o.b. value of the imports that can benefit is US$13,000.

Implementing authority: Federal Administration of Public Revenue (AFIP)

Duration: Indeterminate

Table III.11 (cont'd)

Fiscal cost (forgone payments or revenue): The estimated fiscal cost for the first six months of programme application (May-October 2006) is approximately Arg$124,441,958 (US$41.5 million)

Legal Framework: Resolution No. 1.635/2004. Although this was repealed on 31 December 2005, in May 2006 a similar mechanism was established through AFIP General Resolution No. 2.049/2006 of 15 May 2006.

Tax credit for training in small and medium-sized enterprises.

Scope: Training projects to improve enterprise productivity

Beneficiaries: Firms investing in training

Benefits: Tax credit for expenses incurred up to a defined percentage of gross payroll in the 12 months prior to the request for access to the regime: for SMEs the maximum is 8 per cent; and in the case of large firms, the maximum is 0.8 per cent.

Implementing authority: SEPYME

Duration: Indeterminate

Fiscal cost: 218 million certificates (value not determined) used as a tax credit by beneficiaries.

Legal Framework: Law No. 22.317, O.J. of 7/12/1980 as amended, Decrees Nos. 819/1998 and 434/1999, Resolution No. 675/2002.

Tax on personal assets: 0 per cent for shareholders

Scope: Purchase and holding of shares in enterprises located in Argentina.

Beneficiaries: Buyers of shares in enterprises located in Argentina, provided the shares are held for a year.

Benefits: Exemption from payment of the tax.

Implementing authority: Federal Administration of Public Revenue (AFIP)

Duration: Indeterminate

Legal Framework: Law No. 23.966, O.J. of 20/08/1991 as amended, Law No. 25.585 of 15/05/2002 as amended.

Assistance in establishing productive clusters

Scope: Establishment of productive clusters

Beneficiaries: Temporary partnerships with at least four members that are SMEs with three years' activity.

Benefits: 50 per cent subsidy on operating costs for two years

Implementing authority: SEPYME

Duration: Indeterminate

Fiscal cost (forgone payments or revenue): This programme has not been implemented, and does not have a budgetary appropriation.

Legal Framework: Provision 23/20003, Undersecretariat for SMEs and Regional Development

Incentives for formation of reciprocal guarantee companies (SGR).

Scope: Establishment of reciprocal guarantee companies (SGR).

Beneficiaries: SGRs operating as commercial companies that provide cash guarantees to improve access to credit for their SME partners.

Benefits: Tax exemption: private capital backs SMEs. Capital contributions in the form of cash guarantees can be wholly deducted from taxable profits for IG purposes.

Implementing authority: SEPYME

Duration: Indeterminate

Fiscal cost (payments or forgone revenue): Approximately Arg$94,707,993 (US$31.5 million) in 2005 (return on private capital for the risk assumed, in the form of tax exemption, calculated assuming all contributions have been deducted at the top rate).

Table III.11 (cont'd)

Legal Framework: Law No. 24.467, O.J. of 28/03/95 as amended, Law No. 25.300 O.J. of 7/09/2000 as amended, Decree No. 1076/2001, Resolution No. 8/1998, Resolution No. 18/1998, Resolution No. 134/1998, Resolution No. 204/2002 and Resolution No. 205/2002.
Promotion and development of technological innovation **Scope:** Technological innovation **Beneficiaries:** Temporary partnerships and production companies undertaking R&D projects **Benefits:** Tax credit of up to 50 per cent of project value for up to three years **Implementing authority:** SECYT **Duration:** Indeterminate **Fiscal cost (forgone payments or revenue):** The fiscal cost for 2005 was Arg$15,803,799.42 (US$5.3 million) **Legal Framework:** Law No. 23.877, O.J. of 1/11/1990, Decrees Nos. 508/1992, 1.331/1996, 1.660/2996, 270/198, 555/2000
Exemption from import duties on research inputs **Scope:** Importation of animals, animal and plant products, raw materials, processed and semi-processed products, machinery and equipment and spare parts for scientific research. **Beneficiaries:** Public bodies or organizations serving the public good with competency to undertake research. **Benefits:** Issuance of tariff exemption certificates **Implementing authority:** SECYT **Duration:** Indeterminate **Fiscal cost (forgone payments or revenue):** A total of 640 certificates were used for the purpose of importing research inputs in 2005. **Legal Framework:** Law No. 25.613, O.J. of 31/07/2002, Resolution No. 63/2003, Resolution No. 554/2004

Source: Ministry of the Economy and Production.

242. Argentina also has regional development programmes, including the Special Tax Allowances Regime, which aims to stimulate economic development in the province of La Rioja and is regulated by Law No. 22.021 O.J. of 4 July 1979, as amended. This regime grants a number of benefits such as exemptions, deferments and temporary exemption from national taxes for a period of 15 years on investments in the crop-livestock and tourism sectors. At mid-2006, the approval of new projects under this programme had been suspended; nonetheless, its promotional benefits can still be obtained by purchasing shares in the beneficiary firms. The Tierra del Fuego Special Tax and Customs Regime, created by Law No. 19.640 O.J. of 2 June 1972 and lasting until 31 December 2013, allows for freedom from VAT, a reduction in IG, exemption from import duties and VAT on capital goods, exemption or reduction of tariffs on other goods (Tierra del Fuego is treated as a special customs area), and exemption from import duties on inputs. There are also promotional regimes in the provinces of Catamarca, San Juan and San Luis.

243. Apart from incentives at the national level, the provinces and the city of Buenos Aires maintain incentives for industrial development and other activities within their jurisdictions, generally through provincial industrial promotion laws that provide tax exemptions, or through loan funds. For example, the province of Buenos Aires uses provincial Law No. 10.547 on Industrial Promotion to grant exemptions from provincial taxes (gross income and property) for up to ten years to beneficiary firms, in addition to preferential gas supplies. The province of Cordoba, through provincial Law No. 6.230 (Promotion of Industry) grants tax benefits similar to those of Buenos Aires, and also has

an industrial park policy in which microenterprises and SMEs can receive subsidies for three years to hire new employees, and a 50 per cent subsidy on the cost of electric energy.[255]

(b) Investment financing

244. There are a number of financing facilities that allow investors access to credit, generally under market conditions although some of these facilities are offered at preferential interest rates (Table III.12).

Table III.12
Main financial incentives applicable to production and investment nationwide

Investment credit lines offered by *Banco de Inversión y Comercio Exterior* (BICE) for restructuring and modernization in production. **Scope:** Investment projects for goods and services, and for restructuring and modernization of production to improve competitiveness. **Beneficiaries:** Natural persons domiciled in Argentina and legal persons domiciled or with a branch in Argentina, producing goods and services. **Amount to be financed:** Up to 85 per cent of the value, including VAT. Purchase of capital goods, either imported or produced locally: US$20,000 - US$100,000; Investment projects: US$1 million – US$3 million. Loan quota: US$20 million (in local currency); US$65 million (in foreign currency). **Conditions/Benefits:** Maturity up to 10 years; Grace period up to 24 months. Interest rates: Loans in dollars: LIBOR + 2.75/6.25 per cent, depending on the project; Loans in pesos; BADLAR + 2.50/6 per cent, depending on the project. **Executing agency/Implementing authority:** BICE **Duration:** Indefinite **Amounts disbursed:** During 1999-2003 BICE operated in the wholesale market (through other banks); it only began to operate in the retail market (with firms) as from 2004. Amounts disbursed: Arg$66,835,000 in 2004; Arg$74,571,000 in 2005. **Legal Framework:** Articles of Association of BICE (2003) and Law No. 21.526, O.J. of 21 February 1997 and updates.
Foreign trade programme of *Banco of Inversión and Comercio Exterior* (BICE) **Scope:** Primary products and manufactured products of agricultural origin (MOA), and manufactures of industrial origin (MOI) **Beneficiaries:** Goods exporters, producers and manufacturers. Service providers. **Amount to be financed:** • **Prefinancing:** Up to 75 per cent of the f.o.b. value of the export, with a minimum of US$20,000 and a maximum of US$2,000,000 per operation, subject to the customer's assigned and available limit. • **Postfinancing:** Up to 100 per cent of the price of the goods, plus VAT, with minima of US$20,000 for capital goods, durable goods, services and other goods, US$200,000 for industrial plants and turnkey projects; and maxima of US$3 million for capital goods, durable goods, services and other goods, and US$15 million for industrial plants and turnkey projects. **Conditions/Benefits:** Prefinancing: Maturity depending on the project, adapted to the productive cycle, dispatch and negotiation of payment instruments for exported goods and services. Repayment at maturity Postfinancing: Term of up to four years from the first disbursement. Amortization: up to one year (turnkey plant); up to six months (rest). **Interest rates:** • **Export prefinancing:** Fixed, between 3 per cent and 3.50 per cent • **Export postfinancing:** Up to one year, fixed interest rate between 3 and 3.5 per cent; from one to 10 years, LIBOR plus 3-8 per cent, depending on maturity. **Executing agency/implementing authority:** BICE **Duration:** Indefinite

Table III.11 (cont'd)

[255] For a detailed description of incentive programmes in the various provinces see Investment Promotion Agency, Secretariat of Industry, Trade and SMEs, Ministry of the Economy and Production (2006).

Amounts disbursed: Export prefinancing and postfinancing: Arg$73,862,000 (US$24.6 million) in 2004; Arg$45,792,000 (US$15.3 million) in 2005.

Legal Framework: Articles of Association of BICE (2003) and Law No. 21.526, O.J. of 21 February 1997 and updates.

BICE credit line to finance services for the implementation of quality standards and environmental impact studies

Scope: The financing covers the following: diagnosis of the firm's management system; needs assessment, preparation of action plans, definition of the scope of certification; system design and development; preparation of manuals; training courses; evaluation and monitoring; obtaining of Quality Certificate.

Beneficiaries: Natural persons domiciled in Argentina, or legal persons with domicile or a branch in Argentina.

Amount to be financed: Up to 85 per cent of the total budgeted amount; minimum US$10,000, maximum US$150,000. Nonetheless, BICE will consider all funding requests for amounts outside these limits based on the nature of the operation.

Conditions/Benefits: Maturity up to three years, in dollars; amortization in semi-annual instalments. Interest rates: Loans in dollars: LIBOR + 2.75/6.25 per cent, depending on the project; Loans in pesos: BADLAR + 2.50/6 per cent depending on project.

Executing agency/implementing authority: BICE

Duration: Indefinite

Amounts disbursed: As at September 2006, the programme had not been used.

Legal Framework: Articles of Association of BICE (2003) and Law No. 21.526, O.J. of 21 February 1997 and updates.

Banco de la Nación Argentina **(BNA) Credit line to finance productive investments**

Scope: Investments generally, in any economic sector, including national, nationalized and imported capital goods, whether new or used, including their installation and/or assembly and the accessories needed to implement them. Funding is also provided for incremental working capital.

Beneficiaries: Investors in any economic sector. This credit line replaces other more specific ones.

Amount to be financed: Up to 100 per cent of purchase value of new goods and incremental working capital; and up to 70 per cent for the purchase of used goods and other components of the investment.

Conditions/Benefits: Maturity: Up to 10 years (investment loans) or up to five years (incremental working capital). Grace period of up to 180 days. Interest rate: Operations in pesos: BAIBOR rate plus a variable spread from 4.75 per cent per year; Operations in dollars: LIBOR during the interest period, plus a variable risk spread from 2.90 per cent per year. The interest rate can be subsidized if an organization provides the necessary funds for this purpose.

Executing agency/implementing authority: BNA

Duration: Indefinite

Amounts disbursed: As the credit line entered into force on 1 January 2006 there are no estimates yet.

Programme to stimulate the growth of microenterprises and SMEs

Scope: Commercial loans to be granted to firms through operations, destined for the purchase of new capital goods of domestic origin, creation of working capital, prefinancing and/or financing of exports of goods and services, and the development of new business ventures.

Beneficiaries: Microenterprises and SMEs

Amount to be financed: Up to 80 per cent of the price of the goods plus VAT, net of discounts and subsidies. Minimum amount to be financed US$20,000, maximum US$300,000. Lending quota US$10 million (in pesos); US$20 million (in dollars). Firms accessing new markets or launching new products on international markets can obtain 25 per cent additional credit above the established maxima (Decree No. 871/2003).

Conditions/Benefits: Interest rates are subsidized: the State pays up to 8 percentage points of the nominal annual interest rate set by financial institutions on the loans they grant under this scheme, although the subsidy cannot exceed 50 per cent of the annual nominal rate established by the lending institutions (Decree No. 159/2005).

Executing agency/implementing authority: SEPYME

Duration: Indefinite

Table III.11 (cont'd)

Credits approved under the programme: Capital goods: Arg$66,618,278 in 2000; Arg$52,366,795 in 2001; there were no disbursements in 2002 and 2003; Arg$60,681,036.56 (US$20.2 million) in 2004; Arg$148,563,917.09 (US$49.8 million) in 2005; Total 2000-05: Arg$424,600,559.20. Disbursements for capital goods (October 2003-August 2006); Arg$209,244,953 (US$69.7 million); Working capital: Credits approved and disbursed from October 2003 to August 2006: Arg$412,793,703 (US$137.6 million); Investment projects: Credits approved and disbursed from October 2003 to August 2006: Arg$194,285,147 (US$64.8 million);

Total amount 2000-2005: Arg$868,992,310.66 (US$289.7 million). Amount disbursed from October 2003 to August 2006: Arg$816,323,803 (US$272.1 million).

Legal Framework: Decrees Nos. 748/2000, 871/2003, 159/2005

Italian credit

Scope: Credit line from the Italian Government to Argentine SMEs to finance the purchase of goods, inputs and invoiceable services of Italian or Argentine origin.

Beneficiaries: Argentine SMEs with at least three years of activity.

Amount to be financed: The overall amount of the loan is €75 million obtained from Italian funds.

Conditions/Benefits: Maturity of up to 10 years, with up to three years grace and annual interest of approximately 5.5 per cent.

Executing agency/implementing authority: SEPYME

Duration: Indefinite

Amounts disbursed: €91,494 in 2004; €8,514,742 in 2005.

Microenterprise and Small Business Comprehensive Credit Programme (MyPEs II)

Scope: Credits for export prefinancing and financing, working capital and the purchase of fixed assets.

Beneficiaries: Microenterprises, small and medium-size businesses; i.e. enterprises with annual invoicing or sales volume not exceeding US$20 million, excluding VAT.

Amount to be financed: US$50 million from IDB loan 1192/OC-AR has been earmarked to execute this programme

Conditions/Benefits: The loan programme aims to support an increase in the production capacity of microenterprises and SMEs, to improve their competitiveness. A second goal is to improve and expand credit services, persuading participating financial institutions to meet the demand for credit from microenterprises and SMEs on a self-sustainable and growing basis, also using internally generated funds.

Executing agency/implementing authority: SEPYME, BCRA (financial agent), financial institutions.

Duration: Up to 15 January 2008.

Amounts disbursed: Approximately US$1 million from September 2005 to October 2006.

Legal Framework: Decree No. 1118/2003. Resolution No. 347/2004 and Resolution No. 747/2004.

National Fund for Microenterprise and SME Development (FONAPyME)

Scope: Financing of investments in new and used fixed assets and working capital for goods or service projects in the SME sector, aimed at the domestic market, with main emphasis on import substitution and high impact on regional development, job creation and value added.

Beneficiaries: Microenterprises and SMEs, already existing or to be created, and forms of partnership that fulfil parameters determined by the implementing authority (SSEPyMEyDR).

Amount to be financed: Depending on the purpose of the investment and the type of enterprises: new, existing (companies or single person enterprises) and associative groups. Funding of up to Arg$100 million is contributed by the Argentine State in an initial stage; the fund is open to international organizations, public and private entities, and provincial or municipal governments.

Conditions/Benefits: The interest rate has been set at 50 per cent of the rate paid on the general BNA portfolio

Executing agency/implementing authority: SSEPyMEyDR

Table III.11 (cont'd)

Duration: 25 years, renewable for equal periods

Amounts disbursed: Arg$4,698,338 (US$1.57 million) in 2002; in Arg$7,443,407 (US$2.48 million) 2003; Arg$12,661,895 (US$4.22 million) in 2004; Arg$4,531,691 (US$1.5 million) in 2005.

Legal Framework: Law No. 25.300 O.J. of 7/09/2000, Decree No. 1.074/2001 and Provisions 32/2004, 33/2004 and 34/2004.

Microenterprise, Small and Medium-Sized Business Guarantee Fund (FOGAPyME)

Scope: To provide guarantees to back those issued by reciprocal guarantee companies, and direct guarantees to financial institutions that are creditors of microenterprises and SMEs and partnerships.

Beneficiaries: Microenterprises and SMEs, already existing or to be created

Amount to be guaranteed: As determined in the respective agreements, based on risk sharing with the counterpart.

Conditions/Benefits: The interest rates are subsidized: 50 per cent of the rate paid on the general BNA portfolio. Better conditions of access to financing for microenterprises and SMEs.

Executing agency/implementing authority: SSEPyMEyDR

Duration: 25 years, renewable for equal periods

Amounts disbursed: As at September 2006 no disbursements had been made.

Legal Framework: Law No. 25.300 O.J. of 7/09/2000

Loans for regional exportable production offered by the Federal Investment Council (CFI)

Scope: Financing of specific projects or programmes at the pre-investment and investment stages.

Beneficiaries: Microenterprises and SMEs, exporters, producers and/or providers of goods and inputs destined for export or which form part of exportable goods.

Amount to be financed: Maximum of US$150,000 per firm up to 70 per cent of the total investment.

Conditions/Benefits: Improvement of conditions of access to financing for microenterprises and SMEs. LIBOR + 2 per cent.

Executing agency/implementing authority: Federal Investment Council (CFI)

Duration: Indefinite

Amounts disbursed: This credit line began to operate in 2002; amounts disbursed are as follows: US$300,000 in 2002; US$1.36 million in 2003; US$670,000 in 2004; US$350,000 in 2005.

Loans for productive recovery offered by the Federal Investment Council (CFI)

Scope: Financing of specific projects or programmes at the pre-investment and investment stages.

Beneficiaries: Microenterprises and SMEs located in Argentine provinces.

Amount to be financed: Maximum of Arg$50,000 for microenterprises (capital of up to Arg$280,000), for up to 80 per cent of the total investment; or up to Arg$450,000 in the case of SMEs, for up to 70 per cent of the total investment.

Conditions/Benefits: Better conditions of access to financing for microenterprises and SMEs. Rate: BNA rate on 30-day fixed term deposits of BNA +2 per cent.

Executing agency/implementing authority: CFI

Duration: Indefinite

Amounts disbursed: This credit line began to operate in 2003, and amounts disbursed are as follows: Arg$1,115,555 (US$370,000) in 2003; Arg$18,952,980 (US$6.3 million) in 2004; Arg$63,013,214.00 (US$21 million) in 2005.

The National Fund for the Creation and Consolidation of Microenterprises.

Scope: Creation of goods and/or service production units and consolidation of existing microenterprises.

Beneficiaries: Microenterprises and SMEs

Amount to be financed: Arg$3,000 – Arg$30,000

Table III.11 (cont'd)

Conditions/Benefits: Financing at low interest rates without collateral (signature loans): annual interest rate of 7 per cent (March 2006) and repayment over 48 months with up to six months' grace period.
Executing agency/implementing authority: BNA
Duration: Indefinite
Amounts disbursed: Arg$24,633,333 (US$8.2 million) between April 2004 and December 2005.

Source: Ministry of the Economy and Production.

245. Funding sources include the investment credit lines of the *Banco de Inversión y Comercio Exterior* (BICE), a State entity created in 1991 with a mission to promote productive investment and foreign trade among Argentine enterprises. Although the BICE operates mainly in the financial market as a second-tier bank channelling its operations through commercial banks, since 2003 it has also worked directly or through co-financing with one or more financial institution. Up to mid-2006, the BICE had lent a total of over US$1.5 billion in enterprise financing for projects representing a total investment of more than US$3.3 billion.[256] The BICE is financed mainly from its own capital, credit lines from multilateral organizations and financial trust funds.

246. The *Banco de la Nación Argentina* (BNA), an autonomous public-sector organization that operates as a commercial bank under the same requirements as private banks, also has a series of investment credit lines, including its Productive Investment Financing Facility (Table III.12). The BNA also provides credit lines to finance imports. Microenterprises and SMEs can likewise benefit from a programme to reduce financial costs through interest rate subsidies. An example is the programme to stimulate the growth of microenterprises and small and medium-sized businesses, in which the State subsidizes up to eight percentage points of the nominal annual rate established by the lending institutions (Table III.12). The authorities stated that in practice up to six percentage points are subsidized.

(iv) State-owned enterprises and privatization

247. Argentina has notified the WTO that it does not maintain any State-owned enterprise as defined in Article XVII of the GATT 1994.[257]

248. State participation in the economy was sharply reduced in the 1990s as a result of a very wide-ranging privatization programme which redefined the State's role in the economy from economic agent to that of regulator. Ninety per cent of State-owned firms were sold to the private sector for the equivalent of over US$20 billion in a three-year period (1991-1994), and most of the remaining public enterprises were privatized later in the same decade.

249. Privatization generated efficiency gains in the services provided by privatized enterprises, but also increased concentration of ownership in certain areas.[258] Some analysts claim that although productivity increased, cost reductions were not fully passed on to the consumer through lower utility rates, but generated income which the State appropriated through the tax system.[259]

[256] Information available on the BICE Internet site: http://www.bice.com.ar/.

[257] The latest notification is contained in WTO document G/STR/N/6/ARG – G/STR/N/7/ARG of 24 September 2002.

[258] For a discussion on this see Ariceta, María Fernanda (2004).

[259] For analysis of this argument see Estache, Antonio, Guasch, José-Luis and Trujillo, Lourdes (2003).

250. As at May 2006, the State maintained a stake in 17 enterprises in sectors such as energy, transport and finance.[260] The MEP Finance Secretariat performs management functions in enterprises in which the State has a holding. In 2005 the operating surplus arising from these firms amounted to Arg$142 million (about US$48 million).

(v) Government procurement

251. Argentina is not party to the WTO Plurilateral Agreement on Government Procurement, but has had observer status since April 1997, with a view to deciding whether or not to adopt the Agreement.[261]

252. Following the approval of Decree No. 436/2000, significant changes have been made to the national government procurement system in Argentina, including reintroduction of the domestic preference system in 2001. The National Procurement Office (ONC), which is attached to the Undersecretariat for Public Management of the Office of the Cabinet, is the body that oversees the procurement system at the national government level. It is responsible for the control, supervision and general administration of the procurement system, as well as for proposing policies, regulations, systems and procedures for goods and services contracting. The various procurement units of the national government jurisdictions and entities are responsible for managing procurement processes, under ONC supervision. Public institutions maintain a register of necessary purchases and prepare their procurement programmes in the framework of development programmes established by the competent ministry or secretariat. State entities are required to transmit all information obtained from the procurement procedures they undertake to the ONC, using electronic media.

253. The ONC maintains a free-access web site entitled *Argentina Compra* for the government purchasing and procurement system, which provides institutional data and information on regulations and agreements, together with up-to-date statistics, a catalogue of goods and services, the supplier system, procurement agencies, reference prices, current and past contracts and investment plans.[262] The ONC also maintains a supplier information system (SIPRO), which the various State entities are required to access before awarding contracts. Nonetheless, prior inclusion in SIPRO is not a prerequisite to be able to submit bids or enter into contracts with the State. In the case of tenders for public works procurement, however, registration in the National Register of Public Works Constructors is an essential prior requirement for eligibility and authorization.

254. Decree No. 1.023/2001 of 13 August 2001, as amended by Decrees Nos. 666/2003 and 204/2004 and by Law No. 25.563 (Production and Credit Emergency), O.J. of 15 February 2002, contain the procurement regime of the Argentine National Government. Decree No. 436/2000 of 30 May 2000 contains regulations on procurement, divestments and contracting of goods and services by the Argentine National State.

255. Procurements must abide by certain general principles, including fulfilling the public interest, promoting participation by all interested parties and competition between bidders, as well as transparency in procedures and guaranteed equal treatment for all interested parties and bidders. The regulation requires the contract to be awarded to the bid that is most advantageous for the contracting

[260] Four firms in the electric power sector; a transport enterprise; a firm in the gas and petroleum sector; a commercial airline; a paper company; six firms in the railroad sector; and three banks. Information obtained from the web site of the Undersecretariat for Financial Services of the Secretariat of Finance of the Ministry of the Economy and Production, http://www.mecon.gov.ar/sssf/indice.htm.

[261] WTO documents GPA/M/5 of 11 April 1997 and WT/L/206 of 24 April 1997.

[262] ONC web site *Argentina Compra*, https://www.argentinacompra.gov.ar/prod/onc/sitio/Paginas/Contenido/FrontEnd/index2.asp.

agency in terms of price, quality, bidder suitability and other conditions of the bid. For standard goods or services, the most advantageous bid will generally be the one offering the lowest price. Bids are evaluated in each public entity by an evaluation commission, which has ten days from receipt of the necessary documents to issue its ruling. Argentine legislation allows for appeal to administrative and legal bodies if a bidder wishes to contest the contract award.

256. The supplier may be selected through: (i) direct contracting; (ii) bidding or call for proposals and (iii) public auction. Procurements for up to Arg$75,000 (roughly US$25,000) are awarded through direct contracting; contracts for over Arg$75,000 but less than Arg$300,000 (about US$100,000) through limited bidding or call for proposals; and contracts for more than Arg$300,000 are awarded through competitive bidding or call for proposals. Direct contracting can also be used in situations of urgency or when there is only one supplier. In some direct contracting procedures, at least three suppliers must be invited to quote. The authorities reported that there is a proposal to implement an electronic public procurement system, through which all procurements for less than Arg$10,000 would be channelled (i.e. 40 per cent of total procurements). The system would also make it possible to submit bids electronically.

257. The tender or call for proposals may be competitive or limited, national or international. In a limited tender or call for proposals the invitation to participate is sent exclusively to suppliers that are registered in the ONC database; nonetheless, bids from persons that have not been invited to participate are also considered. The public auction procedure is used for purchases of movable, immovable and semi-movable assets, and for the sale of properties belonging to the national State. A total of 110,948 public procurement procedures were carried out between January 2001 and September 2006: 72.5 per cent of them were conducted through direct contracting; 12.2 per cent through limited bidding; 8.2 per cent through competitive bidding; 4.8 per cent through limited call for proposals; 2.1 per cent through competitive call for proposals; 0.2 per cent through public auction, and five individual cases through an open invitation to tender.

258. According to the Law, all bidding processes, whatever their amount and selection procedure, must be disseminated on the ONC web site, as must the draft bidding documents for procurement that the competent authority makes publicly available, together with the ground rules and conditions, the record of opening of tenders, the comparison table, the evaluation ruling, contract awards, and purchase orders. Contract awards for amounts exceeding Arg$75,000 must be published in the Official Journal (O.J.). Contracts exceeding Arg$5 million (about US$1.7 billion) must also be advertised in two newspapers widely circulated in the country. Provincial or municipal procurements must be published in daily newspapers in the place in which the contract is to be executed, and international bidding or tendering processes must be advertised in the corresponding countries. Auctions must likewise be published in the O.J. and simultaneously on the ONC Internet site. Calls for bids or competitive tenders must be published in the O.J.

259. From October 1991, when application of the provisions of the *Compre Nacional* [Buy Argentine] programme was suspended, and until 2001, no margins of preference were given to domestic firms, although domestic preference was applied when bids were otherwise equal. The Economic Emergency Law, No. 23.697, reintroduced a preference in favour of domestic industry for the procurement and contracting of goods, works and services by public organizations, with a maximum of 10 per cent domestic preference in the case of goods. This provision was subsequently repealed by Law No. 25.551, O.J. of 31 December 2001 (*Compre Trabajo Argentino*) [Buy Argentine Labour], which established a system of preferences for goods of domestic origin, defined as those produced or extracted in Argentina, provided the cost of the raw materials, imports or nationalized imported materials did not exceed 40 per cent of the gross production value. There are also "Buy provincial" and "Buy municipal" programmes.

260. Law No. 25.551 allows preferences for goods of domestic origin when, under identical or similar supply conditions, their price is equal to or below that of bids involving goods that are not of domestic origin, plus 7 per cent when such bids are made by enterprises classified as SMEs or plus 5 per cent in bids submitted by other enterprises. In the case of procurement for inputs, materials, raw materials or capital goods to be used in the production of goods or the provision of services, domestic preference will be given when, in otherwise similar bids, the prices are equal to or below those of foreign goods. When a bid involving goods of foreign origin is accompanied by a payment or financing plan of some kind, bidders offering goods of domestic origin may request funding from the BICE to put them on an equal financial footing.

261. Procurements may sometimes be subject to ceiling or reference prices. In the first case, unit prices may not exceed ceiling prices. In the case of reference prices, contracts may not be awarded where the price exceeds the reference by more than a specified percentage (5 per cent). Procurement amounting to more than Arg$450,000 is subject to reference prices indicated by the *Sindicatura de la Nación* [Office of the Auditor-General]. These are used as a basis for accepting the prices proposed in a tender and are not known to the bidders.[263]

262. At the regional level, work on public procurement in MERCOSUR has been ongoing since 1994, through Technical Group No. 4 and the Ad Hoc Group on Government Procurement. In 2004, the MERCOSUR Public Procurement Protocol was approved through Common Market Council Decision No. 27/2004, which applies to State agencies explicitly named on a positive list included in the annex to the Protocol.[264] The Protocol upholds MFN principles and national treatment for the entities within its jurisdiction and MERCOSUR rules of origin apply. Under the Protocol, bids for goods, services and public works by States parties will enjoy a 3 per cent preference in relation to those from outside the zone under equal technical conditions. In the case of a tie between bids, the contract will be awarded to the bidder from the States parties. As at September 2006, the Protocol had not been ratified by Argentina.

263. In 2005, the government procurement market in Argentina at the national level (including investment) amounted to over Arg$2.6 billion,[265] and the total value of purchase orders for goods and services was Arg$1.405 billion (roughly US$475 million).[266] In value terms, 50.1 per cent of procurement in 2005 was contracted under open competitive procedures, while 36.6 per cent was conducted under the direct contracting modality, 10.9 per cent through limited bidding, 2.3 per cent through a competitive call for proposals, and just 0.1 per cent under the private call for proposals and public auction modalities.[267] Measured by the number of procedures, the most frequently used category was direct contracting, accounting for 71.5 per cent of the total, followed by limited bidding with 17.9 per cent, and competitive bidding with 10.4 per cent. The relatively small amounts involved in direct contracting account for its large share of the total.

[263] Regulated by Decree 558/96 and SIGEN Resolution No. 79/05.

[264] Argentina and Brazil exempted subfederal entities from inclusion in Annex I "Positive lists of entities". The Argentine list includes national government bodies (21), a number of decentralized organizations (35), social security institutions (3) and other non-financial national public-sector entities, mainly universities (38). The full list, along with the text of the Protocol, can be found on the MERCOSUR Internet site at: http://www.mercosur.int/msweb/pagina_anterior/sam/espanol/snor/normativa/decisiones/2004/Dec_027_004_Prot%20Contrat%20Publicas_Dec%20CMC%2020-02%20Art.%206-09-12-04.htm.

[265] Estimated from data on public expenditure on goods and services and real direct investment.

[266] See https://www.argentinacompra.gov.ar/prod/onc/sitio/Paginas/Contenido/FrontEnd/index2.asp.

[267] See https://www.argentinacompra.gov.ar/prod/onc/p8081/estadisticas/GrafEst/COMPROHIS2005.gif.

(vi) Intellectual property protection

264. The TRIPS Agreement entered into force for Argentina on 1 January 2000. Law No. 24.425, promulgated on 23 December 1994 (O.J. of 5 January 1995) approves the Final Act embodying the Results of the Uruguay Round of Multilateral Trade Negotiations, Decisions, Statements and Ministerial Understandings, and the Marrakesh Agreement establishing the World Trade Organization, with its four annexes.

265. Argentina is a member of the World Intellectual Property Organization (WIPO), and party to a large number of international agreements on the protection of international property rights.[268] As at October 2006, Argentina's participation in the Nice and Strasbourg Conventions was in the process of being ratified by parliament. Cooperation on intellectual property at the MERCOSUR level is restricted to the Protocol on the Harmonization of Intellectual Property Regulations in MERCOSUR on Trademarks, Indications of Source and Appellations of Origin, and another Protocol on the Harmonization of Industrial Designs. As at October 2006, Argentina had not yet ratified these protocols.

266. The National Industrial Property Institute (INPI) is an autonomous decentralized agency attached to the MEP, with exclusive jurisdiction on industrial property. Its mission is to protect industrial property rights by granting titles and/or performing the registrations required by Law.[269] The Ministry of Justice has a National Copyright Directorate whose duties include supervising implementation of the Intellectual Property Law, No. 11.723, O.J., of 30 September 1933 (Copyright), maintaining records on copyright and related rights, and processing appeals against registrations.[270] Courts with jurisdiction to hear cases relating to intellectual property rights are the Federal Civil or Commercial Courts or the Federal Criminal and Correctional Courts, as the case may be.

267. To fulfil its obligations under the WTO Agreements, since 1996 Argentina has amended its legislation on patents and trademarks, and on copyright. National legislation encompasses the areas covered by the TRIPS Agreement (Table III.13). Legislation on patents was notified in 1996.[271] Legislation on copyright was notified to the WTO in 2000.[272] The TRIPS Council reviewed Argentina's intellectual property legislation in November 2001.[273]

[268] Information on Argentina's participation in the various international agreements on intellectual property is available on the WIPO web site at http://www.wipo.org/.

[269] Information available on the INPI Internet site: http://www.jus.gov.ar/.

[270] Available at the Internet site of the National Copyright Directorate: http://www.jus.gov.ar/.

[271] Notified to the WTO in document IP/N/1/ARG/I/2 of 1 June 2001.

[272] WTO documents IP/N/1/ ARG/C/1 – 2, 3 and 4 of 17 November 2000 and IP/N/1/ARG/C/5, 6, 7, 8, 9, 10, and 11, of 27 November 2000.

[273] WTO documents IP/Q/ARG/1 – IP/Q2/ARG/1 – IP/Q3/ARG/1 – IP/Q4/ARG/1 of 14 December 2001, IP/Q/ARG/1/Add.1 – IP/Q2/ARG/1/Add.1 – IP/Q3/ARG/1/Add.1 – IP/Q4/ARG/1/Add.1 of 22 January 2003 and IP/Q/ARG/1/Add.2 – IP/Q2/ARG/1/Add.2 – IP/Q3/ARG/1/Add.2 – IP/Q4/ARG/1/Add.2 of 7 April 2005.

Table III.13
Overview of the protection of intellectual property rights in Argentina, 2006[a]

Law/scope	Duration	Comments, limitations and exclusions
Copyright and related rights		
Law No. 11.723 on Intellectual Property (O.J. of 30/09/33) as amended by Laws Nos. 23.741 of 28/09/90, 23.921 of 2/03/93, 24.286 of 29/12/93, 24.870 of 16/09/97, 25.036 of 11/11/98, 25.006 of 15/07/98 and 25.140 of 24/09/99 Scope: Copyright on all intellectual creations in the literary, scientific and artistic domains, including computer programs). Related rights include the rights of performers, producers of phonograms and broadcasting organizations.	Lifetime of the author (or last co-author) plus 70 years. In the case of films, 50 years following the death of the last collaborator. For works of joint authorship, anonymous or pseudonymous works, audiovisual or broadcast works, or computer programs, 50 years from their disclosure or date of first publication.	No registration is required for protection. It is not considered to be an infringement of copyright if the works in question are used for non-profit purposes or for education or research. Ideas, processes, official texts, notices or data are not protected.
Patents		
Decree No. 260/96, O.J. of 22/03/1996, containing Law No. 24.481 (O.J. of 20/09/1995), Law No. 24 603 (O.J. 05/01/1996), Law No. 25.859, promulgated on 8/01/2004 Scope: Any invention (which must be a human creation making it possible to transform material or energy for human use), product or process that is new, involves an inventive step and is industrially applicable; pharmaceutical patents were first granted on 24 October 2000. Average processing time for registration of patents is six years.	20 years from presentation of the application, non-extendable.	The following cannot be patented: plants, animals, biological and genetic material existing in nature, or its replica, in biological processes implicit in animal, plant and human reproduction, including processes; inventions whose commercial exploitation must be prevented in order to protect public order, morality, human and animal life or health, or to protect plants or the environment. Compulsory licences may be granted if a patent has not been worked within three years after it has been granted, or four years after an application has been filed, and also for reasons of anti-competitive practices or dependent patents. The following, among others, are not considered inventions: discoveries, methods of surgical, therapeutic or diagnostic treatment applicable to the human body and those relating to animals, and any living material and substance pre-existing in nature.
Industrial designs		
Decree Law No. 6.673/63 (Industrial Designs), Decree No. 5.682/65 Scope: An industrial design is defined as the shapes or aspects incorporated or applied in an industrial product for ornamental purposes. Protection through registration.	Five years from the date of presentation of the deposit, extendable for two consecutive periods of the same duration, at the request of the owner.	The following are not eligible for the benefits granted by the Decree on Industrial Designs, industrial designs which: (a) have been published or publicly exploited in the country or abroad, prior to the date of the deposit, except for cases envisaged in Article 14 of the Decree, and industrial designs exhibited in exhibitions or fairs held in Argentina or abroad, on the condition that the respective deposit is made within six months from the inauguration of the exhibition or fair; (b) lack a distinct configuration and their own innovative shape compared to previous industrial designs; (c) those whose elements are imposed by the functions the product has to fulfil; (d) merely involve a change of colour in previously known designs; (e) are contrary to morality and decency.
Utility models		
Decree No. 260/96, O.J. of 22/03/1996, containing Law No. 24.481 (O.J. 20/09/1995), Law No. 24 603 (O.J. 05/01/1996) Scope: Any new arrangement or shape obtained or introduced in tools, work instruments, utensils, devices, equipment or other known objects which improve their use or the function for which they are intended. Must be new and have industrial application.	Ten years from the date of filing the application. Non- renewable.	Protection under a utility model patent. The following may not be the subject of protection through an application for a utility model patent: changes in the shape, size, proportions or material of an object, unless such changes modify the object's qualities or functions; the mere substitution of elements by other elements already known as equivalents; processes; material excluded from protection by a patent. A utility model may not be granted within the domain of protection of an existing patent.

Table III.13 (cont'd)

Law/scope	Duration	Comments, limitations and exclusions
Layout designs of integrated circuits		
Law No. 11.723 (O.J. of 30/09/33), or Decree Law No. 6.673/63 (Industrial Designs), as the case may be. Scope: Original layout designs.	15 years, or lifetime plus 70 years, depending on the type of protection.	Protection of industrial designs through patents or through copyright. As at October 2006, no use had been made of this type of protection.
Trademarks		
Law No. 22.362, O.J. of 2 January 1981. Decrees Nos. 558/1981, 621/1995 and 1.141/2001 Scope: Subject to registration, any sign capable of distinguishing the products or services of a natural or legal person from those of others, including names and commercial slogans. Use is not a condition for registration of a trademark, but is for its renewal.	Ten years from the date of granting, renewable indefinitely for ten-year periods. Use of the trademark is not compulsory, but lack of use may give rise to a judicial request for expiry if it has not been used within five years from the date of initiation of the judicial action, except in cases of *force majeure*.	The following may not be registered, *inter alia*: (a) names, words and signs that constitute the habitual designation of the product or service; or (b) those that have passed into general use before registration was requested; (c) the shape of the products; (d) the natural or intrinsic colour of the products; (e) national or foreign appellations of origin; (f) letters, words, names, distinctive signs, symbols used by the nation, provinces, municipalities, and religious and health organizations, as well as foreign nations and international organizations recognized by the Argentine Government; (g) misleading names or trademarks; (h) advertising phrases that are not original; (i) names, pseudonyms or portraits of a person without their consent or that of their inheritors up to the fourth degree.
Geographical indications		
Law No. 25.156, O.J. of 20/09/1999 (Protection of Competition); Law No. 22.362, O.J. of 2/01/1981; Law No. 25.163 of 15/10/1999 (Wines); Law No. 22.802 (Fair Trade Law); Law No. 18.284 (National Food Code); Resolution No. C.23/99 of the National Vitiviniculture Institute of 22/12/1999; Law No. 25.380, O.J. of 12 January 2001; Decree No. 57/04, O.J. of 16 January 2004; Law No. 25.966 (Agricultural and Food Products) of 20/12/2004; SAGPyA Resolution No. 202/2006, O.J. of 5/05/2006 Scope: Denominations of origin that include geographical indications (IG), indications of provenance (IP), and appellations of origin (DOCs).	Not specified. As long as the feature, quality or reputation giving rise to it lasts.	The IP identifies the place of extraction, production or manufacture. No quality conditions are required. IPs apply only to wines. The IG identifies a product as originating from the territory of the country or from a region or locality of the territory, when a given feature or other characteristics of the product are attributable fundamentally to its geographical origin. IGs may not be used to identify products of the same type that do not originate from the place designated by the indication. The third category of protection (the strongest) refers to appellations of origin.
New plant varieties		
Law No. 24.376, O.J. of 25/10/1994, approving the International Convention for the Protection of New Plant Varieties, Law No. 20.247, on Seeds and Cytogenetic Creations, O.J. of 16/04/1973 and Regulatory Decree No. 2.183/91, O.J. of 1/11/1991, Resolution No. 631/92 of SAGPyA of 24 July 1991. Scope: New plant varieties.	15 - 20 years, depending on the species.	Protection through breeder certificates.
Protection of undisclosed information		
Law No. 24.766, O.J. of 20/12/1996. Scope: TRIPS Art. 39.2	Not specified.	Information submitted to the local health authority for the approval of new chemical entities is protected against any unfair commercial use, and may not be disclosed.

Source: WTO Secretariat.

268. Law No. 24.870, O.J. of 16 September 1997, extended the period of copyright for authors to 70 years *post-mortem*, while Law No. 25.006, O.J. of 15 July 1998 extended the term to 50 years from the death of the last collaborator in the case of cinematographic films.

269. Argentina's patent legislation was amended in 1996 to adapt the legal framework to the general provisions established in the TRIPS Agreement. Patent applications are filed with the INPI, and published in the INPI Information Bulletin within 18 months of their presentation. The patent is valid for 20 years from the date of the application. Law No. 24.481, O.J. of 20 September 1995 (on Patents) made pharmaceutical products patentable as from 24 October 2000. Law No. 25.859, O.J. of 14 January 2004, amended Law No. 24.481 with regard to the application of interim measures among other things. There is no requirement to make use of a patent. A patent holder or applicant may grant a licence to work the patent in question; licences are not exclusive and may not include conditions that have a negative effect on competition. The law provides for the granting of compulsory licences in circumstances such as lack of use and in the case of dependent patents. As at September 2006, no compulsory licence had been applied for. Compulsory licences can also be granted for reasons of anti-competitive practices, health emergency, and lack of use. Compulsory licences are granted by the INPI.

270. The Patents Law (Law No. 24.481) specifically allows parallel imports of patented products by including international exhaustion of rights. On the other hand, parallel imports of products protected by copyright are not allowed.

271. In relation to undisclosed information, Article 1 of Law No. 24.766, O.J. of 20 December 1996 (the Confidentiality Law) reproduces the conditions that Article 39.2 of the TRIPS Agreement requires for information to be considered confidential. Law No. 24.766, however, allows a third party to use an invention before the patent expires for experimental purposes and to obtain the information needed for the approval of a product or procedure for its subsequent commercial use. Article 5 of Law No. 24.766 allows for registration of products similar to products registered or authorized for commercial use in Argentina or in certain other countries.[274]

272. Law No. 22.362, O.J. of 2 January 1981 is the Trademarks Law. Use of a trademark is not compulsory, but for protection or renewal it must be registered in the trademarks register of the INPI National Trademark Office. National or foreign denominations of origin may not be registered as trademarks. The protection granted to the trademark lasts for ten years and is renewable indefinitely for equal periods. Failure to use a trademark for five consecutive years can give rise to judicial action to declare the trademark expired through lack of use. Foreign trademarks are protected by the same guarantees as national ones. Ownership of the trademark is exclusive and allows its owner to take civil and criminal action to exclude third parties from using it.

273. The MEP Secretariat of Agriculture, Livestock, Fishing and Food is the implementing authority for Law No. 25.380 on Geographical Indications (IG) as amended. Law No. 25.163, implemented by the National Vitiviniculture Institute establishes general regulations for the designation and presentation of wines and wine-based spirits, following the protection guidelines on wines and spirits set out in Article 23 of the TRIPS Agreement. Resolution No. C.23/99 of the National Vitiviniculture Institute establishes a basic list of geographical areas and preliminary grape production areas that could be susceptible to an IG. Law No. 25.966 altered the definition of IGs to cover only the characteristics and qualities of the product that are attributable to the geographical area of production, and also created the National Advisory Commission for Geographical Indications and Denominations of Origin of Agricultural and Food Products. Law No. 25.966 (Table III.13) granted national treatment to the IGs of other countries and prohibited the registration as IGs of generic names and of trademarks registered before 1 January 2000 or before the IG and/or denomination of origin was protected in the country of origin.

[274] Austria, Belgium, Canada, Denmark, France, Germany, Israel, Italy, Japan, Netherlands, Spain, Sweden, Switzerland, United Kingdom and United States.

274. Federal courts have jurisdiction over industrial property rights cases. In the case of infringement of copyright and related rights, the competent courts are the ordinary civil or commercial courts depending on the infringement in question.

275. The Law on Intellectual Property (Copyright) contains rules on the observance of copyright, imposing fines and/or imprisonment in the case of violation. The right-holder may also file a civil claim to cessation of the illicit activity and to damages. Ex officio investigation is also allowed.

276. The Patents Law contains specific provisions on observance, allowing for penal, administrative and civil suits to be filed for violations of patent rights. The Trademark Law allows claims to be filed for damages and contains penal provisions. There are also remedies to oppose the registration of IGs, with the possibility of imposing sanctions. Special provisions on border measures may be applied on an interim basis in the case of trademarks, industrial designs, and copyright and related rights.

277. On 31 May 2002, the United States and Argentina informed the WTO Dispute Settlement Body that a mutually agreed solution had been found for the complaint filed by the United States in May 1999 alleging that in Argentina there was no patent protection for pharmaceutical products, no effective regime granting exclusive marketing rights on such products and no effective protection for undisclosed information against unfair commercial use.[275]

[275]WTO document IP/D/18/Add.1-IP/D/22/Add.1-WT/DS171/3-WT/DS196/4 of 20 June 2002.