

III. TRADE POLICIES AND PRACTICES BY MEASURE

(1) OVERVIEW

1. Since the last review of Argentina in 1992, the major trade liberalization reform launched in 1989 and intensified under the Convertibility Plan of 1991 (Chapter I) has proceeded without any major policy reversal. Nevertheless, there have been, over the period, a number of trade policy adjustments, in response to economic developments, such as the enlarged trade deficit of 1993 and the effects of the 1994 Mexican crisis (Chapter I). These adjustments included the increase, reduction, suspension and re-imposition of the statistical tax and its subsequent incorporation into the tariff; various tariff increases; a reduction of excise duties; an increase in the rate of VAT; greater use of anti-dumping measures; introduction of temporary import quotas on certain products; and the introduction and subsequent suspension of "mirror" export subsidy and industrial specialization regimes. A few sectors (sugar, automotive, textiles, clothing, footwear) have been the main beneficiaries of selective trade and trade-related measures.

2. Customs tariffs are still seen by Argentina as an important source of tax revenue, a corrective macroeconomic policy tool and the main instrument of protection. For these reasons, as well as the implementation of the MERCOSUR CET, they have been subject to a number of changes; together with changes in the level of the statistical tax, these changes have created an element of uncertainty in the trade regime although the broad thrust remains unchanged. In the Uruguay Round, binding commitments, generally at a ceiling level of 35%, were extended to cover all items; however, bound rates are generally much higher than applied rates, leaving scope for unilateral increases. The overall trend for the combined tariff and statistical tax, as applied, is for a slight decline through to 2006 when the MERCOSUR tariff will be fully implemented. Tariff escalation, which, together with the concessional-entry regime, provides higher effective protection for processing industries than is evident from the nominal rates, is not expected to change significantly.

3. Tariffs are *ad valorem*, although some items are subject to minimum specific duties, and variable levies are maintained on sugar. The simple average of all tariffs is 13.5% in 1998, including the increase of 3 percentage points which was introduced in January 1998 to offset the reduction of the statistical tax; this compares with an average of 12.2%, excluding the statistical tax, in early 1992. The average rate is scheduled to decline to 11.1% in 2006, when the MERCOSUR Common External Tariff (CET) will be fully applied. Argentina advanced the implementation of higher CET duties on most capital goods, informatics and telecommunication equipment, adopted minimum specific duties against imports of textiles, clothing and footwear, and increased *ad valorem* duties on footwear. Concessional entry, currently an exception regime under MERCOSUR, has been expanded to benefit certain regions and activities. Preferential rates are applied to imports from MERCOSUR and other LAIA members, which account for a large share of trade (Chapter II). Customs clearance and valuation procedures have been streamlined and preshipment inspection has been introduced. Additional implicit taxation, in the form of anticipated payment of VAT and the profit tax, has also been introduced since the last Review; since January 1998, the statistical tax rate has been set at 0.5%.

4. Since the last Trade Policy Review, no new import prohibitions have been introduced on commercial grounds. Quantitative restrictions continue to apply to automotive items under "grandfathered" TRIMs provisions and to narcotics. Temporary quotas have been applied to paper. For contingency protection, Argentina continues to rely mainly on anti-dumping measures, of which it is an important user; in a few cases, countervailing or safeguards actions have also been taken. Local-content requirements, intra-industry countertrade incentives and export-performance

requirements are in force for the automotive sector. As discussed in various sections, certain measures have yet to be communicated to the WTO.

5. Argentina has maintained its drawback and export assistance schemes, which mainly benefit manufactures; rates have already been reduced in the context of a planned phase-out of certain subsidies and of fiscal constraints, and further adjustments are expected in line with WTO commitments in this area. As discussed later, between 1993 and 1996, the export regime became more complex as a result of the introduction and subsequent suspension/elimination, mainly due to fiscal constraints, of the industrial specialization regime and the "mirror" subsidies scheme, but there has since been a simplification of the export regime. Concessional terms for export finance have been made available to small and medium-scale producers who export capital goods. Free-trade zone legislation, with limited tax benefits, was passed in 1994, and special customs regimes in force for trade-led regional development purposes have been expanded. Export taxes, applied to a few unprocessed items (certain derivatives of raw hides and skins, oilseeds), provide support for domestic processing industries; since 1992 no export prohibitions have been in force. Export licensing is used to administer quotas related to access to the EU and U.S. markets for a few items.

6. An impressive privatization and franchising programme has reduced the degree of state involvement in the economy; the programme has been expanded to cover mining, energy, petrochemicals, banking and transportation. It is a concern of the Argentine Government to promote competition in the domestic market, and weaknesses in the areas of regulation, competition policy and consumer defence were addressed in new legislation in 1997; however, it is too soon to evaluate the effectiveness of these initiatives. Under industrial policy, conversion and diversification projects are encouraged by financial, tax or credit assistance. Agriculture enjoys additional assistance including a price support mechanism for leaf tobacco, a regime to promote forestry plantations, tax breaks and subsidized credit facilities. Efforts have been made to reinforce the legal framework for the protection of intellectual property rights mainly concerning patents and software, and of the environment.

7. As at June 1998, new domestic or MERCOSUR regulations are under preparation in areas such as customs clearance, standards, government procurement, patents and copyrights.

(2) MEASURES DIRECTLY AFFECTING IMPORTS

(i) Registration and documentation requirements¹

8. Importers and exporters must be registered with the General Customs Directorate (DGA), previously called National Customs Administration (ANA). Since 1993 the trade registry has been open to operators in possession of a Tax Identification Number (CUIT).²

9. A MERCOSUR Customs Code, containing guidelines on several aspects of foreign trade operations within and outside the sub-region, was negotiated in 1994, but it was not ratified by member countries, except for Paraguay; drafting a Protocol to this Code has been under way since 1996.³ According to the authorities, the introduction of a single MERCOSUR customs document (DUAM), which was initiated in July 1997 in Argentina, was interrupted the same year.⁴ Since 1998,

¹ This section includes information from: The Bureau of National Affairs (1997); Price Waterhouse (1995); World Trade Press (1995); European Commission (1997); USTB (1997); U.S. Department of Commerce.

² Decree 2284/91.

³ MERCOSUR Decision 25/94.

⁴ ANA Resolution 2624/97, 26 June 1997.

efforts have been focused on integrating the information systems of the customs administrations of member countries.

10. Since 1996, companies registered (on the *Registro de Importadores/Exportadores*) for not less than three years and with annual import/export operations of not less than US\$200,000 have been allowed to import and export without dispatching goods through a customs forwarder or agent.⁵ Otherwise, merchandise clearance requires the intervention of a licensed customs broker. According to MERCOSUR regulations, customs brokers are authorized to make payments of customs duties and other charges.⁶

11. Since the previous Review, no major changes have been introduced in basic documentation requirements, which comprise a commercial invoice (containing a sworn declaration), a bill of lading and a packing list. Requirements for items subject to health, security, environmental or other controls include licensing (prior authorization), sanitary or phytosanitary inspection, preshipment inspection or free-sale certificate; certificates issued abroad must be authenticated by an Argentine consulate.

12. A certificate of origin may be required for imports that benefit from preferential tariff treatment or that are subject to anti-dumping or countervailing duties, or safeguards. Such a certificate may also be required for statistical purposes. The objective of such certification requirements is, *inter alia*, to avoid false origin declarations intended to circumvent origin-related import duty obligations.⁷ Since April 1996, a certificate of origin, stamped with a visa by the Argentine consulate in the country of origin, has been required for imports of textiles, footwear and clothing.⁸ It has been reported that this requirement causes delays and, potentially, increases costs for exporters; concern has also been expressed about the compatibility of this measure with GATT Article VIII.⁹

13. Imports of a broad range of used and re-manufactured, refurbished or reconditioned capital goods and equipment require certification by the supplier attesting to the type, degree, and quality of reconditioning of the equipment, and are subject to customs inspection.

14. Preshipment inspection certificate requirements were introduced in November 1997 (section (iii)).

15. Since the previous Trade Policy Review, efforts have been undertaken to simplify and speed up customs procedures as well as to reduce import costs and limit inefficient, rent-seeking activities; customs procedures seem to have been traditionally extensive and time consuming.¹⁰ In 1991 requirements for warehousing of imports prior to clearance were lifted, except for non-prepackaged goods for direct sale, pharmaceuticals, and a few other items that are subject to health inspection.¹¹ Other changes include the implementation of selective merchandise control in 1993, the introduction of unified, a posteriori, customs valuation in 1992; and the decentralization of customs valuation in regions that run several customs offices in 1998.¹²

⁵ Decree 1160/96, 14 October 1996; ANA-Resolution 3491/96, 21 October 1996.

⁶ MERCOSUR Decision 16/94.

⁷ MEOSP Resolution 763/96, 7 June 1996, and WTO documents G/LIC/N/2/ARG/1, 6 August 1996, and G/LIC/N/2/ARG/3, 10 February 1997.

⁸ MEOS Resolution 39/96, 8 January 1996.

⁹ European Commission (1997).

¹⁰ Measures adopted by Decree 2284/91.

¹¹ ANA-Resolution 2439/91, 19 December 1991.

¹² ANA-Resolution 1166/92 and its amendments, 1 September 1992; DGA Resolution 128/98.

16. In addition to institutional changes discussed in Chapter II, the customs administration was strengthened with the progressive introduction of an electronic data processing system in 1993 to allow for quicker, more efficient cargo clearance and payment of duties, and a 60% increase in human resources to 5,100 in 1992. Reportedly, customs may now clear goods within one day after arrival.

17. Fines relating to discrepancies in customs declarations in respect of quantity or value can be applied either in the range of 1-5 times the difference between the falsely declared value and the c.i.f. value (based on the provisions of the relevant WTO Agreement), or the difference in the tax revenues resulting from these values, whichever is higher.¹³ Fines for false declarations of quality or kind of merchandise may be as much as twice the normal c.i.f. value of the true quality or kind, as verified by appraisal. When both quantity and quality are false, the maximum applicable fine is imposed.

(ii) Tariffs

(a) Structure

General features

18. Since the previous Review, the Argentine tariff has been simplified and official tariff information is more readily available to the public. From 1 January 1992 Argentina fully used the Harmonized Commodity Description and Coding System (HS) and has since 1 January 1996 adopted the HS 96 classification.¹⁴ In January 1995, the Argentine customs tariff became based on MERCOSUR's Common External Tariff (CET). It is published in the Official Bulletin as well as in publications by private firms, such as the *Guía Práctica del Exportador e Importador* or the *Nomenclador Aduanero*.¹⁵ It now contains 9,302 eight-digit tariff lines, or 21% fewer than in 1991.¹⁶ It shows current rates as well as those to be applied in the period up to 2006, when the entire MERCOSUR CET is to be implemented without exceptions.

19. All duties are *ad valorem* except for textiles, clothing and footwear where minimum specific duties may apply; *ad valorem* duties are assessed on the c.i.f. value of the imported merchandise. Duties, internal taxes and other charges are settled and registered prior to customs clearance. The Federal Administration of Public Revenue (AFIP, Chapter II) of the Ministry of the Economy, Works and Public Services (MEOSP) has regulatory powers on customs rules and tariffs; in principle, any change in tariffs and fees is announced six months prior to implementation.

¹³ Annex III of Resolution 986/97 (RGANTV), 31 March 1997.

¹⁴ GATT (1992); U.S. Department of Commerce (1997).

¹⁵ The MERCOSUR CET applies pursuant to Common Market Council Decisions 7/94 and 22/94, which were adopted by Decrees 2275/94 and 998/95 (WTO document WT/COMTD/1/Add.4/Rev.1, 11 April 1997).

¹⁶ At that time the Argentine import tariff was one of the most complex of any GATT member, with 11,744 lines. Customs tariffs were not published by the authorities and the main source of information on tariff and other conditions of entry in general use was a private publication (*Guía Práctica del Exportador e Importador*), which was not endorsed by the Government despite its widespread use inside and outside of Government (GATT (1992)).

Tariff levels and range

20. Since its first Trade Policy Review, Argentina has restructured its tariff to adopt and converge to MERCOSUR's CET. The overall simple average rate was estimated at 12.2% at the beginning of 1992.¹⁷ At the time of implementation of the MERCOSUR CET in January 1995, as applied by Argentina, it was estimated at 10.5%¹⁸; but during 1995, it was increased to 13.9%.¹⁹ The average would have fallen to 11.3% in 1998, but for the partial incorporation into the tariff of the 3% statistical tax which brought the average to 13.5%. At present, 4.7% of items are duty free, and 19.2% of items are dutiable at rates above 20% (Chart III.1). In 1998, 14 eight-digit HS 96 items, covering passenger motor vehicles are charged the highest *ad valorem* rate of 33%, while 17 footwear items are subject to the second highest rate of 30%. As noted in section (v), between 1991 and 1997 tax revenue collection from imports increased by a factor of four to more than US\$2.4 billion (doubling from 2% to 4% as a share of total tax collections).

21. In December 1997, it was agreed at the MERCOSUR level to apply a tariff rate increase of 3 percentage points on certain items (Chapter II), effective from January 1998 until the end of 1999.²⁰ This was initially agreed between Argentina and Brazil to increase protection and fiscal revenue levels as well as to incorporate most of Argentina's statistical tax into the tariff. In the case of Argentina, it affects 7,378 items or 79.3% of the tariff lines subject to the statistical tax. Among the items excluded were certain products subject to zero tariff (mainly agricultural items), paper items, capital goods, informatics and telecommunication equipment, which were generally exempt from the statistical tax.

22. Under the CET, Argentina's previous four-tier structure (5, 13, 22 and 35%) has been transformed to a basically eleven-tier CET, with common rates of 0, 2, 4, 6, 8, 10, 12, 14, 16, 18 and 20%; as stated earlier, most of these were increased by 3 percentage points in 1998.²¹ Exceptions to these rates included in specific schedules consist of more than 2,028 eight-digit HS 96 items or 22.3% of the total. These exceptions are to converge gradually to the CET levels by either 1 January 2001 or 2006, depending on the product categories (Table III.1). In March 1995, Argentina raised tariffs on most capital goods, informatics and telecommunication equipment to help, *inter alia*, counter an expected fiscal shortfall, thus bringing forward the convergence towards the MERCOSUR CET on these items.²²

¹⁷ GATT (1992).

¹⁸ WTO Secretariat estimate, cited in Laird (1997).

¹⁹ The April 1995 average is indicated in World Bank (1996b), p. 9, and calculations by the Inter-American Development Bank.

²⁰ MERCOSUR CMC Decision 15/97 implemented through MEOSP Resolution 12/98, 6 January 1998.

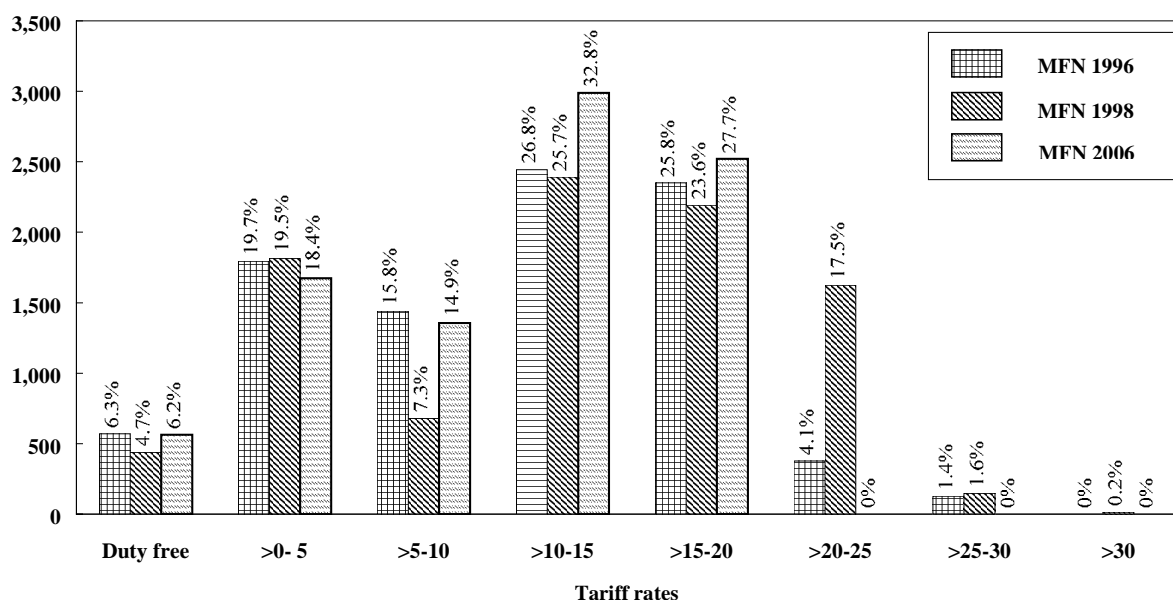
²¹ Previous tariff structure as described in GATT document C/RM/S/18A/Add.1-C/RM/S/18B/Add.1, 27 February 1992.

²² Table III.1 indicates this move forward as immediately applied rates. USTR (1997); EIU (1996b), p. 28; *Comisión Nacional de Comercio Exterior* (1996), p. 30.

Chart III.1

Distribution of MFN tariff rates, 1996, 1998 and 2006

Number of tariff lines



Note: Calculations for 1998 include the 3 percentage points increase of the customs tariff on a number of items as applied by Argentina until the year 2000.

Source: WTO Secretariat calculations based on data provided by the Government of Argentina.

23. Applied rates for automobiles, temporarily exempt from convergence, are much higher (the basic duty level being 65% higher in 1998) than those in the CET. Moreover, an additional tariff element linked to quota auctions affects certain type of importers and/or vehicles originating outside MERCOSUR (section (vi) below, and Chapter IV).²³ No detailed data on the levels attained in the context of these auctions were made available but, according to a table provided by the authorities, between 1992 and 1997 such tariff surcharge rates have ranged from 5% to 35%, while in 1995 and 1996 they were zero. The surcharge levels were initially set at zero both in 1997 and 1998; nevertheless, later in 1997, minimum surcharge levels were set for private importers of Category A vehicles (Table III.4) depending on the cylinder capacity of the engine (8% for up to 1,500 cc, 12% from 1,501cc to 2,200cc, 16% for more than 2,200 cc).²⁴ Sugar, which is also subject to a special regime, may also be subject to higher rates because of the use of variable import levies (section (iv), Table III.1); these are not taken into consideration in the tariff estimates contained in this report.²⁵

²³ As stated in Chapter II, the automotive sector is exempt from CET convergence commitments under a MERCOSUR waiver until the establishment of a Common Automotive Regime by the year 2000. More information on this regime is found in sections (ii)(a), (vii), (viii), (x), (xiii), (3)(xi) and Chapter IV of this report, as well as in WTO (1997b).

²⁴ MEOSP/SICyM Resolution 1178/97, 10 November 1997; MEOSP/SICyM Resolution 281/98, 20 April 1998.

²⁵ As discussed in Chapter II, a scheme for convergence of the sugar sector to CET rates was to be examined by MERCOSUR members by May 1997.

Table III.1

Exceptions to the MERCOSUR CET, 1998

Schedule/Item(s)	Imports from non-MERCOSUR countries (value and share to total imports from third countries, 1995)	Tariff items covered (number of eight-digit HS96 items and share of total tariff lines)	Tariff items with rising rates (number of eight-digit HS96 items)	Tariff items with descending rates (number of eight-digit HS96 items)	Tariff items with immediately applied CET rates (number of eight-digit HS96 items)
Common (all MERCOSUR partners) coverage of exceptions:					
- capital goods	US\$3 billion; and 19.3%	1,145; and 12.3%	none	227	918
- informatics and telecommunications products ^a	US\$1.6 billion; and 10.4%	424; and 4.6%	188	60	176
National (country-specific) exceptions (<i>Régimen de Excepciones al AEC</i>):					
- agricultural items (agar-agar, cocoa beans, paste and butter, peaches preparations, whiskies)	US\$0.5 billion; and 3.6%	10; and 0.1%	5	5	none
- industrial items (including chemicals, pigments, odoriferous mixtures, polymers sheets, tires, wooden pallets, builders joinery & carpentry of wood, paper & paperboard, printed material, polyester filaments, footwear, iron & steel, copper, aluminium products, electrical machinery equipment and appliances, bicycles, wrist-watches, seats, furniture, toys, games, and lighters)		293; and 3.1%	88	205	none
National (country-specific) exceptions due to the (intra-MERCOSUR) adjustment regime (<i>Régimen de Adecuación al AEC</i>): ^b					
- agricultural items (coffee extracts)	US\$0.1 billion; and 0.7%	1	none	1	none
- industrial items (including tires, plastics, wood and paper articles, clothing, footwear, ferro-alloys, iron semi-manufactures, steel wires, bars & rods, aluminium household articles, freezers, refrigerators, electrical insulators and furniture)		155; and 1.7%	none	155	none
Sugar	US\$0.02 billion; and 0.1%	..	n.a.	n.a.	n.a.
Textiles, clothing and footwear	US\$0.4 billion; and 2.9%	662; and 7.1%	n.a.	n.a.	n.a.
Automobile industry régime	US\$1.2 billion; and 7.7%	..	n.a.	n.a.	n.a.
All exceptions	about US\$7 billion; and 45%	more than 2,690; and 28.9%	281	653	1,094

.. Not available.

n.a. Not applicable.

a CET rates applicable as from 1 January 2006.

b CET rates applicable as from 1 January 1999.

Note: The above exceptions do not include concessional entry, which has yet to be fully harmonized under MERCOSUR. No comments were provided to the WTO Secretariat on this table.

Source: Tariff information provided by the Government Argentina; and Table II.a contained in *Comisión Nacional de Comercio Exterior* (1996), *Informe Anual* 1995, p. 39.

24. Since 1993, applied tariff protection has been increased through the application of minimum specific duties (DIEM) on imports of textiles, clothing and footwear items of non-MERCOSUR origin²⁶; in 1997, *ad valorem* duties on footwear were raised but are to be progressively reduced to CET level by 2001.²⁷ Minimum specific duties on textiles and clothing were to be gradually lowered in a five-step phase between June 1997 and June 1998²⁸; those on footwear, originally scheduled for reductions through January 1998, were revoked and safeguard measures in the form of minimum specific duties became applicable from 25 February 1997.²⁹ Minimum specific duty rates, which are varied from time to time, have ranged from US\$0.4 to US\$30.4 per kg. for textiles and clothing, and US\$0.9 to US\$7.8 per pair of shoes. The nature of the specific duties and the variations therein make it difficult to assess with precision their quantitative impact, adding uncertainty to the trade regime. As discussed earlier, a panel and the Appellate Body recently examined the WTO consistency of this measure, which was accompanied by documentation and labelling requirements and had not been notified to the GATT/WTO (section (i) and (xi)(c)); a panel was also established to examine safeguard measures on footwear. In July 1998, Argentina communicated to the WTO a proposal on the introduction of a procedure to ensure that no *ad valorem* equivalent of the minimum specific duties on textiles and clothing would exceed the 35% bound rate.³⁰ At the time of completion of this report in July 1998, details of the increase of *ad valorem* duties on footwear had not yet been communicated to the WTO.

25. Since 1995, the tariff rate on used machinery, used transport equipment and used instruments has been raised from 15% to 25%, while other used items have entered duty free; in 1998, these rates were increased to 28% and 30%.³¹

26. As indicated in Table III.1, in 1995 imports not subject to CET rates were valued at about US\$7 billion, or 45% of imports from non-MERCOSUR countries.

²⁶ The system has operated as follows: for each relevant HS tariff line of textiles, apparel and footwear, Argentina calculated an average import price. Once it had determined the average import price for a particular category, Argentina multiplied that price by the bound rate of 35%, resulting in a specific minimum duty for all products in that category. Upon the importation of covered textiles, apparel or footwear, depending on the customs value of the goods concerned, Argentina applied either the specific minimum duty applicable to those items or the *ad valorem* rate, whichever was higher (WTO document WT/DS56/R, 25 November 1997, p. 3).

²⁷ MEOSP Resolution 986/97, 10 September 1997.

²⁸ This timetable was temporarily interrupted in January 1998 (MEOSP Resolution 98/98, 27 January 1998).

²⁹ MEOSP Resolution 236/97 of May 1997, 4 June; and WTO document WT/DS56/R, 25 November 1997.

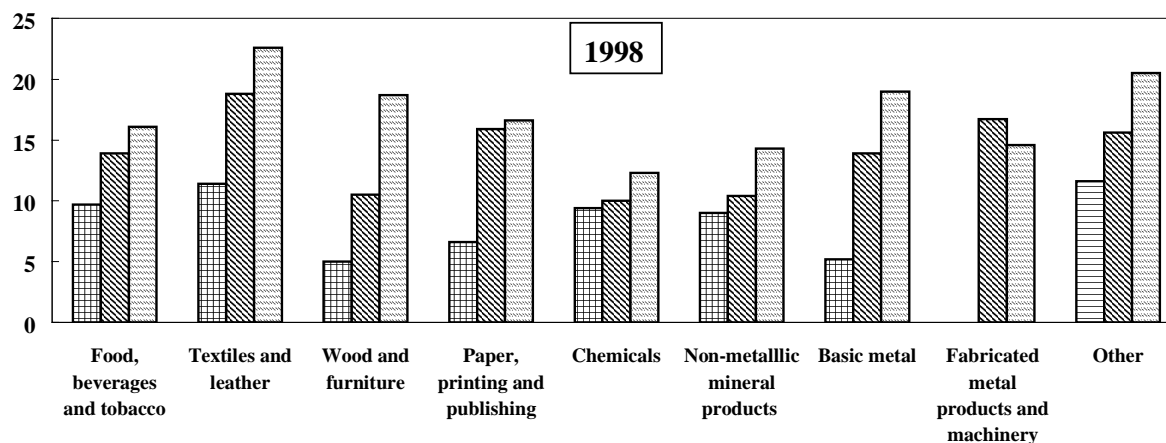
³⁰ WTO document WT/DS56/14, 7 July 1998; and Decree 806/98, 7 July 1998.

³¹ MEOSP Resolution 155/95, 7 February 1995; and MEOSP Resolution 12/98, 6 January 1998.

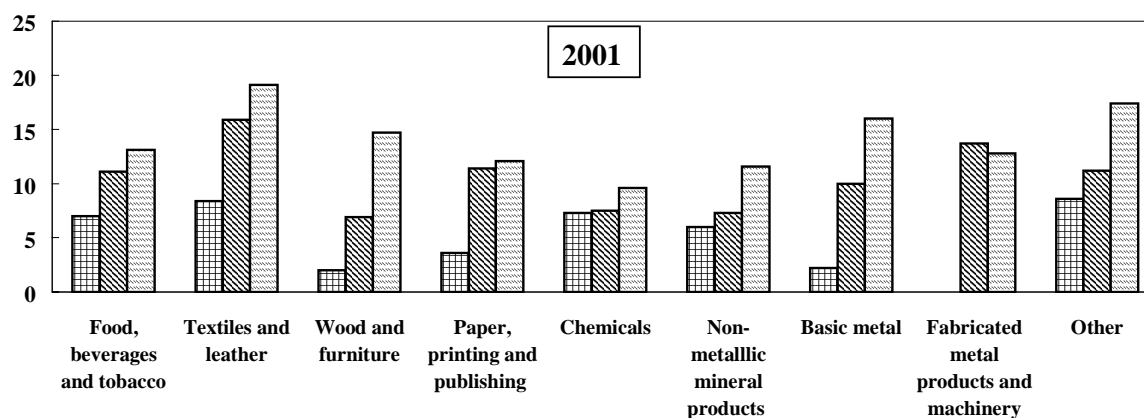
Chart III.2

Tariff escalation by 2-digit ISIC industry, 1998, 2001 and 2006

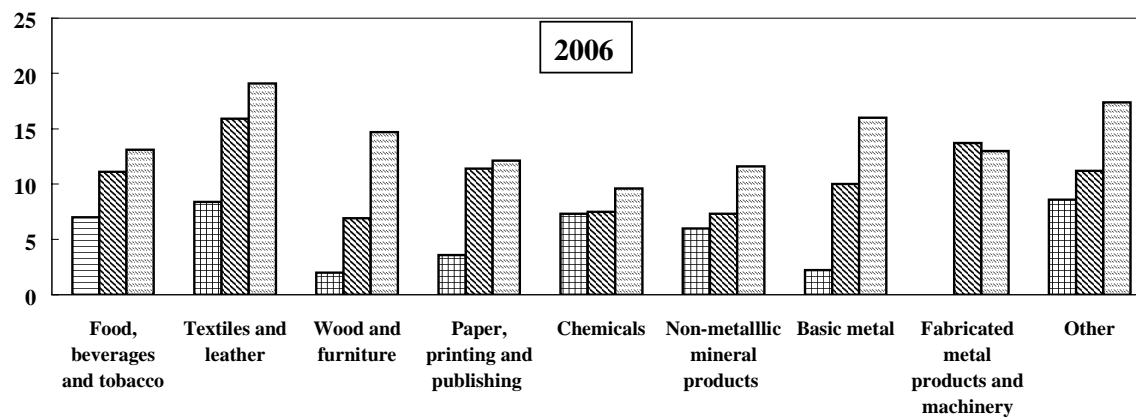
Per cent



Per cent



Per cent



	First stage of processing		Semi-processed		Fully processed
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Note: Calculations for 1998 include the 3 percentage points increase of the customs tariff on a number of items as applied by Argentina until the year 2000.

Source: WTO Secretariat calculations based on data provided by the Government of Argentina.

Tariff escalation

27. Until 1992, tariff changes had reduced tariff escalation and dispersion, with beneficial effects on exports and the allocation of domestic resources.³² Under the applied tariff structure in 1998, tariff escalation remains pronounced in all sectors (Chart III.2). For food manufacturing, semi-processed items are more protected than final products; and for leather products and industrial chemicals, semi-processed items benefit from lower protection than raw and finished (Table AIII.1); on other chemicals, average protection for unprocessed material is higher than semi-processed items; and for petroleum, semi-processed products are much more protected than raw and finished items.³³ When all MERCOSUR CET rates are applied in 2006 by Argentina, this broad pattern will remain essentially unchanged.

(b) Tariff bindings

28. The Uruguay Round led to a considerable expansion of Argentina's tariff binding commitments. Previously, bindings covered some 407 items (mainly industrial goods) with rates ranging from zero (certain seeds for sowing) to 140% (spirit beverages, liqueurs, telephone sets and transmission apparatus).³⁴ These are estimated to have represented about 3.5% of tariff lines or 1.7% of merchandise imports in 1986, excluding petroleum products. In the Uruguay Round, Argentina extended its binding commitments to cover its entire tariff at an across-the-board rate of 35%, except for certain items that were previously bound at lower rates. It also bound the statistical tax (section (v) below) on all imports at a rate of 3%.³⁵ These commitments were applied immediately in 1995, with Argentina foregoing its right to phase in the bindings over a ten-year period except for 26 eight-digit HS items (concerning road tractors, public transport passenger motor vehicles, automobiles, trucks, chassis, and motorcycles), where binding commitments are to become effective on 1 January 2003.

29. The adoption of minimum specific duties, convergence to the MERCOSUR CET and the January 1998 increase of most tariff levels has already affected or may yet affect a few items bound at rates of 3.8, 5 or 10%, representing average annual imports of more than US\$18 million (period 1992-94) mainly originating in the EU and the United States.³⁶ In November 1996, MERCOSUR countries communicated to the WTO their intention to consult with interested parties, with a view to examining the changes introduced by the CET and the maintenance of the general level of concessions, as provided for in paragraph XXIV:(6) and the Enabling Clause.³⁷ They emphasized that

³² GATT (1992).

³³ Any difference in the illustration of tariff escalation trends indicated in Table AIII.1 and Chart III.2 are due to the different ISIC digit levels.

³⁴ GATT (1992); and Schedule LXIV annexed to the Geneva (1995) Protocol.

³⁵ The lower tariff binding rates, set at 0 (sowing seeds for sugar beets), 3.8, 10, 12, 15, 15.2, 17.5, 20, 22, 22.5, 22.8, 25, 26.6 and 30.4% cover agricultural items (including live animals, meat, eggs, bovine semen, bulbs, nuts, fresh fruit, sowing seeds, hop cones and lupulin, arabic gum, lactose and chocolate preparations, soup preparations) and industrial items (including, essential oils, casein, gelatins, peptones, raw furskins, chemicals, fertilizers, tanning and dyeing extracts, soap, surface-active agents, photographic and cinematographic goods, plastics, wood and articles thereof, aluminium and products thereof, excavating machinery and parts, bearing parts, motor vehicles, trucks, tractors, motorcycles, watches, medical and precision instruments) (Schedule LXIV, 15 April 1994).

³⁶ Higher rates affect of 21 agricultural items (live animals) and 12 industrial (tractors, watches, timers) at the HS 96 six-digit level.

³⁷ WTO document WT/COM/TD/1/Add.5/Rev.1, 6 November 1996. A different approach had been communicated to the GATT in December 1994, prior to the introduction of the CET. At that time the four MERCOSUR countries intended to withdraw their national schedules to GATT and to present an equivalent MERCOSUR schedule. They were to consult with interested delegations under paragraph 4 of the Enabling

due account should be taken of compensation already afforded by the reductions in the corresponding duty of the other MERCOSUR members. Consultations were to be held jointly by the MERCOSUR member countries on dates to be agreed with interested parties. Although certain WTO Members have reserved their negotiating rights, the authorities indicated that no negotiations had been initiated by July 1998.

30. With the exception of a short period in 1995, Argentina's tariff binding obligations have been waived since 1992 to allow the transposition of its tariff into the Harmonized System (HS). From 3 December 1992 to 30 June 1995, the basis for granting the waiver was the transposition of its customs tariff into the HS and the completion of related Article XXVIII procedures; a new consolidated Schedule LXIV was annexed to the Geneva (1995) Protocol on 16 August 1995.³⁸ From 13 December 1995 to 31 October 1998, binding obligations were again waived to implement changes related to the introduction of the Harmonized System 1996 (HS 96).³⁹ Information on these changes was submitted to the WTO Secretariat in October 1996, but consultations and renegotiations under Article XXVIII were suspended in October 1997 because of (MERCOSUR) commitments arising from Article XXIV:(6).⁴⁰ In November 1996, Argentina invoked Article XXVIII:(5) and thus reserved its right to modify its Schedule during the three-year period beginning on 1 January 1997.⁴¹

(c) Duty concessions/exemptions

31. Pending agreement on a unified MERCOSUR system, Argentina maintains its own concessional-entry regime intended to promote domestic processing and product diversification, as well as to meet input supply shortages. Several changes have been made to the scheme since 1992⁴²; duty-free entry now covers:

- (i) capital goods, parts, equipment and components for activities covered under the investment regime for mining (as from 1993) (section (4)(vi), Chapters II and IV)⁴³;
- (ii) equipment and utility motor vehicles in the context of diversification projects of agricultural and livestock producers (including ovine and wool) and processors in certain provinces (as from 1992)⁴⁴;
- (iii) capital goods (machinery, equipment, instruments, moulds, and patterns), materials, intermediate goods, and packaging for export processing under the Temporary Admission Regime (TAR)⁴⁵;

Clause; and to conduct consultations and negotiations under Article XXVIII (GATT document L/7615, 23 December 1994).

³⁸ GATT document, L/7592, 19 December 1994, and WTO document G/L/22/Add.1, 18 August 1995.

³⁹ WTO documents WT/L/216, 20 May 1997, and WT/L/268, 29 April 1998.

⁴⁰ WTO document G/MA/TAR/2/Rev.8, 3 April 1997.

⁴¹ WTO document G/MA/11, 6 December 1996.

⁴² According to the authorities, the concessional entry regimes, which from 1994 covered up to 5% of the total c.i.f. value of the imported components required for new turnkey plants (MEOSP Resolution 502/95, 7 November 1995) and inputs, parts, and components used by producers of capital goods (Decree 173/94, 7 February 1994), were suspended in 1996 (Decree 977/96, 2 August 1996).

⁴³ Law 24196, 19 May 1993; and Decree 2686/93, 28 December 1993.

⁴⁴ Decree 2151/92, 23 November 1992; and Decree 934/93, 4 May 1993. More specifically, this treatment covers projects in the provinces of Neuquén, Río Negro, Buenos Aires, Chubut, Santa Cruz and La Pampa.

⁴⁵ Under the TAR, duty-free imports of must be re-exported within 180 days (renewable for another 180 days term). The exporter must be the direct user of the merchandise subject to temporary importation. This

- (iv) fishing boats and spare parts (up to 5% of the total c.i.f. value of the vessel) in the context of projects under the fisheries agreement with the EU (Chapters II and IV)⁴⁶;
- (v) educational, health, scientific and technology goods by public sector agencies (until 1 January 1999)⁴⁷; and
- (vi) the free-trade zone and similar customs regimes (section (3)(xii)).

32. In the context of the Automobile Industry Regime, a concessional tariff rate of 2% applies on imports of parts from outside MERCOSUR by automotive assemblers; these parts are duty free when originating in MERCOSUR. Furthermore since 1995 imports by domestic assemblers of CBU vehicles from outside of MERCOSUR have benefited from reduced duties, but these are being increased by 0.9 percentage points on a quarterly basis to attain the CET level by 31 December 1999; during 1998, such concessional rates were to increase from 12.8% on 1 January to 15.5% on 1 October. The granting of this concession is subject to quantitative limitations linked to export performance and investment requirements (section (3)(xi), and Chapters II and IV).⁴⁸ Between 1993 and August 1996, similar rules were extended to other sectors under an Industrial Specialization Regime which was suspended because of fiscal constraints.⁴⁹ Concessional treatment was permitted for the importation of goods similar to those exported by the beneficiary with a view to allowing production specialization (concentration) on specific items while minimizing, temporarily, initial costs from resulting market share losses on other products manufactured by the firm; the concession is being phased out between January 1997 and December 1999, while no new projects have been authorized since 1996. These regimes were notified to the WTO Committees on Trade-Related Investment Measures, and Subsidies and Countervailing Measures.

33. MERCOSUR provisions, intended to ensure regular supplies of raw materials and inputs by allowing for the temporary (one year, renewable) reduction of CET rates to 2% (in exceptional cases duty free) on 20 eight-digit HS items (to be freely selected by individual members), were adopted in 1995 and are to remain in force until July 1998. Members may be authorized by the MERCOSUR Trade Commission to make such reductions provided that there are supply shortages of such items in the region and the tariff cuts do not distort trade flows and affect competition within the region. Imports under the reduced rates are subject to quantitative limitations.⁵⁰ The overall effect of such concessions is to increase effective protection on the processes for which the goods affected are inputs. However, the Secretariat was unable to assess the importance of these provisions.

- (d) Tariff preferences and rules of origin

Preferences

34. As discussed in Chapter II, imports originating in LAIA countries enjoy preferential treatment which permits reductions from the MFN rate of between 10% and 100%.

regime, which is run by the National Institute of Technology and Industry, is an alternative to the drawback system (section (3)(vii)), so that both cannot be used simultaneously.

⁴⁶ MEOSP Resolution 719/96, 4 June 1996.

⁴⁷ Decree 180/97, 28 February 1997; and Decree 1020/97, 30 September 1997.

⁴⁸ WTO document G/TRIMS/N/1/ARG/1, 10 April 1995; EIU (1996a), p. 38; Dun & Bradstreet Information Services (1996); and Decree 33/96, 15 January 1996.

⁴⁹ WTO document G/SCM/N/3/ARG/Suppl.1, 28 July 1997, Decree 2641, 29 December 1992; Decree 977/96, 23 August 1996; and World Bank (1996b), p. 10.

⁵⁰ MERCOSUR GMC Resolutions 22/95, 37/95 and 69/96; and WTO document WT/COMTD/1/Add.4/Rev.1, 11 April 1997.

35. Most imports from MERCOSUR partners are now duty free, being subject to border adjustments for domestic taxes. Duty-free treatment on 73 eight-digit HS 96 sensitive items, or 35% of items covered by the Regime of Final Adjustment, is conditioned by quantitative limitations. These limitations, last established under Resolutions 380/96, 735/96 and 788/96, affect: plastics, tyres, sawn wood, paper and articles thereof, clothing, iron and steel semi- and finished manufactures, freezers, refrigerators, and bedroom furniture. Exceptions under this Regime are to be eliminated by Argentina by 31 December 1998.

Rules of origin

36. Argentina maintains preferential and non-preferential rules of origin, which have been notified to the WTO.⁵¹ The preferential rules of origin are complex as they vary depending on the agreement and/or sector. They are based upon the principle of substantial transformation, i.e. change in tariff classification, and derive from the LAIA General Rules of Origin, the specific rules of origin of the LAIA partial-scope agreements or, where appropriate, the MERCOSUR rules of origin.⁵² The latter have superseded past rules applied under partial-scope agreements with MERCOSUR partners.⁵³

37. At present, for imports to benefit from preferential tariff treatment under MERCOSUR, 60% local or regional content is generally required in items originating in member States; LAIA rules stipulate a general content rate of 50% of the f.o.b. value, unless otherwise specified. Since January 1996, the bilateral agreement with Brazil in the automotive sector, has provided for an average content for vehicles and parts (of at least 50% computed over a three-year period).⁵⁴ Certain imports from Paraguay are also subject to a 50% content requirement until the year 2001.⁵⁵

(iii) Customs valuation and preshipment inspection

Customs valuation

38. Argentina was a signatory to the Tokyo Round Customs Valuation Agreement, which it has applied since 1988; at the time of acceptance, it invoked the provision related to delayed application, without a reservation on the setting of minimum prices. This situation remains unchanged under the current WTO Agreement, thus no minimum or reference prices are set for customs valuation purposes except for cases discussed below.⁵⁶ In October 1996, Argentina communicated to the WTO that no changes had been introduced to its legislation in this area except for a few regulations.⁵⁷ Furthermore, in March 1997, a regulation introduced guidelines concerning the components of the customs value, value verification procedures, valuation in case of doubt on declared value, and investigation on customs value in the country of origin.⁵⁸

⁵¹ Article 14 of the Customs Code - Law 22415/82; MEOSP Resolutions 381/96 and 763/96; and WTO documents G/RO/N/2, 22 June 1995, G/RO/N/10, 16 August 1996, G/RO/N/12, 1 October 1996, and G/RO/N/16, 5 March 1997.

⁵² LAIA Resolution 78, 24 November 1987, and Decision 91 of the Committee of Representatives. MERCOSUR/CMC/Decisions 6/94 and 23/94.

⁵³ For example, these rules affected capital goods from Brazil (which required 80% local content) or automotive products and milk products from Uruguay (GATT, 1992).

⁵⁴ Box VI.3 in WTO (1997b).

⁵⁵ More information on this matter is found in WTO (1997c), Trade Policy Review - Paraguay, October.

⁵⁶ WTO documents G/VAL/M/1, 11 August 1995, and G/VAL/2/Rev.6, 10 October 1997.

⁵⁷ These were Resolutions 2778/87, 2779/90, 468/91 and 1649/92, as well as Article 2 and Annex I of Resolution 1166/92 cited in WTO document G/VAL/N/1/ARG/1, 6 November 1996.

⁵⁸ ANA Resolution 986, 31 March 1997.

39. The main area where minimum prices continue to be used is in anti-dumping and countervailing cases where minimum "export" (import) prices are the basis for calculating the supplementary duty.⁵⁹ An average import price estimate is also used to establish the level of the minimum specific duties.⁶⁰

40. In July 1996, a preventive mechanism, consisting of price bands or ranges, was introduced with a view of identifying items subject to under- or over-invoicing practices.⁶¹ Price ranges are set by the *Departamento Técnico de Valoración en Aduanas* of the *Secretaría de Hacienda* (MEOSP), and published in the Official Bulletin; by May 1998, such ranges had been established for vacuum cleaners, hairdryers, bicycles and metallic furniture.⁶² In cases of under-invoicing, customs clearance requires a 120-day guarantee, equivalent to the difference between the amount of duties and charges that were levied on the basis of the declared value and those that would be collected if these were valued on the average of the minimum and maximum prices set in the band. This guarantee is retained until submission by the importer of documentation supporting the declared value. In June 1997, Korea expressed concern over the effects and WTO consistency of this measure, which greatly affected exports to Argentina of electronic goods (tape recorders, micro-wave ovens, television sets, radio-cassettes and CD players, mini components, camcorders, etc.); despite the stated objective of fighting under-invoicing, such ranges, which were established by the Customs in cooperation with domestic electronic manufacturers, were used to increase import costs (when import price was below price range, a guarantee was required) or for tax collection purposes (when import price was above the price range, Customs informed tax authorities).⁶³

41. In March 1997, to strengthen the verification procedure, the institutional setting was expanded with the establishment of the Valuation Division at the Customs offices of Buenos Aires and the airport of Ezeiza, as well as of five Regional Valuation Centres.⁶⁴ As stated earlier, the institutional arrangements were decentralized in 1998.

Preshipment inspection

42. In November 1997, preshipment inspection (PSI), under study since 1990, became effective on a temporary basis to combat tax evasion, contraband and widespread under-invoicing, as well as to improve transparency, evaluation and verification methods, and statistical data collection (through a

⁵⁹ The compatibility of these measures with the provisions of the Customs Valuation Code has been raised by the EU (European Commission) (1997).

⁶⁰ GATT (1992); and WTO document WT/DS56/R, 25 November 1997.

⁶¹ ANA Resolution 2432/96, 16 July 1996; the Resolution refers to recommendations of the WCO allowing the establishment of "a preventive system with the aim of detecting "prima facie" deviations from value ranges which the customs service considers reasonable". MEOSP Resolution 1523/97, 30 December 1997.

⁶² DGA Resolution 299/97, 16 October 1997; ANA Resolution, 10 July 1997; DGA Resolution 340/97, 22 October 1997.

⁶³ WTO document G/C/M/20, 10 July 1997.

⁶⁴ ANA Resolution 986, 31 March 1997.

technology transfer programme).⁶⁵ This measure and the relevant legislation were communicated to the WTO in July 1997.⁶⁶

43. PSI requirements affect merchandise of an f.o.b. value of US\$3,000 and over; since January 1998, certain materials for the automobile industry (surface active preparations, polishes for coachwork, certain articles of plastic or vulcanized rubber, handbags, leather articles, decalcomanias, floor coverings, filament lamps), representing 1% to 4% of the f.o.b. value of a shipment as well as computer "drivers" for the electronics and telecommunications industry, have been exempt from such requirements.⁶⁷ Inspection costs consisting of a commission of 0.8% of the f.o.b. value of inspected goods (or a minimum fee of US\$250) plus a bonus of 5% on the amount of increased tax collection from import duties and the statistical tax (up to 0.2% of the f.o.b. value of inspected items) are covered by the authorities; an auditing company (Swipco Limited of Switzerland) charges an additional 0.64% of the value of goods included in its sample monitoring. As discussed earlier, an inspection certificate issued by the specialized companies is necessary for moving merchandise out of customs.

44. PSI services, at an annual cost of US\$50 million to US\$70 million, are to be privately run for a period of two to three years. In September 1997, six interested firms were selected through public tender to, *inter alia*, undertake price, quantity and quality inspections: *Société Générale de Surveillance* (Switzerland), *Socotec International Inspection* (Switzerland), *Bureau Veritas* (France), *Intertek Testing Services* and *Inspectorate PLC* (United Kingdom), *UTE CU Holding* (Argentina) and *Survey Seed Services* (the Netherlands).⁶⁸ The inspection companies are also to train customs officers and contribute information for the creation of a modern database for customs evaluation purposes.

(iv) Variable import levies

45. Since 1992, variable import levies have been applied to sugar imports of any origin (including MERCOSUR), in addition to the prevailing *ad valorem* tariff (23% in 1998).⁶⁹ These levies are determined by the difference between an indicative price and a comparative price; the former, which is calculated once a year, consists of an average of the monthly quotations at the London commodities exchange over the past four years, and the latter corresponds to the market price on the day prior to the shipment's arrival at destination. Since 1994, when the comparative price is lower than the indicative price, the difference has been credited to the importer for the payment of import duties (up to amounts equivalent to 50% of the applied rate). The authorities estimate that, following this amendment and world price developments, average border protection of sugar in 1995 and 1996 stood at an *ad valorem* tariff equivalent of 10%.

⁶⁵ Decree 477/97, 22 May 1997; MEOSP Resolutions 640 and 641, 4 June 1997. In 1996, a contraband customs ring led to tax revenue losses estimated at US\$300 million; overall, more than US\$10 billion of merchandise had entered Argentina fraudulently, leading to an estimated tax revenue loss of US\$3 billion. According to several studies, Argentina suffers from an estimated 30% of under-invoicing, in particular in respect of merchandise from certain Asian countries where state-owned industries make it difficult to assign market prices (The Bureau of National Affairs, 1997).

⁶⁶ Notification contained in WTO document G/PSI/N/1/Add.7, 24 February 1998.

⁶⁷ MEOSP Resolution 1523/97, 8 January 1998; MEOSP Resolution 423/98, 8 April 1998.

⁶⁸ Resolution 1066/97, 17 September 1997; in The Bureau of National Affairs (1997).

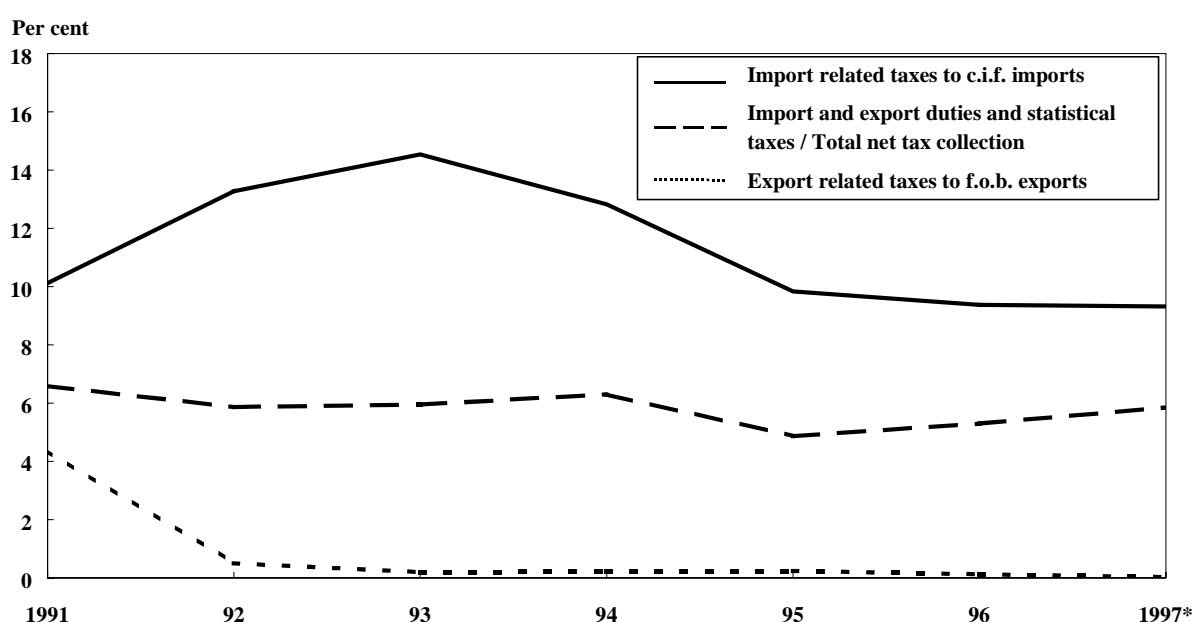
⁶⁹ Decrees 797/92 and 2275/94; MEOSP Resolutions 1553/93, 778/95 and 741/95. By May 1998, these had not been communicated to the WTO.

(v) Other levies and charges⁷⁰

46. The share of import duties and the statistical tax on imports in the total net tax collection fell from 6.6% in 1991 to 4.9% in 1995, continuing the declining trend noted in the previous TPR, but the ratio subsequently increased to 5.9% in 1997 (Chart III.3). This is largely related to the increased volume of trade, since the ratios of import-related taxes to the value of imports and export-related taxes to the value of exports have both declined in recent years. The ratio of import-related taxes to the value of imports (sometimes called the effective tariff) has fallen, from over 14% in 1993 to just over 9% in 1997 (Chart III.3). Export-related taxes were of minor importance already in 1992.

Chart III.3

Share in trade-related taxes in value trade and total collection



* Provisional.

Source: Dirección Nacional de Investigaciones y Análisis Fiscal de la Subsecretaría de Política Tributaria, en base a datos de DGI, ANA, ANSES, Secretarías de Hacienda y Programación Económica y otros organismos; *Informe Económico No 24*.

47. The total contribution of taxes on imports was some 17% in 1996; this includes domestic taxes such as excise and VAT, which are also applied to imports. Increases in the share of such taxes in the total tax collection are mainly related to the growth of trade in recent years as well as improvements in tax administration. In 1996 total tax revenues (including domestic taxes) on imports were mainly composed of VAT (55% of the total); import duties (21%), and anticipated VAT collection (13%) (Chart III.4); the decline in the importance of the statistical tax (from 14% of tax income from imports in 1994 to about 4% in 1996) was due to its suspension and re-introduction at a reduced rate, as well as to the increase in VAT rates and the introduction of anticipated tax collection, discussed below. These factors also contributed to a 52% rise in the overall incidence of indirect taxation on imports between 1991 and 1993 (Chart III.4); the average rate of incidence (the ratio of revenue from import-related taxes to total c.i.f. import value) has been relatively stable, even showing

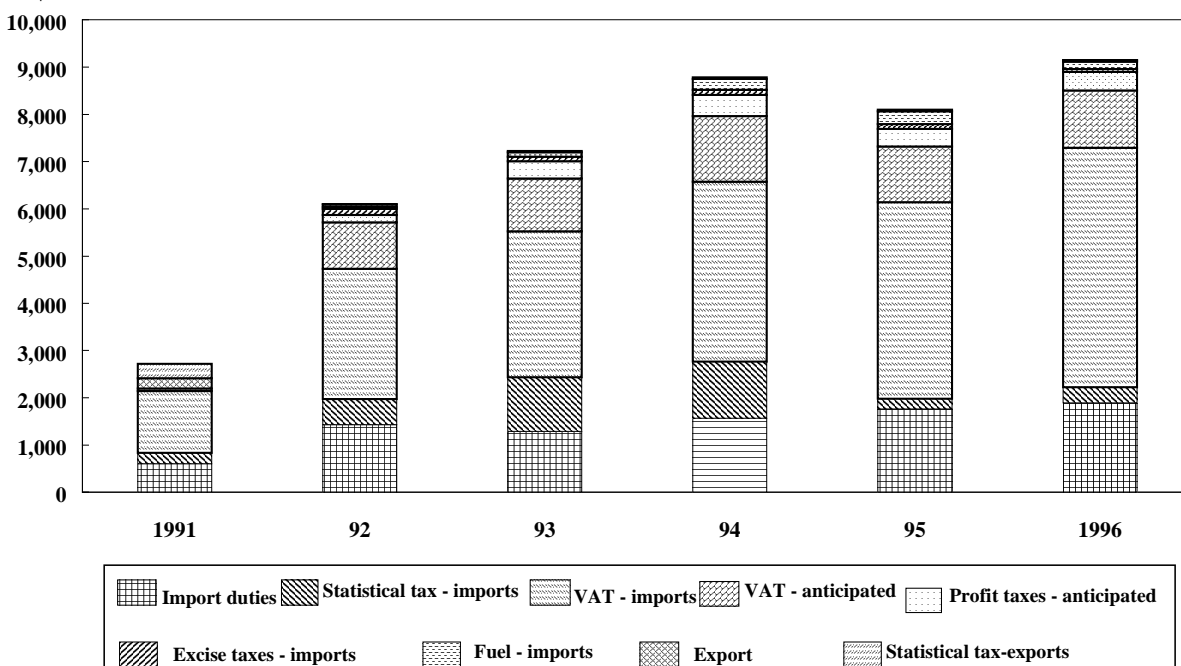
⁷⁰ This section includes information from: The Bureau of National Affairs (1997); U.S. Department of Commerce (1997); World Trade Press (1995).

a slight decline since 1993, and stood at more than 38% in 1996. Table III.2 illustrates the structure of all taxes and charges affecting imports into Argentina of representative products.

Chart III.4

Structure and evolution of revenue from domestic and other taxes affecting foreign trade

US\$ million



Source: Dirección Nacional de Investigaciones y Análisis Fiscal de la Subsecretaría de Política Tributaria, en base a datos de DGI, ANA, ANSES, Secretarías de Hacienda y Programación Económica y otros organismos.

Charges other than import duties affecting imports only

48. Merchandise handling and storage fees are determined by weight or volume as opposed to value. According to information provided by the authorities, container handling fees seem to differentiate between imports and exports; the maximum rates applied for loading aboard containers (exports) are 12% lower than those levied for unloading them (imports). However, these costs may be related to the different nature of the cargo.

49. On 9 January 1998 the statistical tax was reduced from 3% to 0.5%, while most import duties were increased by 3 percentage points.⁷¹ The tax, which is levied on the c.i.f. merchandise value of all imports originating in countries other than those of MERCOSUR and its associate members was changed frequently according to the fiscal situation⁷²; items under the regimes of imports for turnkey plants and of Temporary Admission, fishing boats, capital goods and parts, fuel, arms, emergency

⁷¹ As discussed earlier (Chapter II), in 1997 the WTO conformity of the nature of the statistical tax was challenged in the context of the Dispute Settlement Mechanism.

⁷² The rate of the statistical tax was raised (from 3% to 10% for a short period in November 1992, fell back to 3%, and on 1 January 1995 it was reduced to zero (Decrees 1998/92, 2277/94 and 389/95, and MEOSP Resolutions 232/96 and 270/97); on 1 March 1995 it was again increased to 3%.

shipments, samples, sensitive goods from the printing industry (books and periodicals), computer and telecommunications sectors, as well as exports are exempt from payment of this tax.

Table III.2
Structure of charges on imports of selected products, 1998

Description	Polished rice		Cold-rolled laminated steel		Passenger car ^a	
	Rate %	Value	Rate %	Value	Rate %	Value
1 Value f.o.b		100.0		100.0		100.0
2 Freight	10.0	10.0	10.0	10.0	10.0	10.0
3 Insurance	5.0	5.0	5.0	5.0	5.0	5.0
4 Value c.i.f. (1+2+3)		115.0		115.0		115.0
5 Import duty (on 4)	15.0	17.2	17.0	19.55	33.0	37.9
6 Statistical tax (on 4)	0.5	0.6	0.5	0.6	0.5	0.6
7 Preshipment Inspection fees (on 1)	0.8	0.8	0.8	0.8	0.8	0.8
8 Advanced VAT payment (on 4+5+6) ^b	9.0	12.0	9.0	12.2	9.0	13.8
9 Anticipated profits tax (on 4+5+6) ^b	n.a.	n.a.	n.a.	n.a.	3.0	4.6
10 Other charges (customs agent, port fees, etc.)	..	..	..	..	..	..
11 Final value of import excluding advanced/anticipated taxes (4+5+6+7+10)		133.6		135.9		154.3
12 Final value of import including advanced/anticipated taxes (8+9+11)		145.7		148.1		172.7
13 VAT (on 4+5+6)	21.0	28.1	21.0	28.4	21.0	32.2
14 Excise tax (on 4+5+6)	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
15 Federal District or other local tax	..	..	..	..	..	..
16 Wholesale cost in Argentina excluding advanced/anticipated taxes (11+13+14)		161.7		164.3		186.5
17 Wholesale cost in Argentina including advanced/anticipated taxes (12+13+14)		173.7		176.5		204.9

n.a. Not applicable.

.. Not available

a Calculations for a passenger car with 1,300 cc engine and a c.i.f. value of less than US\$22,000 with fuel consumption of 7 lt. per 100 km.

b This tax is deducted from the importer's gross income tax liabilities.

Note: Estimates take into account the reduction of the statistical tax rate to 0.5% and the increase of the applied tariff by 3 percentage points. The advanced VAT payment and the anticipated profits tax are deducted from the importer's gross income tax liabilities. Concerning estimates on motor vehicle costs, the tariff surcharge relating to quota allocation is not included. No comments were provided by the authorities to the WTO Secretariat on the content of this table.

Source: WTO Secretariat estimates.

50. As noted earlier, in the Uruguay Round Argentina bound the level of the statistical tax at 3% in Schedule LXIV; however, this does not affect the right of other WTO Members to challenge the WTO consistency of the tax, for example, in terms of Article VIII requirements.⁷³ In July 1998,

⁷³ WTO document WT/DS56/R, 25 November 1997.

Argentina proposed to modify the statistical tax as of January 1999; a maximum ceiling of US\$500 is to apply each import transaction.⁷⁴

51. Since the early 1990s the partial payment (at the customs stage) of domestic taxes such as the VAT and the profits tax has been anticipated (pre-paid) on imports of any origin to ensure their collection in the Argentine market; this measure may constitute an additional cost on certain types of importers.⁷⁵ The advanced VAT payment, introduced in December 1991, applies at two different rates, depending on the type of importer. Unregistered importers, generally companies or individuals who are importing primarily for their own use, are subject to a 10% rate; the amount of tax paid by infrequent importers is not deductible from their gross income tax liability. A 9% rate affects registered importers, usually firms importing goods for production, who may deduct the amount of this tax from their gross income tax liability. Since July 1992, the anticipated profits tax on all consumer goods has applied at a rate of 3%, except for goods imported directly by the user where a rate of rate of 11% has been charged; the amount paid is deductible from gross income tax. The valuation basis for these taxes is identical to that of the VAT discussed below, and similar retention mechanisms apply for domestic goods.

Charges affecting both imports and domestic production

52. The value-added tax (VAT), introduced at the national level in 1975 and administered by the General Tax Directorate (DGI), has been levied at a general rate of 21% on goods and most services since April 1996.⁷⁶ A rate of 27% is applicable for certain kinds of public services (telecommunications, household gas, running water, sewerage and drainage) since March 1992. Financial services, interest on loans, freight and public transportation, and construction works are subject to a rate of 10.5% (half the general rate) as from April 1996. Fuels are also subject to the general VAT rate.

53. The principal VAT exemptions are: basic necessities (water, bread and milk at retail level); pharmaceuticals (wholesale and retail levels); cultural and educational media (books, newspapers, magazines, etc.); exports⁷⁷; certain financial operations, such as swaps of securities, shares and currency, as well as interest on government securities and negotiable corporate bonds; and transfers of ownership in tax-free reorganizations.

54. For merchandise imports, the VAT, as well as the advanced VAT, anticipated profits tax and other domestic taxes (described below), are calculated on the c.i.f. value plus the import duty and the statistical tax. The VAT on domestically produced items falls successively on each vendor until the final consumer is reached; tax charged by the previous owner or supplier may be deducted from the tax assessable, thus each vendor is assessed only on the increase in sales value added at each stage.⁷⁸

55. Excise taxes, applied since 1979 at national level and administered by the DGI, are charged on a wide variety of items, regardless of whether the product is imported or produced in Argentina; the legislation was last revised in 1996.⁷⁹ The basis of assessment for domestically produced goods depends on the product, and the applied rates, ranging from 2 to 60%, have been revised downwards

⁷⁴ WTO document WT/DS56/14, 7 July 1998.

⁷⁵ Decree 2394/91; RG (DGI) 3431 and 3543.

⁷⁶ The general VAT rate was raised from 16% to 18% in March 1992.

⁷⁷ Under the drawback system (section (3)(vii)) exporters enjoy a tax credit from the VAT billed by their suppliers, which may be offset against other taxes, transferred to third parties or reimbursed by the DGI.

⁷⁸ If a taxpayer has a gross income not exceeding a certain amount, registration for VAT purposes is not required. The rate on sales to unregistered taxpayers must be increased by 50%.

⁷⁹ Law 24674, 17 July 1996; ANA Resolution 127/97.

in most cases; discretionary rates are in place for insurance contracts. Since 1996, these have included tobacco (20%), cigars (16%), cigarettes (60%)⁸⁰, beer (4%), sparkling wines (5%), soft drinks (4%)⁸¹, gold coins, jewellery and precious stones (25%)⁸², ovens, audio and visual equipment (6.55%)⁸³, and insurance policies (8.5% for domestic companies and 23% for firms established abroad).⁸⁴ A 10% tax rate on diesel-powered automobiles (including leisure vehicles like camping cars, jeeps, vans) is in force as of January 1997.

56. A tax on fuels and natural gas is levied at three rates: pesos 0.12/litre, pesos 0.3878/litre and, pesos 0.4865/litre, depending on the type of fuel; these rates were last revised in October 1996 and are levied in addition to the VAT.⁸⁵

57. In addition to the VAT and excise taxes, two taxes are levied on the retail price of cigarettes. These are: (i) a regular 7.35% tax (plus 0.00272% for boxes containing 10 units) in the context of the Special Tobacco Fund (Chapter IV), and (ii) a recent 7% emergency additional tax, in force since January 1996 for a three-year period. The revenue from the former is destined to tobacco producers, while that of the latter is used, *inter alia*, for health and social welfare programmes in rural areas.⁸⁶ A 10% tax on video sales and rentals as well as movie theatre tickets was enacted in October 1994.

(vi) Import prohibitions

58. At present Argentina operates import prohibitions for the protection of human health, animal and plant life, the environment, or essential security interests and military reasons in compliance with domestic legislation or international commitments. Imports of used tyres and used motorcycles and mopeds are prohibited. Used machinery, transport equipment and instruments are also banned unless properly reconditioned.

59. In principle, health prohibitions depend on the situation in the exporting country; recent examples are the prohibitions on imports of live and animal products from the United Kingdom and fish and vegetable products from Bolivia.⁸⁷ In October 1995, imports of fresh fruit from California were suspended in response to the detection of oriental fruit fly in that State but in 1997 this measure was lifted following the supply of information by the U.S. authorities (Animal and Plant Health Inspection Service, APHIS) and an on-the-spot visit by Argentine experts.⁸⁸ For similar reasons, citrus fruit from Florida has never had access to the Argentine market; in this respect, the authorities indicated that a "system approach" (proposed by APHIS) was under consideration in May 1998.

60. In February 1998, a temporary prohibition was introduced on imports from a number of European countries of fresh pork and pork products whose processing method did not guarantee the destruction of Classic Swine Fever. In response to the concern expressed by the EU on the WTO consistency of the measure at the March 1998 meeting of the Committee on Sanitary and Phytosanitary Measures, Argentina explained that this was a highly infective disease and its request

⁸⁰ The rate was gradually reduced from 64% to 62% in 1995.

⁸¹ Rate reduced from 24% in April 1996.

⁸² Between June 1993 and May 1995 the tax rate was temporarily cut down to 5% (Decree 1166/93).

⁸³ Rate for the period August 1994 to December 1997; the ordinary rate is 17%.

⁸⁴ Articles 65 and 66 of the Law on Excise/Internal taxes of 1979.

⁸⁵ Laws 23966 and 24698.

⁸⁶ Law 19800 of 1972. Law 24625, 28 December 1995.

⁸⁷ GATT (1992).

⁸⁸ USTR (1997).

for information in a number of EC countries had been poorly met, thus delaying any modification of the measure.⁸⁹

(vii) Import licensing

61. Most of Argentina's restrictive import licensing, related to goods subject to quantitative restrictions, was eliminated in April 1991, and since then it seems that there has been no policy reversal; in the past, this type of licensing covered some 90% of import items and sheltered over 50% of domestic production from foreign competition.⁹⁰

62. Certain product categories are subject to non-restrictive licensing in the form of prior authorization with a view to ensuring compliance with national legislation (including standards and health requirements) and international agreements affecting trade; these include automatic licensing procedures on carpets and other floor coverings, clothing and footwear which were also subject to other measures (sections (2)(i) and (2)(ii)(a)). Several government agencies are involved in the authorization process (Table III.3).

63. At present non-automatic/restrictive licensing is used for the administration of quantitative restrictions operated under the automobile industry regime (nine eight-digit HS tariff items (HS87.02) relating to chassis, passenger motor vehicles and trucks). Certain types of paper, and a few other items apparently were subject to temporary quotas but no communication has yet been made to the WTO on the use of these quotas.

64. Argentina was a signatory to the Tokyo Round Agreement on Import Licensing Procedures; its latest replies to the WTO Questionnaire in this area were communicated in December 1997.⁹¹ In early 1991, Argentina disinvoked the provisions of Article XVIII:B in relation to import restrictions for balance-of-payments purposes.⁹²

(viii) Import quotas

65. Argentina made complete GATT/WTO notifications on quantitative restrictions in 1991 and 1997; no restrictions other than those communicated in the context of import licensing procedures are in force.⁹³

⁸⁹ WTO documents: G/SPS/N/ARG/9, 12 February, 1998; G/SPS/N/ARG/35, 17 March 1998; G/SPS/R/10, 30 April 1998.

⁹⁰ GATT (1992); European Commission (1997); U.S. Department of Commerce (1997).

⁹¹ WTO document G/LIC/N/3/ARG/2 - G/LIC/N/1/ARG/2, 22 January 1998.

⁹² GATT document COMTD/W498, 23 October 1992.

⁹³ WTO document G/MA/NTM/QR/1/Add.4, 18 September 1997. WTO members are required to make complete notifications every two years of the quantitative restrictions which they maintain, and to notify changes thereto as and when they occur. These notifications under the Market Access Committee (paragraph (d) of WT/L/47) are the same as those under the GATT Technical Group on Quantitative Restrictions and Other Non-Tariff Measures (CONTRACTING PARTIES decisions in 1984 and 1985 (BISD 32S/92 and 93)). A full description of the products and tariff lines affected (in CCCN or HS nomenclature), a precise indication of the type of restrictions (using the symbols adopted by the CONTRACTING PARTIES), and the grounds and precise GATT/WTO justification cited, and, to the extent possible, the trade effects of the measures (WTO document G/MA/W/1, 20 April 1995).

Table III.3
Main import licensing or prior authorization requirements in force, 1998

Items	Government agency	Purpose
Food for human consumption	Secretariat of Health of the Ministry of Health and Social Action, through the National Medicaments, Food and Medical Technology Administration (ANMAT); the National Food Institute (INAL); and the National Administration of Food Health and Quality (SENASA) Secretariat of Agriculture, Livestock Fisheries and Food of the Ministry of the Economy and Public Works and Services.	To verify the hygienic-sanitary conditions, water content and commercial identification of products entering (or leaving) the country
Animal products, by-products and derivatives not put up for retail sale	SENASA	To ensure their admissibility from the health standpoint in accordance with the rules of the International Office of Epizootics
Raw materials and food products of vegetable origin, not put up for retail sale	SENASA	To ensure phytosanitary protection
Wine products	National Vitiviniculture Institute	To inform the Customs on shipments that may fail to comply with conditions on wine imports
Medicaments	Secretariat of Health (Ministry of Health and Social Action)	To check quality and to ensure their admissibility from the therapeutics standpoint
Reagents and material for medical use	Secretariat of Health (Ministry of Health and Social Action)	To ensure that products are sterile, non-toxic and meet medical treatment requirements/specifications
Toiletries, cosmetics and perfumes	Secretariat of Health (Ministry of Health and Social Action)	To ensure the quality and innocuousness of the products
Narcotic drugs, intermediate products and psychotropic substances	Secretariat of Health (Ministry of Health and Social Action) or Secretariat for the planning of Prevention of Drug Addiction and the Campaign against Drug Trafficking (Office of the President)	To monitor the destination and use of these goods in compliance with commitments under the 1961 Single Convention on Narcotic Drugs and its 1971 Protocol of Amendment, the 1971 Convention on Psychotropic Substances, and the 1988 Convention on Essential Precursors and Chemical Products
Nuclear elements and materials	National Atomic Energy Commission (CNEA), National Nuclear Regulatory Body (licence issue)	To ensure that the radioactive material is utilized in a balanced manner (in terms of social welfare) and, in observance of international standards
Sensitive military imports	National Control Commission for Sensitive Military Exports	To ensure observance of Argentina's international and bilateral commitments to the non-proliferation of weapons of mass destruction, and the transfer and protection of strategic technology
Condoms	Ministry of Health and Social Action	To check on the quality and safety of the product
Wild fauna and flora	..	To protect and conserve the fauna and flora in compliance with international commitments under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
Publications describing or representing the Argentine mainland, island and Antarctic territory	Military and Geographical Institute	To avoid differences with the official position on the geographical information concerning the Argentine territory

Table III.3 (cont'd)

Items	Government agency	Purpose
Measuring instruments	National Legal Metrology Office	To avoid distortions to the Argentine Legal Metric System (SIMELA) and to preserve the uniformity of the national measuring system
Carpets and other floor coverings, clothing and footwear	Under-Secretariat of Foreign Trade (Secretariat of Industry and Trade, Ministry of Economy, Public Works and Services)	To comply with WTO commitments
New motor vehicles	Secretariat of Industry	To implement the Regime for Imports of Completely Built-Up Vehicles

.. Not available

Note: No comments were provided by the authorities to the WTO Secretariat on the content of this table.

Source: WTO document G/LIC/N/1/ARG/2 - G/LIC/N/3/ARG/2, 22 January 1998 and legislation supplied by the Argentine authorities.

66. At present quantitative restrictions affect the importation of automobiles and narcotics; these were communicated to the WTO in the context of notifications to the Committees on Import Licensing Procedures and on Trade-Related Investment Measures. Quantitative restrictions on paper imports (23 nine-digit HS items) were in force for safeguard purposes from mid-1993 to end-1994; these measures were apparently taken in the context of the MERCOSUR safeguards clause against Brazil and Uruguay, as well as under Article XIX against other suppliers (known as GATT quotas) in a non-discriminatory manner.⁹⁴

67. Import restrictions on completely built up (CBU) motor vehicles, covered by categories A and B (Table III.4), form part of efforts to reorganize and regulate the domestic industry as well as to meet obligations under the automotive agreement maintained with Brazil; legislation in this area, outlined in Table III.3, was last revised in 1994.⁹⁵ In accordance with WTO commitments, these import quotas are to be removed by 1 January 2000 when the common MERCOSUR automotive policy is due to be implemented.

68. Since 1994 the annual quota level, published in a resolution of the (MEOSP) Secretariat of Industry, has been set at 10% (Category A vehicles) and 15% (Category B vehicles) of the estimated domestic production of motor vehicles for the year.⁹⁶ The authorities indicated that this level may be exceeded depending on the supply situation in the domestic market. Quota allocation conditions among official distributors and agents of foreign-made cars without assembly plants in Argentina, and private end-users were initially set through public bids in December 1991, and seem to have been modified on at least two occasions.⁹⁷ However, a lack of data has prevented any assessment on their evolution by the Secretariat. From 1994 to 1996 allocation was operated by draw. By 1997, open call bids were used apparently for private end-users only (the winners being those who offer to pay the highest percentage of import duty above the general/normal rate). However, official distributors and

⁹⁴ *Comisión Nacional de Comercio Exterior* (1996), p. 64; *Comisión Nacional de Comercio Exterior* (1997).

⁹⁵ Decree 2677/91 (general regime for imports of CBU vehicles) and 683/94 cited in WTO document G/LIC/N/3/ARG/1, 14 February 1996.

⁹⁶ Originally the import quota for CBU motor vehicles from third countries (other than Brazil) was set at 7,200 units (6,000 passenger and 1,200 commercial vehicles); in 1991 it was raised to 8,000 units (plus 18,000 units from Brazil). On 1 January 1992 a quota equivalent to 8% of domestic production was introduced for imports of vehicles that were not matched by similar models on the domestic market; this quota was subsequently raised to 9% and 10% in 1993 and 1994.

⁹⁷ Decree 2677/91, 20 December 1991.

agents were subject to specific allocation criteria depending on the vehicle category. In category A maximum of 200 units were allocated per firm, and not more than 10% of the entire quota; in category B a maximum of 40 units were allocated per firm, and not more than 20% of the entire quota.⁹⁸ Domestic motor vehicle assemblers and importers from Brazil cannot obtain allocations within these quotas; the exclusive arrangements for importing CBU vehicles by such enterprises to complete their range of models are conditioned by compensatory export requirements and/or the provisions of the bilateral agreement with Brazil.⁹⁹

69. The importation of narcotics and psychotropic substances is subject to annual quotas by country, in accordance with the provisions of international conventions and with the terms laid down by the Commission on Narcotic Drugs of the United Nations Economic and Social Council.¹⁰⁰ The annual quota is allocated among firms that manufacture medicaments containing the products in question; quota allocations are not transferable.

Table III.4
Allocation of import quotas for motor vehicles

Beneficiaries	Basic requirements	Allocation modalities
Official agents and distributors of foreign-made vehicles (Vehicle Categories A and B)	Registration (Register of Official Motor Vehicle Agents and Distributors of the National Directorate of Industry), application for a maximum amount (fixed on an annual basis in terms of the actual allocation of quotas assigned in procedures in previous periods), and the deposit of guarantees (US\$50,000 to the Directorate of Industrial Policy Implementation)	80% of Category A quota and 75% of Category B quota (1997). Public bid; pro rata allocation once applications for each make are counted. Agents and distributors of Category A vehicles must pay the state-owned bank <i>Banco de la Nación</i> 25% of the total c.i.f. value of the units they have been allocated, as advance payment and on account for duties and other taxes; this amount is deducted by the Customs at the clearance stage.
Private end-users:		
Vehicle Category A	Registration (Register of Importers and Exporters of the Customs); payment of US\$2,500 on account for duties and other taxes (to be deducted by the Customs on final settlement of clearance of the unit)	20% of quota (1997). Public bid; the Directorate of Industrial Policy Implementation issues an import certificate, which is non-transferable.
Vehicle Category B	Transport enterprises subject to registration (Register of Importers and Exporters of the Customs), application to the Secretariat of Transport (Ministry of the Economy and Public Works and Services) for a certificate of approval (transferable); Other direct users (transport on own account, building companies and others) must state in a sworn declaration that the vehicles will be used in the enterprise's production activities for a minimum of two years	10% of the quota to transport firms and about 15% to other direct users (1997). Public bid; if the maximum number of vehicles authorized by the Secretariat of Transport is higher than demand, a <i>pro rata</i> allocation is made to ensure a minimum of one vehicle per application. The Directorate of Industrial Policy Implementation issues an import certificate, which does not specify the make or model, is valid for one year from the date of issue, and is not transferable.

Category A: All types of passenger and cargo vehicles with maximum loading capacity up to 1,500 kgs.
Category B: Chassis and platforms for cargo and passenger transport vehicles with a loading capacity exceeding 1,500 kgs.

Note: No comments were provided by the authorities to the WTO Secretariat on the content of this table.

Source: WTO document G/LIC/N/3/ARG/1, 14 February 1996; Decree 2677/91, 20 December 1991; and Decree 425/97, 14 May 1997.

⁹⁸ Decree 425/97, 14 May 1997.

⁹⁹ Decree 75/98, 22 January 1998.

¹⁰⁰ WTO document G/LIC/N/3/ARG/1, 14 February 1996; Decree 2281/94, 23 December 1994.

(ix) State trading

70. In May 1995 and September 1997, Argentina communicated to the WTO that it does not have any state-trading enterprises (in the sense of GATT Article XVII) on its customs territory.¹⁰¹

71. In the context of the intensive deregulation and privatization efforts State intervention in many areas, including the National Grains Board and the National Meat Board, has been eliminated.¹⁰² Despite the ongoing privatization process, the State (federal or regional level) participates in certain economic activities, most of which are indicated in Table III.5. In 1996, Government revenue from the operation of public enterprises stood at US\$918 million or less than one fifth of its 1993 level; income from sales of goods and services by the Administration dropped to US\$169 million or half of their 1994 level.¹⁰³ No evidence exists that state involvement in these activities has been a barrier to trade in goods and services in recent years.

(x) Countertrade

72. According to legislation dating back to 1985, countertrade is permitted for firms exporting non-traditional manufactured products; the Government may exclusively operate countertrade transactions in traditional grain exports.¹⁰⁴

73. Since the liberalization of the foreign exchange regime in the early 1990s, there has been no financial incentive to enter into countertrade arrangements. These arrangements have been mainly limited to trade with the countries of the former Soviet Union, and have not been used recently.¹⁰⁵ At the time of the first TPR of Argentina, one countertrade project concerned the setting aside of 18% of the purchases of Bolivian gas for the acquisition of Argentinian goods and services for projects aimed at the physical integration of the two countries.

74. Since 1991 intra-industry countertrade incentives have been part of the Automobile Industry Regime; numerous balanced trade projects in this area (affecting domestic automotive parts and assembly firms) have been approved on a case-by-case basis. Importers, who are not assembling motor vehicles in Argentina, may also offset imports of CBU vehicles with exports of their own domestically made automotive products or exports that third parties authorize such importers to include in their balance.¹⁰⁶ The authorities indicated that this specific incentive, which is still in force, has not been used since 1994.

¹⁰¹ WTO documents G/STR/N/1/ARG, 18 May 1995, G/STR/2, 26 October 1995, and G/STR/N/3/ARG, 23 September 1997. Since 1996, Argentina has participated actively in discussions in the Working Party on State Trading Enterprises concerning state-trading operations run by several WTO Members (Australia, Austria, Canada, Chile, Iceland, India, Israel, Italy, Japan, Norway, Slovenia, Switzerland) and affecting trade in cereals, grains, milled products, edible oils, feeding stuffs, beans, livestock, tobacco and alcohol.

¹⁰² GATT (1992); and EIU (1996a), p. 43.

¹⁰³ MEOSP (1997a).

¹⁰⁴ Law 21101 (establishing a countertrade regime, *Régimen de Intercambio Compensado*) and Decree 176/85 cited in GATT (1992).

¹⁰⁵ World Trade Press (1995).

¹⁰⁶ WTO document G/TRIMS/N/1/ARG/1, 10 April 1995.

Table III.5
State involvement in enterprises in Argentina, 1998

Firm	Activity	Situation in privatization programme ^a
GOODS		
Mining and energy		
Yacimientos Carboníferos Fiscales	Coal-mining enterprise	Scheduled for transfer to private ownership
Yacimientos Mineros de Agua de Dionisio	Mining enterprise	
Hidroeléctrica Pichi Picún Leufu	Company responsible for the construction of the Pichi Picún dam	Scheduled for transfer to private ownership.
Entidad Binacional Yacretá	Exploitation of hydro-electric resources; joint venture between the Governments of Argentina and Paraguay.	..
Central Puerto S.A.	Electricity production and distribution	40% (as from 1992)
Dentral Costanera S.A.	Electricity production and distribution	40% (as from 1992)
EDENOR S.A.	Electricity production and distribution	49% (as from 1992)
EDESUR S.A.	Electricity production and distribution	49% (as from 1992)
Central Pedro de Mendoza	Electricity production and distribution	10% (as from 1992)
Central Dock Sud	Electricity production and distribution	10% (as from 1992)
EDELAP (Área la Plata)	Electricity production and distribution	49% (as from 1992)
Central Alto Valle	Electricity production and distribution	10% (as from 1992)
Central Guemes	Electricity production and distribution	40% (as from 1992)
Central Sorrento	Electricity production and distribution	10% State owned (as from 1993)
Central San Nicolás	Electricity production and distribution	12% (as from 1993)
Centrales Térmicas del Noreste Argentino S.A.	Electricity production and distribution	10% (as from 1993)
Centrales Térmicas del Noroeste Argentino S.A.	Electricity production and distribution	10% (as from 1993)
Centrales Térmicas Patagónicas S.A.	Electricity production and distribution	49% (as from 1993)
Centrales Térmicas del Litoral S.A.	Electricity production and distribution	10% (as from 1993)
Central Térmica Dique	Electricity production and distribution	39.90%
Central Térmica Güemes S.A.	Electricity production and distribution	30%
TRANSNOA S.A.	Electricity production and distribution	10% (as from 1993)
TRANSPA S.A.	Electricity production and distribution	49% (as from 1993)
TRANSPA S.A.	Electricity production and distribution	49% (as from 1993)
TRANSENER S.A.	Electricity production and distribution	35% (as from 1993)
Hidroeléctrica Diamante S.A.	Electricity production and distribution	41% (as from 1994)
Hidroeléctrica Río Hondo S.A.	Electricity production and distribution	2% (as from 1994)
Hidroeléctrica Ameghino S.A.	Electricity production and distribution	41% (as from 1994)
Centrales Térmicas Mendoza S.A.	Electricity production and distribution	49% (as from 1994)
TRANSNEA S.A.	Electricity production and distribution	40% (as from 1994)
DISTROCUYO S.A.	Electricity production and distribution	49% (as from 1994)
Hidroeléctrica Futaleufu S.A.	Electricity production and distribution	41% (as from 1994)
Hidroeléctrica Río Juramento S.A.	Electricity production and distribution	2% (as from 1995)
Hidrotérmica San Juan S.A.	Electricity production and distribution	2% (as from 1996)
Hidroeléctrica Tucumán S.A.	Electricity production and distribution	2% (as from 1996)
Central Hidroeléctrica Alicura S.A. (HIDRONOR)	Electricity production and distribution	41% (as from 1993)
Central Hidroeléctrica Cerros Colorados (HIDRONOR)	Electricity production and distribution	41% (as from 1993)

Table III.5 (cont'd)

Firm	Activity	Situation in privatization programme ^a
Central Hidroeléctrica el Chocón S.A. (HIDRONOR)	Electricity production and distribution	41% (as from 1993)
Hidroeléctrica Piedra del Águila S.A. (HIDRONOR)	Electricity production and distribution	41% (as from 1993)
Three nuclear energy plants (Embalse, Atucha I, Atucha II)		Bill for privatization debated in May 1997.
Distribuidora de Gas Pampeana S.A.	Gas distribution	30% (as from 1992)
Distribuidora de Gas del Litoral S.A.	Gas distribution	10% (as from 1992)
Distribuidora de Gas del Centro S.A.	Gas distribution	10% (as from 1992)
Distribuidora de Gas Cuyana S.A.	Gas distribution	40% (as from 1992)
Distribuidora de Gas Noroeste S.A.	Gas distribution	10% (as from 1992)
Distribuidora de Gas del Sur S.A.	Gas distribution	10% (as from 1992)
Distribuidora de Gas Metropolitana S.A.	Gas distribution	30% (as from 1992)
Distribuidora de Gas Buenos Aires Norte S.A.	Gas distribution	30% (as from 1992)
Tordillo	Oilfields	90% joint venture contract (as from 1991)
El Huemul-Koluel Kaike	Oilfields	70% joint venture contract (as from 1991)
El Huemul-Koluel Kaike	Oilfields	70% joint venture contract (as from 1991)
Puesto Hernández (Neuquen)	Oilfields	60% joint venture contract (as from 1991)
Vizcacheras (Mendoza)	Oilfields	90% joint venture contract (as from 1991)
Santa Cruz I	Oilfields	90% joint venture contract (as from 1991)
Santa Cruz II	Oilfields	90% joint venture contract (as from 1991)
Tierra de Fuego	Oilfields	90% joint venture contract (as from 1991)
Aguarague	Oilfields	90% joint venture contract (as from 1991)
Palmar Largo	Oilfields	90% joint venture contract (as from 1991)
Refinería de Campo Durán (REFINOR S.A.)	Oilfields	30% (as from 1992)
YPF	Oilfields	20.30%
POLISUR	Petrochemical	70% (as from 1990)
PETROPOL	Petrochemical	70% (as from 1990)
INDUCLOR	Petrochemical	70% (as from 1990)
Monomeros Vinílicos	Petrochemical	70% (as from 1990)
Petroquímica Río Tercero	Petrochemical	61% (as from 1992)
Petroquímica General Mosconi S.A.	Petrochemical industry	..
Carboquímica Argentina	Petrochemical	58% (as from 1993)
Petroquímica Bahía Blanca S.A.	Petrochemical	49% (as from 1995)
INDUPA S.A.	Petrochemical	61.82% (as from 1995)
EBYTEM S.A.	..	30% (as from 1993)
Oleoductos del Valle S.A.	..	30% (as from 1993)
INTERPETROL S.A.	..	51% (as from 1993)
Manufacturing		
SOMISA Aceros Paraná S.A.	Steel industry	20% (as from 1992)
Papel Prensa S.A.	Paper industry	27.46%
Papel Misionero	Paper industry	37.16%
Casa de Moneda S.E.	Printing	..
SERVICES		
Communications		
Empresa Nacional de Correos y Telégrafos SA (ENCOTESA)	Postal services	The State is the major shareholder
Cadena Argentina de Radiodifusión	Groups all national State-owned commercial radio stations	..
LRA Radio Nacional	Radio station	..
Radiodifusión Argentina al Exterior	Radio station broadcasting abroad	..
Telefónica de Argentina S.A.	State enterprise of telecommunications	40% (as from 1990)
TELECOM S.A.	State enterprise of telecommunications	40% (as from 1990)
Argentina Televisora Color LS 82 TV Canal 7	State-controlled (Ministry of Education and Culture) television channel	..
Press distribution		
A.T.C. S.A.	Press & distribution	..
Transport		
Subterráneos de Buenos Aires	Underground rail transport	..
Ferrosur Roca S.A.	Rail transport	16%
Ferroexpreso Pampeano	Rail transport	16%

Table III.5 (cont'd)

Firm	Activity	Situation in privatization programme ^a
Nuevo Central Argentino	Transport	16%
Buenos Aires al Pacífico S.A.	Transport	16%
F. Mesopotámico Gral. Urquiza S.A.	Transport	16%
Dirección Nacional de Construcciones Portuarias y Vías Navegables	Maintenance and improvement of waterways and dredging operations	..
Administración General de Puertos	Direction, administration and exploitation of all national sea- and river-ports	Scheduled for transfer to private ownership
Empresas Líneas Marítimas Argentinas SA (ELMA)	State line operating 24 vessels overseas	Scheduled for transfer to private ownership
Terminales Marítimas Patagónicas	Exploitation of sea-ports terminals	30% (as from 1993)
Transporters Marítimos Petroleros S.A.	Oil transportation	30% (as from 1993)
53 State-owned airports		Decree setting in motion the privatization was signed in April 1997; a first batch of 28 airports were to be awarded by September 1997.
Aerolíneas Argentinas	Air transport	Privatized in 1990, 5 % (as from March 1994)
Líneas Aéreas del Estado (LADE)	Operates domestic flights; controlled by the Air Secretariat and affiliated to the Argentine Air Force	..
Gas del Estado, Transportadora de Gas del Sur S.A.	Gas transportation	30% (as from 1993)
Transportadora de Gas del Norte	Gas transportation	30% (as from 1992)
Financial services		
Banco Hipotecario Nacional	Mortgage bank	..
Banco Nacional de Desarrollo	Development bank	..
23 Government-owned provincial banks		
5 Government-owned municipal banks		
Caja Nacional de Ahorro y Seguros	Banking-finance	40% (as from 1994)
Caja de Ahorro y Seguro S.A.	Savings-insurance bank	30%
Other		
Obras Sanitarias de la Nación	Sanitation	Scheduled for transfer to private ownership in 1992.
Provincial water companies		
El Huemul-Koluel Kaike	Oilfields	70% joint venture contract (as from 1991)
MILITARY FIRMS		
Fábricas Militares	..	Scheduled for transfer to private ownership

.. Not available.

a Percentage share indicates capital participation of the public sector; date corresponds to the year of transfer.

Note: This table does not contain State firms under concession contracts (exploitation by the private sector for a limited period of time. No comments were provided by the authorities to the WTO Secretariat on the content of this table.

Source: Europa Publications Limited (1995), *South America Central America and the Caribbean*; *Latin American Regional Reports*, 20 May 1997; *Latin American Weekly Report*, 29 April 1997; *Latin American Economy & Business*, May 1997. *Jefe de Gabinete de Ministros* (1997), *Síntesis del Mensaje y del Proyecto de Ley de Presupuesto General de Gastos y Cálculo de Recursos de la Administración Nacional*: 1998.

(xi) Standards and other technical requirements

75. Argentine standards policies do not distinguish between foreign and domestic goods.¹⁰⁷ Prior to the adoption of the WTO Agreements, Argentina was a signatory to the Tokyo Round Agreement on Technical Barriers to Trade. Argentina introduced administrative changes to ensure compliance with the WTO consultation and notification (prior to implementation) procedures.

¹⁰⁷ European Commission (1997).

(a) Standards, testing and certification

76. Standards are set by the Argentine Standards Institute (IRAM), a civil non-profit association.¹⁰⁸ At present, four main Government bodies may establish compulsory technical regulations in Argentina: the MEOSP (Secretariat of Industry, Trade and Mining, Secretariat of Agriculture, Fisheries and Food, National Health and Foodstuff Quality Service, DGA, and DGI); the Ministry of Health and Social Welfare (National Drugs, Food and Medical Technology Administration), the Department of Natural Resources and the Human Environment, and the Central Bank of Argentina.¹⁰⁹ The Argentine Accreditation Agency is responsible for accreditation of laboratories and certification.

77. International standards are taken as a reference for the elaboration of technical regulations. Standards and recommendations by the International Organization for Standardization (ISO) and the Pan American Commission on Technical Standards, as well as those elaborated by reliable foreign entities may be used as a basis for the elaboration of Argentine standards. The United States, European, British or similar requirements or standards, which are based in international norms, may be acceptable. Certain Argentine standards, like those in the electric connection system or construction steel bars (subject to earthquake-proof requirements), differ from international standards. In many instances, the choice for the adoption of a standard is based, *inter alia*, on (export) market, regional, climatic and technological considerations.¹¹⁰

78. MERCOSUR safety and health-risk standards are compulsory. In 1998, ISO-compatible electricity standards, setting obligatory certification proceedings and terms, were introduced to determine safety and marketing conditions.¹¹¹ There are plans to implement technical regulations relating to health, plant preservation and environmental protection in line with the provisions of the WTO Agreement on Technical Barriers to Trade. Concerning foodstuffs, the Secretariat of Agriculture, Livestock, Fisheries and Food is expected to harmonize essential norms, for example, in relation to food safety, while the quality-related standards would become voluntary.

79. Argentina maintains bilateral product certification agreements with AENOR (Spain), AFNOR (France), CESMEC (Chile), CSA (Canada), DIN (Germany), DOT and UL (United States), ICONTEC (Colombia), UCIEE and ABNT (Brazil), UNI and IMQ (Italy) and UNIT (Uruguay). Quality system certification arrangements are in force with AENOR (Spain), AFAC (France), DQS (Germany), Fund.Varzolini (Brazil), IMQ (Italy), QMI (Canada), SGS (Switzerland) and UNIT (Uruguay).¹¹²

80. Since 1991 Argentina has participated in MERCOSUR efforts to eliminate or harmonize standards (including animal and plant health standards) considered as technical barriers to trade. MERCOSUR objectives in this area include the application of harmonized internal standards or regulations on classification, quality control or marketing of products destined for regional trade so that minimum levels are easier to meet.¹¹³ Work is being carried out by subject area in commissions, sub-commissions and working groups, in particular, Sub-group 3 on Technical Standards, which deals

¹⁰⁸ IRAM accepted the ISO Code of Good Practice for the Preparation, Adoption and Application of Standards on 31 July 1997 (WTO document G/TBT/CS/2/Rev.4, 11 February 1998).

¹⁰⁹ WTO document G/TBT/2/Add.21, 4 September 1996.

¹¹⁰ U.S. Department of Commerce.

¹¹¹ Resolution 92, 16 February 1998.

¹¹² Acronyms as indicated by the Argentine authorities.

¹¹³ WTO document WT/COMTD/1/Add.4/Rev.1, 11 April 1997.

with standards affecting foodstuff, health, automotive and veterinary items as well as metrology.¹¹⁴ Its work on foodstuff and animal and vegetable health was due to be finalized in June 1997. In this context, a number of agreements are being negotiated among MERCOSUR partners:

- Agreement on harmonization and recognition of certification and testing services;
- Agreement on the system certifying quality inspectors;
- Agreement on the conditions for mutual recognition of structures for certification, accreditation of laboratories and inspection bodies;
- Bases for the preparation of a single list of enterprises certified by the certification structures of the MERCOSUR countries;
- Mutual recognition of conformity evaluation;
- Mutual recognition of calibration services;
- Calibration services provided by MERCOSUR countries eligible for recognition by the European Community.

81. Standards or technical regulations which are adopted by the Government are published in the Official Journal.¹¹⁵ Since 1995 Argentina's national enquiry point for the TBT Agreement has been the National Directorate of Domestic Trade of the Secretariat of Industry, Trade and Mining of MEOSP.¹¹⁶ At the same time, an internal information network was established to ensure that the organizations involved transmit all draft technical regulations to the focal point sufficiently in advance of their entry into effect; in this way notifications to the WTO Committee on Technical Barriers to Trade can be made in a timely manner.

(b) Sanitary and phytosanitary regulations

82. The Argentine Food Code sets out the basic rules for producing, processing and distributing food for human consumption throughout Argentina in line with the International Codex Alimentarius; both imported and exported foods must comply with the provisions of the Code.¹¹⁷ Legislation was updated in 1992 with the introduction of regulations on pre-and post-import controls for animal and vegetable products, and in 1994 with the establishment of the National System of Food Control.¹¹⁸ The enforcement authorities are the Ministry of Health and Social Welfare, and the National Administration of Food Health and Quality (SENASA) of MEOSP.¹¹⁹

83. At present, several products are subject to health and/or hygiene controls and prior import (and export) authorizations (Table III.3). Registration requirements affect insecticides and veterinary products, foodstuffs, artificial sweeteners and pharmaceuticals. As stated earlier, imports of certain items must be accompanied by certificates issued by the authorities of the exporting country. These include: a sanitary certificate (foodstuffs, salted and dried fish, livestock, plants, bulbs, cuttings, rhizomes, roots, tubers for propagation, grains, seeds, vegetable products, pharmaceuticals); inspection certificate (barrelled apples); and post-entry (free) sale authorization (pharmaceuticals).¹²⁰

¹¹⁴GATT document L/7540, 26 October 1994, and WTO document WT/COMTD/1/Add.2, 9 October 1995.

¹¹⁵ WTO document G/TBT/2/Add.21, 4 September 1996.

¹¹⁶ WTO document G/TBT/2/Add.21, 4 September 1996.

¹¹⁷ WTO document G/LIC/N/3/ARG/1, 14 February 1996; and Law 18283, 18 July 1969, regulated by Decree 2126, 30 June 1971.

¹¹⁸ Decree 1812, 29 September 1992; and Decree 2194, 13 December 1994.

¹¹⁹ SENASA was created in June 1996 by merging the National Animal Health Service (old SENASA) and the Argentine Plant Health and Quality Institute (IASCAV) (Article 38 of Decree 660/96, 24 June 1996). This change is not reflected in Argentina's latest notification on Import Licensing Procedures.

¹²⁰ World Trade Press (1995); and U.S. Department of Commerce (1997).

Imports of dressed poultry must have been processed in establishments in the exporting country approved by the SENASA.

84. Since 1992 Argentina has applied the system of Phytosanitary Accreditation for Imports (AFIDI) of vegetable products, also used by other COSAVE countries (MERCOSUR and Chile)¹²¹; the system was further regulated in 1994 with the adoption, *inter alia*, of quarantine criteria and procedures agreed at regional level as well as application procedures.¹²² Products are classified in different categories (established by COSAVE and MERCOSUR) according to the pest risk that they represent. SENASA authorizes (or prohibits) their importation, within five or 15 working days (COSAVE or third countries, respectively) following the submission of application; the decision is based on the results of a prior pest risk evaluation undertaken in the light of criteria agreed at sub-regional level. A Phytosanitary Clearance Import (AFIDI) certificate, valid for six months (items destined for consumption), is delivered to the importer; on the basis of this certificate the importer applies, prior to each shipment, for import authorization mentioned earlier.¹²³

85. Since 1991, harmonization efforts have been undertaken at CONASUR (MERCOSUR and Chile), and MERCOSUR levels. CONASUR's technical bodies (COSAVE and CORESA) have elaborated assessments and standards which, although optional, have been endorsed by MERCOSUR to set vertical requirements (product by product) governing intra and extra-zone trade.

86. In 1996, MERCOSUR members adopted the WTO Agreement on the Application of Sanitary and Phytosanitary Measures as the regulatory framework for the group's work on the harmonization of these measures; on this occasion, a new institutional structure was created under the auspices of Technical Sub-group 8 (Agriculture).¹²⁴ MERCOSUR objectives in this area include the need to avoid the spread of certain diseases and/or illnesses and to preserve the health of plants and animals as well as to adapt national measures to international standards such as those set by the Rome International Plant Protection Convention and the International Office of Epizootics. In 1997, the harmonization of Argentina's pre-inspection of fresh, dried and dehydrated fruit was examined by Sub-group 3.

87. In June 1996, the European Commission and Argentina signed a declaration of intent to conclude negotiations for a mutual recognition agreement (MRA) on sanitary and phytosanitary regulations; this is expected to ease and boost bilateral trade of plants and animal products.¹²⁵ This agreement is to lead to the harmonization of Argentine hygiene rules with those of the EU, and, in the long run, to the introduction of a single health certificate requirement for Argentine exports to the EU.

¹²¹ Argentina is a signatory to the Convention for the Establishment of a Regional Committee on Vegetable Sanitation (COSAVE) aimed at reducing and preventing the risks and impact of plant health problems affecting production and marketing in the sub-region. It is also a signatory to the Convention Establishing the Regional Committee on Animal Health intended to coordinate and increase action for preventing, lessening and avoiding impact and risks of problems affecting the production and marketing of live animals, and animal products, sub-products and by-products (CORESA, 1991) (WTO documents G/SPS/W/38, 6 December 1995, and WT/COMTD/1/Add.4/Rev.1, 11 April 1997).

¹²² SAGP Resolution 202/92, 1 April 1992; SAGP Resolution 664/94, 10 August 1994; and IASCAV Resolution 416/94, 4 November 1994.

¹²³ WTO document G/LIC/N/3/ARG/1, 14 February 1996.

¹²⁴ Common Market Council Decision 6/96 cited in WTO document WT/COMTD/1/Add.4/Rev.1, 11 April 1997.

¹²⁵ Europe, 14 June 1996; Agra Presse, No. 2570, 24 June 1996.

88. In accordance with the provisions of the WTO SPS Agreement, since July 1995 Argentina has regularly submitted notifications to the WTO on its SPS norms for comment prior to their entry into force. SENASA (SAGPA/MEOSP) is the national notification authority and enquiry point.¹²⁶

(c) Marking, labelling and packaging

89. During the Customs clearance process, imported goods are inspected for country-of-origin markings. Special rulings affect products such as potatoes for consumption or seed, fresh fruit and vegetables, salted and dried fish, dried or preserved fruit and nuts, pharmaceuticals, textiles and textile manufactures, hats, gloves, shoes, metal manufactures, sanitary articles and hardware, bricks, glazed tile or roof tile, glass and glass manufactures, furniture, cleaning articles, bazaar articles and toys, paper products and writing materials, rubber manufactures, hosiery, fertilizers, and gasoline pumps.¹²⁷

90. In addition to other measures discussed earlier, since July 1996 new labelling requirements on chemical composition, origin, producer, importer and exporter have applied to carpets, clothing and footwear with a view to improving information available to consumers.¹²⁸

91. At the MERCOSUR level marking and labelling requirements were adopted in a number of areas such as food packaging standards for plastic and metallic recipients, canned vegetables (net weight control), toys (indications on swallowing features and age suitability) and writing material (number of pages).

(xii) Government procurement

92. Since October 1991, when the "Buy Argentina" programme was eliminated, there has been no requirement for government to use, or a preferential margin favouring, domestic companies, except for telecommunications where a 10% preferential margin remains in force; in practice, this margin does not apply because of privatization in the sector (Chapter IV).¹²⁹ In case of equality of bids, preference is given to suppliers of domestic goods and to local bidders for services and public works contracts.¹³⁰ Argentina is not a member of the WTO Committee on Government Procurement, although it has been an observer since April 1997, with a view to deciding on its eventual accession to the Agreement.¹³¹

93. In 1997 the Argentine public procurement market was estimated at more than US\$2.2 billion or 45% less than in 1993; between 1994 and 1996 public expenditure for the purchase of goods and services stabilized at an annual average level of about US\$2.5 billion.¹³² For 1998, the authorities have announced a US\$1.9 billion investment in public works.¹³³ No detailed operational data is available because the Argentine statistical system does not allow for the breakdown of data by: share

¹²⁶ WTO documents G/SPS/6, 15 May 1996, and G/SPS/ENQ/5, 30 September 1996.

¹²⁷ U.S. Department of Commerce (1997); World Trade Press (1995).

¹²⁸ Decrees 622/95 and 26/96 cited in European Commission (1997); and *Comisión Nacional de Comercio Exterior* (1996), p. 30.

¹²⁹ Between November 1989 and October 1991, the "Buy Argentina" programme was suspended and replaced by a 10% preference for domestic goods and services; this preference was eliminated by Decree 2284/91 (31 October 1991) ratified by Law 24307 (23 December 1993).

¹³⁰ For price comparison purposes, the price of a foreign good includes all import duties, taxes and charges. Imported raw materials, inputs or materials must not exceed 50% of the total cost of a domestic good.

¹³¹ WTO documents GPA/M/5, 11 April 97, and WT/L/206, 24 April 1997.

¹³² Data based on government expenditure for goods and services cited in MEOSP (1997), and MEOSP's website.

¹³³ *Latin American Weekly Report*, 2 September 1997.

of services procurement in total procurement; share of procurement of each service in total domestic output of the service; or share of procurement of each service in total domestic consumption of the service.¹³⁴

94. No MFN treatment provisions are contained in the domestic legislation, which distinguishes between goods and services, and public works.¹³⁵ At present, three procurement or contracting procedures are available: public or open tendering; selective or private tendering (at least six registered suppliers on a rotating basis); and direct contracting (three suppliers). Direct contracting may be awarded in the case of small amounts or for reasons of urgency, unforeseen circumstances, State security, single supplier, void or unacceptable tender, scientific, special licences or privileges, specific technical or artistic works, need for secrecy, etc. Table III.6 indicates the threshold values for selecting a procedure.

95. Preference is given to the use of public tendering.¹³⁶ Notices of tenders and direct contracting are published in the Official Bulletin (or in two mass circulation newspapers of the Federal Capital) and on the notice-board of the procuring body; when it is presumed that interest may exist abroad, publication in other countries may be authorized.¹³⁷ All state contracts are published in the Official Bulletin.¹³⁸

96. Generally, there is no requirement of prior enrolment in a register to allow potential suppliers to tender for the supply of goods and services under public procurement procedures. Nevertheless, a roster of suppliers (bidders or contractors) is kept by the National General Accounting Office; the procuring entity may request that a firm registers in the roster within five days following the opening of a bid. Moreover, for public works tenders, enrolment in the National Register of Public Works Building Contractors is an essential prerequisite for the qualification and authorization of firms; participation of non-registered local firms may be permitted in case of exceptional factors affecting the execution of the work. Foreign firms participating in international tenders do not need to be established in Argentina.

Table III.6
Threshold values for selecting public tender procedures

	Direct contract	Selective tender	Public tender
Goods and services	Up to US\$100,000	Up to US\$1 million	Over US\$1 million
Public works	Up to US\$69,000		Over US\$69,000
	Supplementary works for an ongoing work according to scale (limit of US\$26,000 for works up to a value of US\$129,500 or from 5 to 20% of the original cost for larger amounts).		Over US\$69,000
Public works concession	No threshold stipulated	No	No threshold stipulated

Note: No comments were provided by the Argentine authorities to the WTO Secretariat on the content of this table.

Source: WTO document S/WPGR/W/11/Add.19, 2 May 1997.

¹³⁴ WTO document S/WPGR/W/11/Add.19, 2 May 1997.

¹³⁵ Legislation, cited in WTO document S/WPGR/W/11/Add.19, 2 May 1997.

¹³⁶ WTO document S/WPGR/W/11/Add.19, 2 May 1997.

¹³⁷ Several tenders have reportedly been disqualified on minor points of detail or through failure to comply with customers' special requirements. Omissions in filling in the bid forms open the bidder to legal objections from competitors, against which it is difficult to appeal successfully (Dun & Bradstreet Information Services (1996).

¹³⁸ Dun & Bradstreet Information Services (1996).

97. Since 1994, the government procurement regime has been based on the centralization of rule-making and the decentralization of operational functions. Thus, the National Procurement Office in the Secretariat of Finance of MEOSP is responsible for policy- and rule-making as well as elaborating operational management systems, while each Ministry, decentralized body and state enterprise carries out its procurement in an independent manner. Public entities maintain a purchasing need register and elaborate their procurement programmes in the framework of development plans set down by the appropriate ministry or secretariat.

98. Procurement of goods and services by the National Administration is also subject to mandatory controls by the Office of the Auditor-General (SIGEN) through a Reference Price System; these affect public tendering (over US\$750,000), selective tendering (not less than US\$500,000) and direct contracting (at least US\$75,000). SIGEN may control any procurement operation regardless of value thresholds as well as contracts under the public works regime.

99. In August 1996, the MEOSP was charged with the preparation of a new regulatory and operational framework, encompassing changes since 1972, with a view to improving transparency and flexibility in public procurement procedures as well as increasing competition, thus improving the quality of public expenditure.¹³⁹ Future regulations may include new principles as well as procurement and suppliers' screening procedures.

100. At regional level, work on public procurement has been undertaken in the context of the FTAA (Working Group on Public Procurement) and, since 1994, the MERCOSUR Technical Group No. 4 and Ad Hoc Group on Government Procurement (established in 1997).¹⁴⁰ Preparatory work within MERCOSUR has consisted of: identifying procurement policies that may distort competition; classifying applied measures into MERCOSUR-compatible and non-compatible; and formulating proposals for the harmonization or progressive elimination of measures, as appropriate. By August 1996, MERCOSUR members had exchanged their domestic legislation for study by partner countries. In the context of the Ad Hoc Group on Government Procurement the objective is the elaboration of a regime of procurement of goods and services with provisions on its scope, national treatment, disciplines and transparency procedures as well as institutional matters; criteria, procedures and deadlines for the negotiation of disciplines were dealt at the first meeting of the Ad Hoc Group on Government Procurement in March 1998. At the FTAA level, following the submission of replies to a questionnaire for the establishment of an inventory of national legislations, a Negotiation Group was established in March 1998 to carry out negotiations aimed at expanding access to the government procurement markets of the FTAA countries. More specifically, this is to involve the establishment of a normative framework ensuring transparency, the setting of scope for non-discrimination, and the adoption of dispute settlement procedures.¹⁴¹

(xiii) Local-content requirements

101. Since 1991, mandatory local-content requirements, adopted in the context of the automotive industry regime and the bilateral agreement with Brazil (sections (ii), (viii), (x), and (3)(xi) of this Chapter and Chapters II and IV), have applied to motor vehicle assembly operations. Enterprises complying with local-content and export-performance requirements enjoy concessional tariff rates for their imports of automotive parts as well as duty relief for the import of CBU vehicles from outside MERCOSUR.

¹³⁹ Replies of Argentina to the Working Group on Public Procurement in the context of the project on the Free Trade Area of the Americas and *Jefe de Gabinete de Ministros* (1997).

¹⁴⁰ GMC Resolution 79/97.

¹⁴¹ Ministerial Declaration of San José, Fourth Trade Ministerial Meeting, 19 March 1998. More information on the FTAA negotiations is found in Chapter II of this report.

102. Recent amendments to the legislation were introduced in order to make progress in the establishment of a common automotive policy within MERCOSUR, including by means of increased flexibility in regional-content requirements. In 1996 changes included: (i) three annual increases of 2.5 percentage points starting in 1997, with the maximum content level increasing from 60% in 1996 to 67.5% in 1999 for both vehicle categories¹⁴²; (ii) a modification of the form of measurement of content (from customs determined value to f.o.b. values) and a new formula of content; and (iii) the introduction of a regional-content level of 50% for new models in a period of three years from the start of production. In addition, since 1994, Brazilian automotive parts that are offset by exports have been considered as being of domestic origin.¹⁴³ The measure is implemented by the Secretariat of Industry, Trade and Mining of the MEOSP.

103. Following its notifications to the WTO in 1995 and 1997, Argentina's local-content legislation has been discussed in the Committee on Trade-Related Investment Measures on three occasions.¹⁴⁴ Certain participants (Canada, the EU, Japan, the United States) expressed concern over the consistency, under Article 5.4 of the TRIMs Agreement, of the 1996 amendment increasing the level of local content, sought confirmation that the incentive was to be eliminated by the year 1999, and requested information on the phase-out of existing measures and as well as on the plans or schemes that were to apply in the sector from 2000 (Chapter IV).¹⁴⁵ Argentina provided limited responses in order to protect the commercial interests of the enterprises involved, in accordance with Article 5.1, footnote 1, of the TRIMs Agreement.

(xiv) Anti-dumping and countervailing measures

104. Recourse to anti-dumping and countervailing action by Argentina has risen considerably since 1991.¹⁴⁶ Between 1992 and mid-1997 Argentina was among the seven countries with the highest number of anti-dumping cases initiated each year. However, since 1994, the adoption of provisional measures has been reduced (Table AIII.2).

105. More than two thirds of the anti-dumping cases affected metals and products thereof (particularly of steel); chemicals; and electrical and electronic goods, including equipment, parts and appliances (Chart III.5).¹⁴⁷ Most of the cases affected products originating in Brazil, China and the EU.

106. Since 1992 countervailing action has affected imports of peaches in syrup from the EU on two occasions one affecting Greece and the other affecting the entire EU (Table AIII.2); a new case was initiated in March 1997 against olive oil imports from Spain. No recent information is available on the trade values affected by investigations; in 1994, these were estimated at US\$18.1 million or 0.1% of total imports.¹⁴⁸

¹⁴² Between 1991 and 1996 local-content was set at 60% (Category A vehicles) and 58% (for Category B vehicles) (Decree 33, 15 January 1996); category definitions may be found in Table III.4.

¹⁴³ WTO documents G/TRIMS/N/1/ARG/1, 10 April 1995, and G/TRIMS/N/1/ARG/1/Add.1, 26 May 1997.

¹⁴⁴ WTO documents G/TRIMS/M/4, 2 May 1996, G/TRIMS/M/5, 27 November 1996, G/TRIMS/M/6, 12 May 1997, G/TRIMS/N/1/ARG/1, 10 April 1995, and G/TRIMS/N/1/ARG/1/Add.1, 26 May 1997.

¹⁴⁵ Article 5.2 of the TRIMs Agreement provides for the elimination of all notified measures by the year 2000.

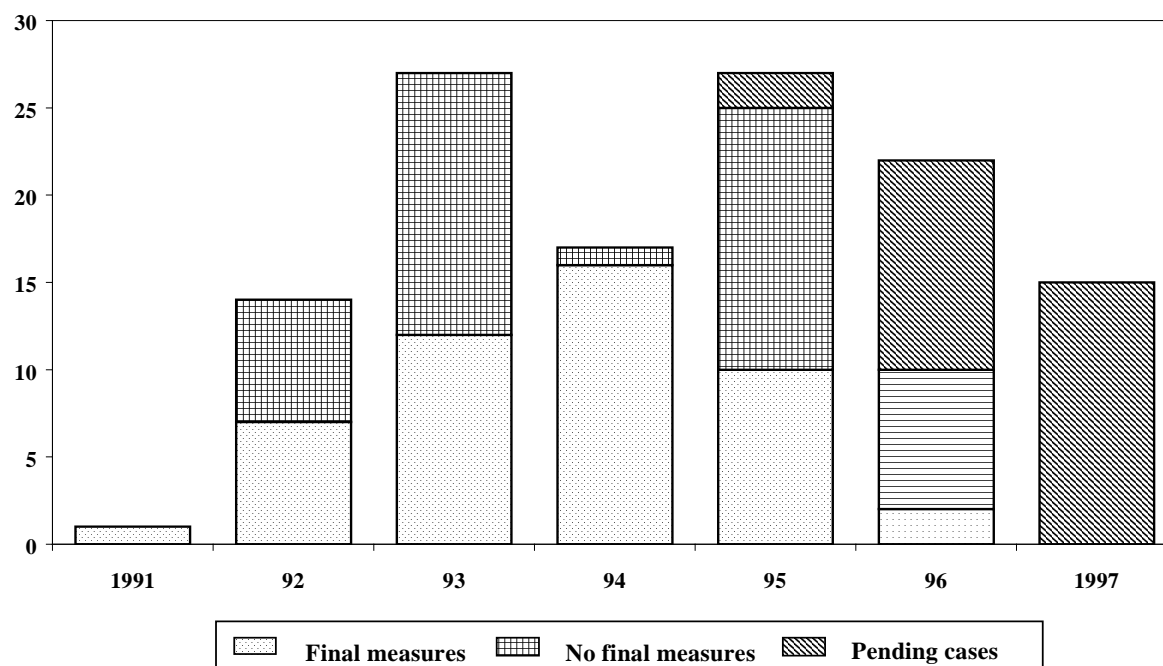
¹⁴⁶ At that time only two products were subject to anti-dumping duties, and nine investigations were underway (GATT (1992)).

¹⁴⁷ Some of the products subject to action are inputs for export items; thus some exporters have to pay higher prices for their inputs (World Bank (1996b), p. 42).

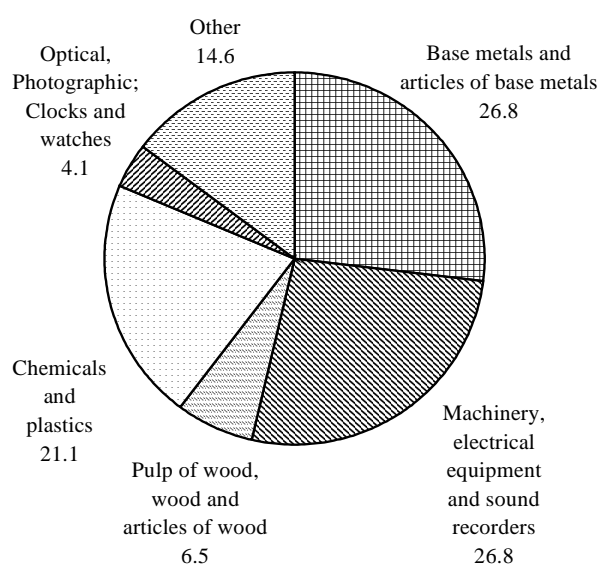
¹⁴⁸ Comisión Nacional de Comercio Exterior (1996), Table III.6, p. 61.

Chart III.5
Anti-dumping cases, 1991-97

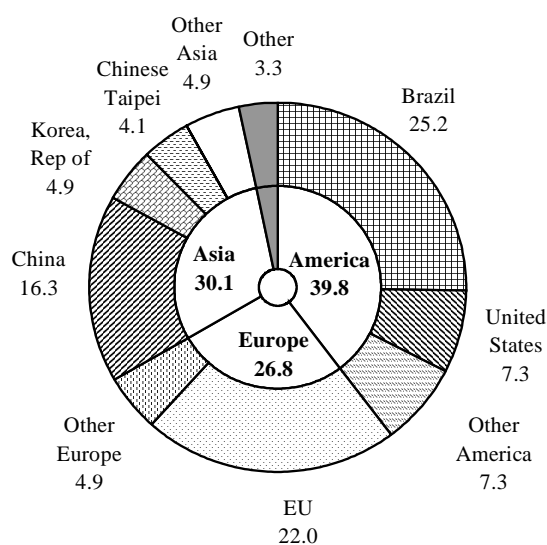
(a) By number of cases initiated



(b) By products (of cases initiated)
Per cent



(c) By origin (of cases initiated)
Per cent



Source: Notifications by Argentina to the WTO.

107. In 1995 and 1996, Argentina communicated to the WTO Committees on Anti-Dumping Practices, and on Subsidies and Countervailing Measures, its legislation concerning implementing aspects of the WTO provisions which superseded previous legislation in this area.¹⁴⁹ Anti-dumping and countervailing action may take the form of price undertakings or minimum "export" prices; regarding the latter, duties are equal to the difference between the declared f.o.b. export value and the minimum export price (section (2)(iii) of this Chapter). The minimum "export" prices are f.o.b. prices, corresponding either to the normal value or non-injurious export prices, set by the authorities. Importers of merchandise subject to an anti-dumping action must deposit with the customs a guarantee equivalent to part of the minimum normal value.¹⁵⁰ From January to November 1996 Argentina replied to questions raised by several participants (Australia, Canada, Chile, the European Union, Japan, Republic of Korea, the United States, Venezuela and Hong Kong/China) to the WTO Committee on Anti-Dumping Practices with respect to various aspects of its legislation on anti-dumping and countervailing actions; no participant questioned the legal basis of the methodology relating to the application of minimum "export" prices.¹⁵¹ At the October 1997 meeting of the WTO Committee on Anti-Dumping Practices, Venezuela requested an explanation from Argentina with respect to an alleged extension of final duties on aluminium alloy cables (Table AIII.2) to a number of items.

108. Since 1994, the National Commission for Foreign Trade (CNCE) a decentralized body under the MEOSP (Chapter II) has been responsible for conducting investigations and analyses on injury resulting from dumped or subsidized imports, and for assessing the need for and recommending the introduction of appropriate measures (including Article XIX safeguards, discussed below). Preliminary and final determinations are adopted by the Minister of Economy, Works and Public Services, and are published as resolutions in the Official Bulletin.

109. At the MERCOSUR level, work towards the introduction of common anti-dumping regulations has progressed. In December 1997, a regulatory framework for a common set of regulations on defence against dumped imports originating in non-MERCOSUR countries was adopted; at the same time, the MERCOSUR Trade Commission was instructed to elaborate additional provisions relating to the preparation and implementation of the common set of regulations on anti-dumping.¹⁵² Until their adoption, national legislation applies in conformity with the provisions of this regulatory framework; whenever necessary, domestic provisions have to be amended in line with the framework. Anti-dumping measures can also be applied to imports from other MERCOSUR members; in this context Brazil is the main country against which actions have been taken.

110. Since the last Trade Policy Review, Argentina has regularly submitted to the GATT and WTO Committees on Anti-Dumping Practices and on Subsidies and Countervailing Measures semi-annual reports on actions in this area.

¹⁴⁹ WTO documents G/ADP/N/1/ARG/1-G/SCM/N/1/ARG/1, 12 June 1995, and G/ADP/N/1/ARG/1/Suppl.1-G/SCM/N/1/ARG/1/Suppl.1, 19 March 1996.

¹⁵⁰ MEOSP Resolution 366/97, 26 March 1997.

¹⁵¹ WTO documents G/ADP/W/286-G/SCM/W/294, 5 March 1996, G/ADP/W/308-G/SCM/W/314, 19 March 1996, and G/ADP/Q1/ARG/2-G/SCM/Q1/ARG/2, 19 November 1996.

¹⁵² MERCOSUR CMC Decision 11/97. In 1993, the Council of Ministers of MERCOSUR approved Common Regulations on Subsidies and Countervailing Measures (WTO document WT/COMTD/1/Add.4/Rev.1, 11 April 1997); these have been adapted to the WTO provisions through the 1997 regulatory framework. MERCOSUR CMC Decision 18/96 provides for a deadline, the year 2000, for the adoption of this common set of rules.

(xv) **Safeguard actions**

111. Between July 1993 and the end of December 1994, Argentina applied safeguard measures in the form of import quotas in the context of MERCOSUR provisions (mainly against Brazil) and GATT Article XIX (against third countries) on five categories of paper products (Chapter IV); the quotas against third countries, described as "GATT quotas", have not yet been communicated to the WTO.¹⁵³ Safeguard measures were automatically extended for six-month periods.

112. Since February 1997, Argentina has applied safeguard measures (provisional until September 1997) in the form of minimum specific duties against imports of all footwear products except ski-boots and snowboards¹⁵⁴; definitive measures, which ranged from US\$0.84 per pair to US\$16.09 per pair depending on the product category (from September 1997 to December 1998), are to be fully phased out in three stages by 25 February 2000.¹⁵⁵ According to the relevant WTO provisions (Article 9 (1) of the Agreement on Safeguards), such measures do not affect products originating in developing countries with low import shares; however, the *ad valorem* duties on footwear applicable on an MFN basis were increased simultaneously with the adoption of the definitive safeguard measures, and had not been notified to the WTO by May 1998.¹⁵⁶ In July 1998, a panel was established to examine safeguard measures on footwear in the context of the Dispute Settlement Mechanism (Chapter II).

113. In February 1998, Argentina initiated an investigation on imports of toys; this was notified to the WTO Committee on Safeguards. Requests regarding bicycle tyres, cards and camping articles were rejected.¹⁵⁷

114. Since March 1996, Argentina has communicated developments in its safeguards legislation to the WTO Committee on Safeguards. While the Agreement constitutes the main legal text in this area, a regulatory framework with detailed and wide-ranging implementing provisions was introduced in September 1996.¹⁵⁸ In the context of the examination of the Argentine legislation in the WTO Committee, the authorities provided replies to questions raised by Canada, the EU, the Republic of Korea, Mexico and the United States)¹⁵⁹; these included issues such as the test of injury to the domestic industry, the determination of serious injury, the definition of confidential information, the participation of specialists or special consultants in its permanent technical team for safeguard investigations, the notification and participation of interested parties at public hearings in the context

¹⁵³ The "GATT quotas" were applied under MEOSP Resolutions 684/93 (25 June 1993) and 815/94 (25 July 1994). *Comisión Nacional de Comercio Exterior* (1996), p. 64; *Comisión Nacional de Comercio Exterior* (1997), Report CNCE 004/95, pp. 3-8, May.

¹⁵⁴ WTO documents G/SG/N/6/ARG/1-G/SG/N/7/ARG/1, 25 February 1997, G/SG/N/6/ARG/1/Suppl.1-G/SG/N/7/ARG/1/Suppl.1, 18 March 1997, and G/SG/Q2/ARG/2, 21 August 1997.

¹⁵⁵ MEOSP Resolution 987/97, 10 September 1997. In December 1997, the timetable for the phase-out was modified and, since then, footwear imports of six firms that have appealed the measures (Chapter II), have been exempt from the application of safeguards (MEOSP/SICyM Resolution 512/98 published on 28 April MEOSP/SICyM Resolution 19/98, 7 January 1998 1998); MEOSP/SICyM Resolution 513/98, 24 April 1998.

¹⁵⁶ MEOSP Resolution 986/97, 10 September 1997.

¹⁵⁷ SICyM Resolution 19/98, 7 January 1998; MEOSP/SICyM Resolution 56/98, 6 February 1998; MEOSP/SICyM Resolution 73/98, 9 February 1998; MEOSP/SICyM Resolution 118/98, 27 February 1998; WTO document G/SG/N/6/ARG/2, 15 April 1998.

¹⁵⁸ As discussed in Chapter II, the WTO Agreements were incorporated into domestic legislation by Law 24425, 23 December 1994. Other legislation concerning safeguards includes: Law 19549, 3 April 1972; Decree 1759, 3 April 1972; and, Decree 1059/96, 19 September 1996 (WTO documents: G/SG/W/139, 19 March 1996, G/SG/N/1/ARG/2, 25 March 1996, G/SG/N/1/ARG/3, 13 January 1997, and G/SG/N/1/ARG/3/Suppl.1, 25 November 1996).

¹⁵⁹ WTO documents G/SG/Q1/ARG/4, 23 December 1996, and G/SG/Q1/ARG/9, 20 August 1997.

of an investigation, mid-term reviews and extension enquiries, the conditions for the adoption of provisional safeguard measures, time-limits for imposing safeguard actions, progressive liberalization of safeguard measures and the granting of compensation.

115. The CNCE (section (xiv) above and Chapter II) cooperates in the conduct of safeguards investigations with the Under-Secretariat of Foreign Trade, Secretariat of Industry, Trade and Mining of the MEOSP, which is responsible for the adoption and implementation of safeguard measures.

116. In 1996 the WTO provisions on safeguards were adopted at MERCOSUR level; an intra-regional Safeguards Clause was ended on 31 December 1994.¹⁶⁰

117. Argentina has retained its right to use the transitional safeguard mechanism under the provisions of the WTO Agreement on Textiles and Clothing.¹⁶¹ It has submitted its lists of textile and clothing products, covering more than 16% of the volume of imports in 1990, that are included in the first and second phases of integration into GATT 1994.¹⁶² These lists cover eleven six-digit HS items, mainly tops and yarns, yarns of vegetable textile fibres, certain articles of jute or of other textile bast fibres (woven fabrics, sacks and bags for packing), hats and other headgear, articles of glass fibres, and bedding articles.

(3) MEASURES DIRECTLY AFFECTING EXPORTS

(i) Export taxes, charges and levies

118. In the past, export taxes affected a wide range of products, mostly unprocessed agricultural products, mainly to ensure the supply of raw materials to domestic processing industries; the authorities also indicated that such taxes were a response to tariff escalation in export markets.¹⁶³ These were also an important source of fiscal revenue. However, by 1997 the tax revenue from exports had fallen to US\$6 million or 1% of its 1990 level (Chart III.4); this reduction was mainly due to the suspension or elimination of export taxes (including the statistical tax for exports) from 1991 onwards.

119. At present, export taxes apply only to raw materials of cattle, including raw hides, at rates of 5% to MERCOSUR and 10% to third country markets for 1998, as well as unprocessed oilseeds at a rate of 3.5% (regardless of destination).¹⁶⁴ While the tax on oilseeds is calculated on the f.o.b. value, the formula is used to set the valuation basis for raw bovine hides and skins and another for pickled and "wet blue"; these formulae both take into account the price fixed for salted hides at the Chicago market and transport/handling cost coefficients except that the formula for raw hides also takes account of processing (US\$16 per piece).¹⁶⁵ The tax on raw materials derived from cattle, in force since 1992, is to be fully phased out by the end of 1999; while in 1999 these are to drop to 3% and 5%. In 1996, consideration was being given to attempts to introduce a new tax on bovine

¹⁶⁰ WT/COMTD/1/Add.2, 9 October 1995; and MERCOSUR Council of the Common Market Decision 17/96, cited in WTO document WT/COMTD/1/Add.4/Rev.1, 11 April 1997.

¹⁶¹ Article 6.1 of the WTO Agreement on Textiles and Clothing (WTO document G/TMB/N/15, 6 March 1995).

¹⁶² Article 2 of the WTO Agreement on Textiles and Clothing (WTO documents G/TMB/N/51, 28 April 1995, G/TMB/N/51/Add.1, 15 February 1996, and G/TMB/N/225, 13 February 1997).

¹⁶³ GATT(1992); and GATT document COMTD/W/498, 23 October 1992.

¹⁶⁴ Resolution ME 722/95 cited in WTO document WT/COMTD/1/Add.4/Rev.1, 11 April 1997; and European Commission (1997).

¹⁶⁵ Resolutions 537/92 and 722/95. In 1997 rates for raw materials of cattle stood at 8% and 15% for exports to MERCOSUR and third-country markets, respectively.

materials and goat leather, as well as a tax on oil exports but no such measures have yet been applied.¹⁶⁶

(ii) Index prices

120. Index prices are set for more than 30 agricultural items which were, and some remain, subject to export taxes, for valuation purposes.¹⁶⁷

(iii) Export prohibitions

121. Since the previous Trade Policy Review, export prohibitions imposed on commercial grounds have been eliminated.

(iv) Export licensing

122. Export licensing requirements affect items covered by specific market access conditions or trade restrictive agreements with the United States (meat, cheese, raw sugar, peanuts, tobacco) and the EU (meat, textiles). Prior authorization is also required for exports of certain items to ensure the enforcement of quality and sanitary controls as well as to meet international commitments with respect to security, e.g. on arms, missile technology, chemical weapons, and nuclear material; conservation of wildlife, and environmental protection (Table III.3 and section (4)(vi)).

(v) Access-related export quotas

123. Following the conclusion of the Uruguay Round, Argentina's voluntary restraint of exports of sheep meat to the EU was replaced by a zero-duty tariff quota of 23,000 tonnes (or more than 8% of total quota) but the in-quota amount is not filled. Several types of beef meat and offals, including a high quality "Hilton" beef, are also covered by tariff quotas (Chapter IV).¹⁶⁸ Under the WTO Agreement on Textiles and Clothing, Argentina has certain quotas in the EU market; these affect cotton yarn not put up for retail sale (4,480 tonnes, growth rate 2%), woven fabrics of cotton (6,611 tonnes, growth rate 1.7%) and carded or combed wool or other fine hair (20,960 tonnes, growth rate 6%). In 1994 the quota utilization level was relatively low, not exceeding 40% for any of these products.¹⁶⁹

124. Exports of fresh beef to the United States are subject to an annual tariff quota for the period 1997-2000 of 20,000 tonnes, agreed at the Uruguay Round and effective from 25 August 1997, following Argentina's qualification as free of foot and mouth disease in May 1997 (Chapter IV).¹⁷⁰ These exports must be accompanied by an export certificate certifying health conditions. For the financial year 1998, Argentina was allocated 48,101 metric tonnes, or 4%, of the U.S. raw cane sugar tariff-rate quota.¹⁷¹ Other Argentine exports subject to quotas in the United States for the period 1995-2000, include cheese (annual quota of 6,800 tonnes, 1998), peanuts (annual quota of 36,877 tonnes, 1998 – see also Chapter II on dispute settlement) and tobacco (annual quota

¹⁶⁶ European Commission (1997). Latin American Weekly Report, 5 December 1996.

¹⁶⁷ GATT (1992); Law 21453, 5 November 1976; and Decree 1177/92, 10 July 1992, SAGP Resolution 685/92.

¹⁶⁸ WTO (1995).

¹⁶⁹ Table V.2 of WTO (1995); European Commission (1997). Quota levels as notified by the EU in February 1995 (WTO document G/TMB/N/60, 19 April 1995).

¹⁷⁰ WTO document PLURI/IMA/INV/7, 31 July 1995; Latin American Regional Reports - Southern Cone, 2 September 1997; The Bureau of National Affairs (1997).

¹⁷¹ United States Trade Representative, Press Release, 17 September 1997.

11,000 tonnes, as from 1999 10,750 tonnes) (Chapter IV).¹⁷² No textile and clothing quotas have affected Argentine exports to the United States since 1992.¹⁷³

125. Quotas for agricultural items, allocated by the MEOSP Secretariat of Agriculture, Livestock, Fisheries and Food (SAGPA), differ according to the product.¹⁷⁴ For meat, where different criteria and sub-criteria are used, the quota is divided into four parts: 80% based on export performance, 6% for qualified plants by province, 8% on employment criteria and 6% on a production projects basis. The allocation of the peanuts quota is 85% based on average export performance over the previous three-year period, and 15% to new exporters or production-related enterprises, while sugar quotas are based on export performance to world markets in the previous year.

(vi) Export subsidies

126. At present, apart from its drawback schemes (section (vii)), Argentina runs two export assistance programmes, one of which has been notified to the WTO Committee on Subsidies and Countervailing Measures.¹⁷⁵ Contracts under the former special export programme (PEEX) were all terminated in 1993.¹⁷⁶ A "mirror" export subsidy scheme was operated between November 1992 and December 1993; under this scheme subsidies were equivalent to the import duties applied to the products.

127. Under a scheme introduced in 1985, run by MEOSP, rebates of 15% to non-MERCOSUR destinations, benefit exports of industrial plants and engineering operations under turnkey contracts; the types of operations covered by the scheme are specified in domestic legislation (annex list to Decree 525/85) and the exporting company must be in charge of the entire project.¹⁷⁷ Such rebates are calculated on the f.o.b., c. and f., or c.i.f. value of the export, depending on whether the exporter selects domestic or foreign insurance or transportation firms; this valuation method provides an incentive for choosing local firms. Eligibility remains tied to local- and goods-content requirements (not less than 60% and 40%, respectively), based on the f.o.b. export value. Benefits from the scheme and/or the drawback scheme described below are not cumulative.

128. The Supplementary Refund Scheme for Patagonian ports (south of the Colorado River) has provided additional rebates since 1994 for exports from nine ports and customs posts located on the Colorado river. This scheme, which was communicated to the WTO in February 1996, and has been discussed in the WTO Committee on Subsidies and Countervailing Measures.¹⁷⁸ The objective of the scheme, operated by MEOSP, is the regional development of Patagonia through new investments in local manufacturing; it thus covers regional products (except for fish) in their natural state or manufactured locally. Rebates under the scheme are set at 7%, 8%, 10%, 11% and 12% of the f.o.b. value, depending on the port. According to the authorities, their phase-out, postponed for five years,

¹⁷² The Bureau of National Affairs (1997).

¹⁷³ GATT document COMTEXSB/1798/Add.20, 12 October 1992.

¹⁷⁴ Quota allocation was last regulated by SAGPA Resolutions: 383/97, 11 June 1997; 443/97, 10 July 1997; 534/97, 6 August 1997; 643/97, 3 September 1997.

¹⁷⁵ WTO document G/SCM/Q2/ARG/9, 11 February 1997.

¹⁷⁶ GATT (1992).

¹⁷⁷ Law 23101, 28 September 1984; Decree 525/85, 15 March 1985; Decree 1011/91; Decree 2275/94; MEOSP Resolutions 437/85, 355/95 and 32/96; GATT (1992); IMF (1996).

¹⁷⁸ WTO document G/SCM/N/3/ARG, 25 March 1996. Argentina has provided replies to questions raised by several participants (Canada, Japan, Korea, Poland and the United States) on the operation of this scheme.

will be effected from 2000 to 2005.¹⁷⁹ For the period 1 January 1992 to 31 December 1995, total refunds under this scheme reached about US\$307 million; no data indicating the major product categories concerned is available. Consideration is being given to the introduction of an alternative development programme for Patagonia, falling under the category of non-actionable subsidies, which is to allow the phase-out of the existing scheme at a faster pace and in line with WTO provisions.¹⁸⁰

129. Argentina's WTO Schedule does not contain any specific commitments on the subsidization of agricultural exports. In accordance with the notification requirements agreed by the Committee on Agriculture, Argentina, which in the context of WTO commitments is classified as a significant exporter of coarse grains, oilcakes, and oilseeds, communicated that it had not applied export subsidies in 1995.¹⁸¹ Argentina is expected to eliminate any export subsidies for manufactured items, classified as prohibited under the WTO Subsidies Agreement, by 2003.¹⁸²

130. Since 1991, certain Argentine exports have been subject to anti-dumping or countervailing investigations and/or action in some markets (Table AIII.3). Under the Bilateral Memorandum of Understanding on Subsidies and Countervailing Duties signed with the United States in September 1991, countervailing duties affecting exports of cured hides (8-24%), wool (6-7%), and steel tubes (9-24%) to that market were to be revoked in July 1997 and are no longer in force.

(vii) Duty and tax concessions

131. Since 1991 a revised drawback regime, originally introduced in 1985, has provided for the partial or total refund of import duties and the statistical tax on inputs used in the processing of products for export, as well as the VAT and excise taxes paid at different processing stages; the authorities indicated that this regime had not been communicated to the WTO because it was not considered to be an export subsidy.¹⁸³ Reimbursement takes the form of non-taxable cash payments, or of tax credit for VAT billed by suppliers. To benefit from drawback, the imported items must be substantially transformed or incorporated in the production of export goods; the exporter must be a direct importer of these inputs.

132. Internal tax refund rates, which are calculated on the f.o.b. export value minus c.i.f. value of imported inputs, are currently applied at twenty different rates, ranging from 1.35% to 10%, covering three fourths of all tariff lines.¹⁸⁴ Since March 1995, the regime has not covered exports to other MERCOSUR countries except for of 29 eight-digit HS 96 items covered by the Regime of Final

¹⁷⁹ IMF (1996); Law 24490, 7 December 1995; and WTO document G/SCM/Q2/ARG/9, 11 February 1997.

¹⁸⁰ Argentina considers that this subsidy is neither specific nor prohibited under the WTO Agreement on Subsidies and Countervailing Measures; however, the authorities recognized that it falls under the scope of Article 27.2 of the Agreement on Subsidies and Countervailing Measures (WTO documents: G/SCM/N/3/ARG, 25 March 1996; G/SCM/Q2/ARG/9, 11 February 1997). In 1997, it was indicated that the phase-out was to start in the year 2002.

¹⁸¹ WTO documents G/AG/W/9, 20 September 1995, and G/AG/N/ARG/1, 15 February 1996.

¹⁸² Article 3 and Sub-paragraph (b) paragraph 27.2 of the WTO Agreement on Subsidies and Countervailing Measures allows for an eight-year phase-out period from the date of entry into force of the WTO Agreement.

¹⁸³ Decree 1011/91, 29 May 1991, Decree 1012/91, 29 May 1991, and Decree 2182/91, 21 October 1991.

¹⁸⁴ In August 1996 the maximum rate was reduced from 20% to 10% where it stands at present. Reportedly, the 20% refund rate overestimated the indirect tax incidence and could have been subject to retaliation from other partners; in addition, at that time exporters could use both the drawback and temporary admission régimes (World Bank (1996b), p. 41). Rates for 1998 were taken from the customs tariff.

Adjustment (Chapter II); these items enjoy refunds at rates ranging from 1.8% to 5.5%, depending on the market.¹⁸⁵

133. Following developments in the refund rates and export growth, between 1990 and 1997 Argentina's export refunds (including export subsidies discussed in section (vi)) amounted to US\$4.8 billion; annual expenditure grew rapidly from US\$3 million (1990) to US\$1.1 billion (1994, 1995), and fell progressively to US\$654 million in 1997.¹⁸⁶ Exporters have complained that since 1991, when drawback benefits were extended to all sectors, delays in refunding VAT have led to an estimated US\$2.5 billion debt to exporters; among the most affected were the grains and oilseeds processing industry, claiming US\$900 million, as well as the automotive and the iron and steel industries, claiming more than US\$500 million each. Automotive companies threatened to freeze exports, but by September 1997, out of US\$500 million claimed by this industry, only US\$50 million had been reimbursed. While exporters considered this disbursement delay as an implicit export tax, the DGI explained that the delays were due to the time required for verifying the authenticity of the exporters' applications for reimbursement.

(viii) Export finance

134. Since 1992, the Investment and Foreign Trade Bank (BICE), a state-owned commercial bank, has been responsible for fund-raising from several sources (including the Inter-American Development Bank, the Exim Bank of Japan, the French Government) for export finance and pre-finance.¹⁸⁷ Credit is available in U.S. dollars for amounts ranging from US\$20,000 to US\$10 million (the latter applying to turnkey plants). The period for reimbursement depends on the product, but in any case cannot exceed eight and a half years (turnkey plants). Inter-institutional interest rates are fixed by BICE for individual financial entities; exporters may subsequently negotiate rates with the latter. The authorities indicated that no concessional terms are involved in BICE's finance.

135. In addition to production since 1995, export finance and pre-finance assistance in the form of interest rate discount has been made available to small and medium-sized firms that are located in regions where GDP per capita is below or where unemployment rate is above the average national level. The authorities indicated that this measure was applied in a limited number of cases and has practically ceased to apply.¹⁸⁸

(ix) Export insurance and guarantees

136. Since December 1994, the Export Credit Insurance Programme Against Extraordinary Risks has been run by BICE through the *Compañía Argentina de Seguros de Crédito a la Exportación*, which is now responsible for procedural matters.¹⁸⁹ It covers extraordinary risks (political, natural disasters, etc.) for export items in the processing stage, as well as for exports. The level of insurance fees is set by BICE according to the country of destination and period for the reimbursement of the export credit, as well as on the basis of world market criteria for such fees. Financial coverage is assured partly by the National Treasury, which budgets US\$1 million a year for such indemnity. In 1996, 212 policies provided an aggregate coverage of US\$64.8 million.

¹⁸⁵ In 1996, these items, listed in Resolution 32/96, included peaches preparations, wines, rubber products, and woven fabrics of wool. MEOSP Resolution 288/95, 10 March 1995, cited in IMF (1996).

¹⁸⁶ Data supplied by *Dirección Nacional de Investigaciones y Análisis Fiscal*.

¹⁸⁷ Law 23101, 19 October 1984; Communication A 1994, 31 August 1992, cited in IMF (1996); and BICE, *Líneas de Crédito*, 1997.

¹⁸⁸ Articles 3 and 4 of Law 24467, 15 March 1995.

¹⁸⁹ Law 20299 of 1973, Law 23101, Decrees 3145, 24 April 1973 and 1803, 13 October 1994; Executive Order 1804, 1 December 1994, cited in BICE, *Memoria y Balance* 1996, pp. 34-35.

(x) Export promotion and marketing assistance

137. Since the early 1990s, *Fundación Export-Ar*, a mixed-participation institution, (MEOSP and major private-sector associations) has provided guidance and support for the strengthening of export activities.¹⁹⁰ Advice and information are given to exporters on foreign market opportunities, including international tenders outside Argentina, and trade fairs, and to importers abroad regarding goods on offer. Special assistance on fulfilling export regulations is available to small- and medium-size firms. No information was available on the total state contribution to the costs of the export promotion activities of *Export-Ar*.

138. BICE also provides funding for export promotion finance including participation in trade fairs and trade missions.¹⁹¹ Credit is available for amounts ranging from US\$5,000 to US\$250,000; reimbursement cannot exceed three years. Inter-institutional interest rates are fixed by BICE while applicants may negotiate rates with financial entities. The authorities indicated that no concessional terms apply, for example in relation to loan terms, eligibility criteria, beneficiaries or financial costs.

(xi) Export performance requirements

139. As discussed earlier in the context of measures relating to the Automobile Industry Regime (section (2)), compliance with export performance requirements is a prior condition for the importation of parts, components and CBU vehicles. Imports must be offset by exports of domestically assembled vehicles (multiplied by a factor of 1.2 for their calculation in the trade balance); observance of minimum local-content provisions is also required. Since 1994, it has been possible to count towards local content up to 40% of investments in capital assets of national origin made by subsidiary enterprises.¹⁹² In 1996 additional elements, allowed to be considered as exports for trade balance calculations, were to lead to an increase in imports originating outside MERCOSUR; these included the modification of the percentage contained in the calculation of export value and the expansion in the range of investment items that may be computed as exports.¹⁹³

140. Export performance requirements were also applied between 1992 and 1996 in the context of the Industrial Specialization Regime, providing for preferential tariff rates on imports of finished goods in exchange for a commitment to increase exports of similar goods (sections (2)(ii)(c), (4)(iii), and Chapter IV).

(xii) Free-trade and export-processing zones

141. In 1994, legislation, extending earlier provisions, authorized the Federal Government to create free-trade zones, one in each of the 23 provinces and four others in border areas, for industrial, commercial or warehousing activities.¹⁹⁴ Fiscal concessions available in the zones comprise exemption from duties and all internal taxes on imports and exports as well as from taxes affecting basic utilities (such as telecommunications, gas, electricity, water and sewage). The zones were to be run by the private sector, and concessions were to be allocated on the basis of tenders; infrastructure works for the establishment of a zone must be initiated within 24 months from the time of approval, otherwise the authorization expires. By September 1997, out of 19 zones that had been approved by the MEOSP, only two, La Plata and San Luis, were operational. Reportedly, lack of interest in the

¹⁹⁰ General publications of *Fundación Export-Ar* since 1995.

¹⁹¹ BICE, *Líneas de Crédito*, January, 1997.

¹⁹² G/TRIMS/N/1/ARG/1/Add.1, 26 May 1997.

¹⁹³ Detailed information on this matter is contained in WTO document G/TRIMS/N/1/ARG/1/Add.1, 26 May 1997.

¹⁹⁴ Law 24331, 18 June 1994, and Law 24756, 23 December 1996.

establishment of free-zones was due, *inter alia*, to the deregulation of the economy and to trade liberalization, which has allowed freer inflow of imported products.¹⁹⁵

142. The legislation on free-trade zones and similar fiscal régimes has not yet been notified to the WTO; in the context of the Committee on Subsidies and Countervailing Measures, the authorities have indicated that this legislation does not contain incentives that may be considered as subsidies.¹⁹⁶ Under Article 3 and Annex I of the WTO Agreement on Subsidies and Countervailing Measures, certain fiscal exemptions available under these regimes are classified as prohibited export subsidies. However, as a developing country, Argentina has until the year 2003 to bring its legislation into line with WTO provisions.

143. Special Customs Areas are still operated in Argentina. Despite a partial suspension under the 1991 Economic Emergency Law, Tierra del Fuego (with the exception of the Grand Island of Tierra del Fuego), Antarctica and the islands of the South Atlantic have operated under a Special Customs Area regime since 1972.¹⁹⁷ This regime allows duty-free imports of capital goods not produced in Argentina and planned for use in designated high-priority industries, as well as for goods to be assembled in local plants for sale in Argentina. There are alternative conditions for the application of the concession, one of which is linked to the local content achieved in the Special Customs Area. Furthermore, the 1994 legislation has allowed for the establishment of two Special Customs Areas (territories known as Puna Argentina and Patagonia Austral) where duties and taxes affecting imports are to be set at 15% of the applied rates.

144. Under the MERCOSUR Agreement re-exports from free-trade zones in any member State into the national territory or into the territory of any other MERCOSUR partner are subject to the agreed CET rate.¹⁹⁸ In 1994, the operation of the Special Customs Area of Tierra del Fuego was authorized to operate until the year 2013.

(4) MEASURES AFFECTING PRODUCTION AND TRADE

(i) Adjustment and regional assistance

145. Conversion or diversification projects are encouraged through concessional entry for imports of equipment and utility motor vehicles for use by agricultural and livestock producers and processors from certain provinces (section (2)(ii)(c)). Financial and technical assistance for structural changes favours the quality, industrial design and technological conversion of small and medium-sized enterprises (as from 1995, Programme for the Development of Suppliers).¹⁹⁹ However, no further details were available to the Secretariat.

146. In addition to the regimes on free-trade zones and special customs areas, and the Supplementary Refund Scheme, many of the 23 provinces maintain incentives for the development of industries within their boundaries, especially industries that use or develop natural resources and provide employment opportunities. It is understood that these incentives generally consist of exemptions from provincial and municipal taxes.²⁰⁰

¹⁹⁵ World Trade Press (1995); GATT (1992); and Law 19640, 16 May 1972 and various amendments.

¹⁹⁶ WTO document G/SCM/Q2/ARG/9, 11 February 1997.

¹⁹⁷ World Trade Press (1995); and GATT (1992).

¹⁹⁸ Articles 2 and 6 of MERCOSUR/CMC/Decision 8/94.

¹⁹⁹ Decree 1255/94, 29 July 1994, and MEOSP Resolution 145, 21 June 1995.

²⁰⁰ Price Waterhouse (1995).

147. Since 1994, under the regime for regional production centres, efforts have been made to support regional development via a coordinated offer (between national and provincial authorities) of measures mainly related to subsidized credit (Chapter III). By the end of 1994, 15 sectoral contracts (citrus fruit, olive and olive oil, poultry, agro-industry, leather, wooden furniture, autoparts, plastics, capital goods) tied to investment, conversion, employment, production, export performance, market penetration, and consortium-creation commitments (direct subsidy of up to US\$400,000), had been concluded between the public and private sectors at provincial level; 11 of these contracts affected 391 enterprises and 6,513 jobs.²⁰¹

(ii) Assistance for research and development

148. Since the last Trade Policy Review considerable changes have taken place in the area of research and development (R&D), including in the institutional network. Since 1996, policy has been formulated by the Ministerial level Scientific and Technical Cabinet (GACTEC) chaired by the President. Under the supervision of the Ministry of Culture and Education, several programmes, aimed at promoting scientific and technological development, are applied by more than 13 agencies; they are financed by the National Treasury, international organizations (such as the Inter-American Development Bank) and other donors or lenders: Policies are focused on agro-industry, biotechnology, mining, education, health, and natural resource and environmental matters. In 1998, budgetary outlays under the Pluri-annual Plan for Science and Technology 1998-2000 were set to reach US\$901 million (15% more than in 1997); about one quarter of this amount was to be channelled to research through the National Council of Scientific and Technical Research (CONICET), a further 18% to expansion and transfer of agricultural technology through the National Institute for Agricultural and Livestock Technology (INTA), and 7.9% to the adoption of R&D results to raise productivity, through the Secretariat of Science and Technology (SCyT) of the Ministry of Culture and Education.²⁰²

149. Since 1996 the Argentine Technology Fund (FONTAR), of the National Agency for the Promotion of Science and Technology (AGENCIA) of the Ministry of Culture and Education has been the main agency supporting technology innovation, modernization and training in the private sector.²⁰³ It has provided several types of credit facilities to firms and research institutes, as well as direct subsidies (up to US\$100,000) for small enterprises that are in a position to co-finance up to 50% of the project; such loans can be as high as US\$2 million and have a grace period of six years, depending on the type of loan. Assistance was further strengthened in 1998 when Argentina introduced fiscal incentives in the form of fiscal credit up to a total amount of US\$20 million (1998 Budget) to promote R&D within firms or through contracts with research institutes.²⁰⁴ This fiscal credit may cover up to 50% of the total cost of the R&D project and be used for the payment of the corporate tax. Credit and fiscal incentives may be used in a cumulative manner by small and medium-sized enterprises. In 1998, budgetary outlays for FONTAR, stood at US\$54.1 million.

150. Funds for research and development of new products for foreign markets are also available through BICE under conditions similar to those discussed earlier (section (3)(viii)).

²⁰¹ MEOSP (1995).

²⁰² *Gabinete Científico-Tecnológico/Presidencia de la Nación* (1997), p. 49.

²⁰³ Decree 1660/96; AGENCIA (1997), *FONTAR Manual de Operaciones*, October.

²⁰⁴ *Gabinete Científico-Tecnológico/Presidencia de la Nación* (1997), pp. 38-39.

(iii) Production assistance and tax concessions

151. Fiscal incentives are available for specific production projects in agriculture, livestock and industry and for tourism services; industrial projects can enjoy benefits until the end of 2005.²⁰⁵ The authorities indicated that no new projects are being approved. The benefits consist of tax breaks through credit bonds for amounts equivalent to the capital invested in the project, or, from December 1994, of VAT credit certificates equivalent to the VAT paid to suppliers of raw materials and semi-manufactures. Compliance with minimum requirements set on jobs, output, and investment performance is verified on an annual basis by the DGI, which runs the régime. The financial cost of this form of assistance fell by 25%, from US\$1.4 billion in 1994 to US\$1.1 billion in 1997; industrial projects represented 80% of this cost.

152. Agricultural production receives limited domestic support: there is a price support mechanism for leaf tobacco and a regime to promote forestry plantations (Chapter IV). Since 1996, agricultural producers have also benefited from a profits tax reduction, equivalent to the amount of the tax paid for the purchase of diesel-oil fuel used for machinery and equipment.²⁰⁶ These measures have not yet been communicated to the WTO.

153. In the Uruguay Round, Argentina did not make specific commitments to reduce financial support to agricultural producers, thus accepting to abide by the general rules on domestic support and export subsidies of the WTO Agreement on Agriculture (Chapter IV).²⁰⁷ A clarification on domestic support reduction commitments was submitted to the Committee on Agriculture by November 1997; the amount of AMS, which was adjusted to take into account inflation conditions, is proposed to be reduced gradually by 13.3% by the year 2005.²⁰⁸ By the time of completion of this report Argentina's clarification was under examination in the Committee; at the end of this process, Argentina is expected to communicate the "technical rectification" of Part IV, Section I of its WTO Schedule of commitments.

154. General assistance to agriculture has also been provided by several national and provincial agencies in various forms (action against pests and diseases, inspection and research, marketing, training, food aid, decoupled income support, structural adjustment through investment aids, regional assistance programmes, environmental programmes). According to data communicated to the GATT/WTO, in 1992 such assistance was estimated at US\$266 million for 1992, 72% of which was absorbed by support services; by 1996, this type of assistance had dropped to US\$126.7 million, 81.1% of which was channeled to structural adjustment assistance.²⁰⁹ Other official sources indicate

²⁰⁵ Decree 2054/92, 10 November 1992; MEOSP Resolution 1280/92, 11 November 1992; Decree 1125/96, 4 October 1996; and Decree 69/97, 23 January 1997.

²⁰⁶ EIU (1996a), p.43; WTO document G/SCM/Q2/ARG/9, 11 February 1997; Law 24698, 25 September 1996; and Decree 1089/96, 26 September 1996.

²⁰⁷ Annex Table 7 contained in WTO document G/AG/AGST/ARG. At that time, the calculation of the Aggregate Measurement of Support (AMS) was based on the value of production of leaf tobacco, the only product receiving internal support; the resulting low domestic support share (0.7%) was not considered to fall under any AMS reduction commitments. This calculation had not been objected during the verification process of the national schedules of commitments that was carried out from January to March 1994 by the participants in the Uruguay Round.

²⁰⁸ Article 18:4 of the Agreement on Agriculture; and WTO document G/AG/N/ARG/4, 7 November 1997.

²⁰⁹ Annex Table 4 contained in WTO documents G/AG/AGST/ARG and G/AG/N/ARG/4, 7 November 1997. Assistance was provided by national agencies such as the National Administration of Food Health and Quality (SENASA), the National Institute for Agriculture and Livestock Technology (INTA), the National Seeds Institute (INASE), as well as under the FINAGRO, the Provincial Agricultural Services

that in 1995 expenditure under several support programmes rose to US\$369 million, and is expected to further increase to US\$389 million in 1998 (Chapter IV) depending on sanitary and climatic conditions.²¹⁰ This type of (green box) assistance to producers is excluded from reduction commitments under the WTO Agreement on Agriculture.

155. BICE provides funds to financial entities for several types of loans aimed at fostering industrial investment, modernization, and conversion, and for the acquisition of capital goods, production and sales of small and medium-size enterprises, quality certification activities, etc. Credit conditions depend on the type of loan; unless otherwise negotiated, a grace period of up to ten years (in the case of establishment of Argentine-French joint ventures) is available, while reimbursement cannot exceed eight and a half years. As in all BICE facilities, inter-institutional interest rates are fixed by BICE and applicants may negotiate individual rates with financial entities; as mentioned earlier, the authorities indicated that such terms do not contain any concessional elements.²¹¹

156. As stated earlier (sections (2) and (3)), trade and trade-related measures, used until 1996 to support industrial specialization and modernization, continue being applied to support the automobile assembly industry (Chapter IV).²¹² In addition, in 1996 a series of sectoral promotion programmes, including tax breaks for investment in mining, were operational at the national or provincial levels, for example in the provinces of La Rioja, Catamarca, and San Juan. These programmes, which have not been communicated to the WTO, are said to have caused distortions in resource allocation and were costly in fiscal terms.²¹³ Provisions for assistance in several forms are in force for the production, marketing and exportation of books; however, the authorities indicated that in practice such provisions do not apply.²¹⁴

157. Under the Tri-annual Programme (1993-95) for the Promotion and Development of the Small- and Medium-sized Enterprise, the System for the Reinforcement of Support Structures for Small- and Medium-sized Enterprises and other programmes, qualifying firms benefited from subsidized credit for the acquisition of capital goods, establishment of working capital, modernization, conversion, and export finance and pre-finance.²¹⁵ However, this programme was not extended. BICE and the state-owned *Banco de la Nación Argentina* now have credit lines for some of these purposes. Fiscal concessions (profit tax and VAT exemption) encourage the establishment of such enterprises under these programmes, called "reciprocal guarantee firms".

158. Price controls remain in force only for certain pharmaceuticals.²¹⁶

Programme (PROMSAP), the PROMEX and PROCAR programmes, the Prohuerta Programme, the Cotton Programme, the Conversion Programme for Patagonia, and the Special Tobacco Fund.

²¹⁰ *Jefe de Gabinete de Ministros* (1997).

²¹¹ BICE (1997), *Líneas de Crédito*, January.

²¹² WTO document G/SCM/N/3/ARG/Suppl.1, 28 July 1997.

²¹³ World Bank (1996b), p. 35.

²¹⁴ Law 20380, 18 May 1973.

²¹⁵ Articles 3 and 4 of Decree 908/95, 11 December 1995; Article 4 of Law 24467, 15 March 1995. The Tri-annual Programme (1993-95) for the Promotion and Development of the Small and Medium-sized Enterprise, which was introduced to compensate deficiencies of the banking sector with respect to these firms, in particular higher interest rates for small and medium-sized enterprises and more limited access to credit, and to raise their competitiveness during the de-regulation process, cost some US\$1.2 billion.

²¹⁶ MEOSP Under-Secretariat of Industry and Trade Resolution 298, 13 November 1990; MEOSP Secretariat of Domestic Trade Resolution 43, 14 March 1990; and MEOSP Secretariat of Domestic Trade Resolution 140, 19 December 1989.

(iv) Competition and consumer policy*Competition policy*

159. As part of its overall trade policy, the Government encourages competition, both in internal and external markets. In recent years competition policy, which was not given an explicit role in the structural reform process, has become a means to control the concentration of economic power (Chapters I and IV). By the time of completion of this report Argentina had made two submissions on its policies in this area and replied to questions raised at the WTO Working Group on the Interaction between Trade and Competition Policy (Chapter II); these papers provide an up-to-date picture of developments in this area.²¹⁷ Argentine competition policy was also to be examined in the OECD Committee on Competition Law and Policy in June 1998.

160. Competition legislation, dating back to 1980, deals with practices that occur in more than one province or affect the general economic interest.²¹⁸ The legislation prohibits the abuse of dominant positions in the market as well as acts that distort, restrict or limit competition, such as cartels, anti-competitive mergers, boycotts, sales refusals, tying arrangements, and price fixing; however, no prior governmental examination and regulation of mergers or other combinations is foreseen. Violation of the legislation may give rise to administrative, criminal or common tort action. Penalties include fines up to double the amount of illicit profits, and a maximum of six-years imprisonment; no differentiation between nationals and foreigners is made.

161. The National Commission for the Protection of Competition (CNDC), which since 1980 has been the enforcement agency assisted by MEOSP, may initiate investigation proceedings on its own initiative or in response to a complaint. Legislation has been implemented more effectively since the mid-1990s. To compensate delays in legislative amendments (see below), the effectiveness of the CNDC was improved by doubling human resources in 1997, and increasing its budget by 64% in 1998. Between 1993 and February 1996, 65 cases had been initiated out of which three resulted in sanctions.²¹⁹ By December 1997, 11 cases involving unilateral abuse of dominant position (cable television, credit cards, car insurance, cellular phones, liquid gas, liquid fuels, television), exclusion (newspapers, soap powder, movies) and collusion (air transportation), were under examination by the CNDC.

162. There have been various attempts to address weaknesses in the legislative framework in this area. Thus, since 1992, eight amendment bills have been introduced to the Congress but have not gained enough support to be passed by both houses. The latest bill (August 1997), prepared in cooperation with the World Bank, addressed various provisions, both substantive (for example, in relation to anti-competitive conduct) and procedural (the replacement of the CNDC by a Competition Court).

163. MERCOSUR's final Competition Protection Protocol was agreed at the Fortaleza meeting of December 1996; the application of a common set of rules is to be decided in the year 2000.²²⁰ The protocol defines the practices which may affect competition, and authorizes national administrations to initiate action; evidence must be submitted to the Committee for Consumer Defence, within

²¹⁷ WTO documents WT/WGTCP/W/55, 15 December 1997, and WT/WGTCP/W/63, 10 March 1998.

²¹⁸ Law 22262 of 1980 cited in World Bank (1997), p. 26; and WT/WGTCP/W/55, 15 December 1997.

²¹⁹ World Bank (1997), p. 29.

²²⁰ MERCOSUR GMC Decision 18/96, 17 December 1996, cited in WTO document WT/COMTD/1/Add.4/Rev.1, 11 April 1997.

MERCOSUR's Trade Commission. Sanctions may include fines, and prohibition to participate in bids or to deal with public financial institutions.

Consumer defence

164. Legislation on consumer defence was introduced in 1993 and last updated in 1997.²²¹ It addresses issues such as consumer information, advertising and disclosure effects, invoices content, door-to-door sales and sales on credit. Provisions on consumers' rights and malicious advertisement are included in the 1983 Commercial Loyalty Act. By May 1998 regulations on the regime of guarantees, including minimal duration, and vendor responsibilities for defective goods were under preparation, while a harmonization protocol was being discussed within MERCOSUR.

165. Since 1978 the Directorate for Consumer Defence, currently under MEOSP, has mediated disputes between consumers and suppliers of goods and services, and has also promoted public awareness of consumers' rights.²²² Dispute settlement between consumers and suppliers was improved with the introduction of a mechanism in the form of conciliation audiences in 1994 and a National System of Tribunal Arbitration in March 1998 to accelerate procedures. Since 1992, the Federal Council for Consumer Defence has coordinated the work of the provincial authorities in this area through regular meetings. The League for Consumer Defence or Consumer Action (ADELCO), an independent group formed in 1980, publishes several monthly reports on consumer research and information on how consumers can assert their rights. ADELCO coordinates first conciliation attempts (in the event of failure, these are directed to the Directorate for Consumer Defence) and handles cases in which consumers seek redress for inferior goods or services; additionally, it has a contract with the National Telecommunications Commission (CNC) to process claims against poor service provided by the recently privatized telephone companies. Furthermore, it seems that similar contracts allow ADELCO to deal with claims received via the national regulatory agencies for electricity (ENRE) and gas (ENARGAS), as well as the Trilateral Agency for Sanitary Works and Services.

166. In 1997 the conciliation mechanism handled 3,993 complaints and 37,929 consultations. A year earlier ADELCO processed over 20,000 cases and resolved 75% of these claims; the majority involved delays in deliveries and service problems as well as payments processing for taxes, utilities and other services. In mid-1997, ADELCO reported a 57% increase in consumer complaints; most of these were directed against the privatized public service companies, which had been the subject of about 100,000 complaints since their privatization.²²³

(v) Enforcement of intellectual property rights

167. Argentina is a signatory to most treaties and international agreements on intellectual property rights protection, including the WTO Agreement on TRIPS, and is a member of the World Intellectual Property Organization (WIPO).²²⁴ The authorities indicated that domestic legislation had been

²²¹ Law 24240, 22 September 1993; Decree 1798/94; Law 24568, 26 October 1995; and Law 24787, 5 March 1997.

²²² World Trade Press (1995); Dun & Bradstreet Information Services (1996).

²²³ *Latin American Weekly Report*, 2 September 1997.

²²⁴ The following treaties have been signed: the Paris Convention for the Protection of Industrial Property (Lisbon Text by Law 17011, ratified on 10 February 1967, and non-substantive portions of the Stockholm Text by Law 22195, ratified on 8 October 1980), the Brussels and Paris Texts of the Berne Convention, the Universal Copyright Convention, the 1971 Geneva Phonogram Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of their Phonograms (on 30 June 1973), the 1961 Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting

adapted to the provisions of the TRIPS Agreement by extending its coverage to new areas under the five-year transition period available for developing countries with respect to patent protection for pharmaceuticals. Border protection is to be addressed in the context of an amendment to the law on trade marks. Law enforcement action at the border and the domestic market is coordinated between several government agencies.

168. Sub-regional cooperation in this area is as yet limited to a Protocol of Harmonization of Rules on Intellectual Property in MERCOSUR in the Area of Trademarks, Indications of Source and Appellations of Origin, agreed in August 1995; to enter into force, ratification is required by two members.²²⁵ Work on copyrights at this level was still under way as at April 1997. Bilateral cooperation with other countries has been strengthened in recent years. For example, a bilateral agreement comprising assistance for the modernization of the Argentine intellectual property system was concluded with the EU in November 1997.²²⁶ Inter-institutional agreements were also signed between the National Institute of Industrial Property and the Spanish University of Alicante (1996) as well as with the Uruguayan National Directorate of Industrial Property (1997).

(a) Industrial property

Patents

169. Domestic patent legislation was amended in March and December 1996 with a view to adapting the legal framework to international standards, including through the adoption of the general provisions of the WTO Agreement on TRIPS.²²⁷ Legislation now recognizes patents for pharmaceuticals, a contentious United States-Argentina issue over the past decade (Box III.1); however, patents for these products may be granted as from 2001, i.e. five years after the publication of the legislation in the Official Gazette. Patents are effective for 20 years, instead of 15 years under the previous régime, from the date of the filing of the application, and may not be renewed.

170. Under the new legislation, new products or processes involving an inventive activity and applicable to industry are patentable. However, it is not permitted to patent inventions with no industrial application, or those contrary to Argentine legislation, such as biological and genetic materials existing in nature or replications of such materials. The law contains no pipeline protection for products patented in other countries but not marketed in Argentina, and has wide provisions for compulsory licences and permitting parallel imports. More specifically, although the working of a patent is not obligatory, compulsory licensing is envisaged in cases of excessive delays in granting a licence (150 days following the submission of an application containing reasonable conditions and terms), non-working of a patent for three or four years (depending on the case), anti-competitive practices by the patent holder (price fixing, failure to supply the domestic market), and sanitary or national security emergency situations.²²⁸

Organizations (on 2 March 1992), the 1989 Geneva Treaty on the International Registration of Audiovisual Works (on 29 July 1992), the 1981 Nairobi Treaty on the Protection of the Olympic Symbol (on 10 January 1984), the WIPO Treaty on Integrated Circuits and the Union for the Protection of New Varieties of Plants (UPOV) Convention (Law 24376, ratified 23 December 1994).

²²⁵ The Protocol (MERCOSUR CMC/Decision 8/95) was ratified by Paraguay (1996) and Brazil was to approve it by the end of 1997 (WTO document WT/COMTD/1/Add.4/Rev.1, 11 April 1997).

²²⁶ *Europe*, Issue No. 7094, 6 November 1997.

²²⁷ Decree 260/96, published on 22 March 1996, cited in Kluwer Law International (1997), amended Laws 24481 and 24572.

²²⁸ Articles 42 to 45 of the Patents Law.

Box III.1: Background to changes in patent legislation

New patent legislation was passed in 1996 after five years of congressional debates. Under the legislation, Argentine pharmaceutical laboratories are to pay an estimated US\$70 million to US\$80 million in royalties at the expiry of the transition period in the year 2000; companies have already begun reserving their patent rights in anticipation of the deadline.

Since 1988, Argentina has several times been on the "watch list" and "priority watch list" of the United States Trade Representative, and investigated under the "Special 301" of the 1988 Trade Act. In January 1997, at a "Special 301" out-of-cycle review, the United States authorities announced the suspension of tariff benefits on 50% of the tariff lines covered by GSP (153 ten-digit HS items), effective in April 1997, because of lack of patent protection for pharmaceuticals. The suspension, urged by the Pharmaceutical Research and Manufacturers of America (PhRMA) and Tile Council of America, has affected items representing estimated annual exports of US\$270 million and a loss, estimated by the Chamber of Argentine Exporters(CERA) of US\$20 million for exporting firms.

In July 1997, the EU also expressed concern over the Argentine patent legislation, in particular its lack of protection on the results of research carried out by the European pharmaceuticals industry.

171. In December 1996, Congress passed a data-exclusivity law concerning firms seeking approval to market pharmaceutical products; this law is aimed at protecting these firms from unauthorized use by third parties of the data submitted to health authorities.²²⁹

172. The National Institute of Industrial Property (INPI), an autonomous institution within the general responsibility of MEOSP, created in 1995, handles and approves patent applications; patents take from two to four years to be granted.²³⁰ Patents were previously handled directly by MEOSP's Directorate of Technology, Quality and Industrial Property.

Utility models

173. The September 1995 legislation introduced industrial design and utility model protection for any new arrangement or shape of known tools, work instruments, utensils, devices or objects of an industrial nature. Utility Model Certificates are granted by the National Institute of Industrial Property within one to two years following an application, for an non-extendable term of ten years from the filing date.²³¹ If a design application has been filed abroad, the application in Argentina must be based thereon and be filed within a year of the filing of the application abroad.

174. Argentina has no law dealing specifically with the protection of layout designs and semiconductors; this technology could be covered by existing legislation on patents or copyrights, but this has not been verified in practice so far. Nevertheless, as mentioned earlier Argentina has signed the WIPO Treaty on Integrated Circuits.

Trademarks

175. Current domestic trade mark legislation dates from 1981; as mentioned earlier, this legislation is to be harmonized with MERCOSUR provisions in order to improve trade mark protection while observing WIPO- and WTO/TRIPS-related commitments.²³² In the absence of opposition after 30 days of publication in the Official Bulletin, registered trade mark protection is

²²⁹ Law 24766, 18 December 1996.

²³⁰ Kluwer Law International (1997).

²³¹ Kluwer Law International (1997); and Law 24481, published on 20 September 1995.

²³² Law 22362, published on 2 January 1981; WTO document WT/COMTD/1/Add.4/Rev.1, 11 April 1997.

granted for a ten-year period and can be renewed indefinitely if in use; failure to use a trade mark for five consecutive years may give rise to Court action to declare the protection cancelled on the grounds that it has not been used. Foreign trade marks enjoy the same guarantees as those of domestic origin. Marks used by the Government or by foreign official entities may not be registered by the Trademark Office. Illegitimate use of trade marks and counterfeiting are subject to preventive measures as well as to imprisonment and fines up to US\$150 million.

176. Trade mark laws and regulations in Argentina now appear to be considered adequate by foreign firms.²³³ Remaining problems include a slow registration process, which the Government has striven to improve, as well as the inability of firms to obtain criminal prosecution, monetary damages, and criminal sanctions against counterfeiters. As indicated earlier, at the time of completion of this report a draft bill amending the trade marks regime was under examination; such amendment is to include provisions on border measures, trade marks and origin denominations, as well as on the procedures for the authorization of trade mark utilization.

Transfer of proprietary information

177. Domestic legislation covers the transfer of foreign technology such as invention patents, industrial models and designs, all technical knowledge for the manufacture of a product or the rendering of a service, as well as proprietary information, patents or trade marks from a foreign individual or company to an Argentine individual or company.²³⁴ Since 1995, transactions have had to be registered with the INPI for information purposes only. Until then, registration was carried out by the National Institute of Industrial Technology (INTI).

(b) Other intellectual property

178. Protection of intellectual property rights for scientific, literary, artistic and educational works is currently based on domestic legislation dating from 1933 and amended in 1987, 1993 and 1994; the latter extended registration requirements and protection coverage to computer software, including agreements, applications, displays, programmes and technical documentation (considered as literary works).²³⁵ In September 1994 the Government eliminated tariffs and other charges on imports of computer software. Since 1997 authors' rights (physical persons) have been protected for their lifetime plus 70 years (previously 50 years); the 1993 legislative amendments extended the term for motion pictures from 30 years to 70 years to conform with the Berne Convention. No "fair use" provision exists; however, no authorization or payment of copyright rights is required for the publication of a limited number of words and/or musical bars for educational or scientific purposes. Registration in the National Register of Intellectual Property, at the Copyright Office, of both published and unpublished works is virtually mandatory as it constitutes a prior requisite for copyright protection. As in other areas of IPRs, criminal sanctions and preventive measures (suspension, embargo, etc.) apply to those who infringe authors' rights.²³⁶

²³³ USTR (1997).

²³⁴ Law 22426, 23 February 1981 cited in U.S. Department of Commerce; and Price Waterhouse (1995).

²³⁵ Law 11723 published on 30 September 1933; Resolution 3/87; Law 24249, published on 17 November 1993; Decree 165/94, published on 8 February 1994, cited in Kluwer Law International (1997); and Law 24870, published on 16 September 1997.

²³⁶ Article 71 of Law 11723.

179. In April 1997 a draft MERCOSUR Agreement on Copyright and Related Rights was under review at sub-regional level.²³⁷ Its main objective is to harmonize legislation of member countries. At the June 1997 meeting of national experts, problem areas included the adjustment of domestic provisions on the duration of protection, procedures, and collective management to the basic standards and practices agreed at international level. Further progress is expected at the 1998 meeting.

180. Observers seem to consider Argentina's copyright legislation adequate by international standards.²³⁸ However, concerning criminal penalties, a 1995 Court decision declared that software protection was not covered by the 1933 Law, which does not expressly refer to software as a protected work; this decision, based upon the constitutional principle of legality, was confirmed by the Supreme Court on 23 December 1997.²³⁹ To correct this situation, in May 1998 a bill was prepared amending the definition of protected work; as at July 1998, following its amendment by the Senate, the bill was in the Chamber of Deputies.

181. Despite numerous legal rulings defending copyrights, their infringement, including wholesale photocopying of school textbooks, seems to be a problem of enforcement and culture.²⁴⁰ The country's judicial system is overloaded and applied fines are relatively low; the police conduct raids against software pirates, but the 1995 Court decision seems to have impeded anti-piracy efforts. According to Software Legal, although agreements were reached with half a dozen provinces, certain provincial government institutions contribute to software piracy by using unregistered material; more than half of annual losses from software piracy seem to be due to these institutions.²⁴¹

182. According to a recent study by Business Software Alliance, Argentina, one of the three largest software markets in Latin America, registered a decline in piracy rates for applications software from 80% (1994, 1995) to 71% in 1996 (share of pirated retail sales to total software sales). Nevertheless, Argentina accounted for more than 13% of the region's pirated software market (share of retail revenue generated by pirated software sales).²⁴² Another report, indicated that in the same year 85% of entertainment software installed in Argentina was illegally acquired. It was also estimated that a 15% cut in software piracy could create 5,200 jobs each year for the period 1997-2000, and generate direct and indirect annual fiscal revenue of US\$80 million in Argentina.²⁴³

183. Video piracy remains a severe problem, causing a significant decline in the home video rental market for legitimate tapes. According to certain estimates, pirated audio products, virtually all imported, account for 30% of the sound recording market.²⁴⁴ Efforts to combat illegal activities include arrests, seizure of pirated material and introduction of security stickers for cassettes. In October 1994, new taxes on video sales and rentals, which could curtail demand for legal products, were enacted; at present video sales and rentals are subject to VAT (21%), tax on gross income (3.5%) and a tax for the National Cinematographic Institute (10%).

²³⁷ WTO document WT/COMTD/1/Add.4/Rev.1, 11 April 1997.

²³⁸ USTR (1997).

²³⁹ Kluwer Law International (1997); USTR (1997); U.S. Department of Commerce.

²⁴⁰ Statement of Jorge Campbell, Secretary of International Economic Relations, to the press in May 1997 (The Bureau of National Affairs (1997), Vol. 14).

²⁴¹ Software Legal represents several software manufacturers like Adobe, SCO, Symantec and Microsoft in Argentina (The Bureau of National Affairs (1997), Vol. 14); WIPO (1997), p. 363.

²⁴² Estimates by the Business Software Alliance which represents the leading U.S. software and computer technology companies (e.g., Compaq, Digital, IBM, Intel, Apple, Microsoft, Novell, Lotus) (Business Software Alliance (1997)).

²⁴³ Estimates by Price Waterhouse cited in *La Nación Line*, 11 June 1997.

²⁴⁴ USTR (1997). U.S. Department of Commerce.

(vi) Other measures (environmental)

184. The Constitution (Article 41) provides for the right to a healthy and balanced environment, the duty to preserve it, the obligation to repair environmental damage and the prohibition of entry into the country of dangerous or radioactive waste.²⁴⁵ Legislation on dangerous wastes, the use of substances damaging the ozone layer and on ship pollution, was passed in 1992; in 1990, Argentina notified existing legislation on environmental protection and pollution prevention and monitoring, to the GATT Working Group on Domestically Prohibited Goods and Other Hazardous Substances.²⁴⁶

185. The 1992 legislation on hazardous waste seeks to regulate importation, production, handling, transport, disposal, storage, and other acts. An environmental tax (evaluation and surveillance rate) is applied each year to hazardous-waste generators; the rate is calculated on a percentage (up to 1%) of the average profit of the activity generating hazardous waste.²⁴⁷ The penalty for violation of the law is imprisonment for up to 25 years.

186. To prevent or remedy alterations to the environment, mining enterprises have to maintain reserve funds equivalent to an amount up to 5% of their operational costs and benefits from extraction activities; if used, this amount is exempt from profit tax liabilities.²⁴⁸

187. In recent years Argentina has subscribed to most major environment-related international agreements.²⁴⁹ At sub-regional level, the harmonization of environmental provisions in MERCOSUR is intended to promote sustainable development and ensure that environmental measures do not become barriers to regional trade.²⁵⁰

188. Argentine environmental protection laws have been criticized as being relatively ineffectual at national level, as the provinces regulate their own environmental matters with different compliance and enforcement requirements. The Secretariat of Natural Resources and Human Environment (SRNAH), a central government environmental agency, has attempted to work with the provincial governments to create a more effective environmental policy, but its links with local environmental bodies seem to be poor. Environmental protection seems to be poorly enforced with respect to the exploitation of natural resources (oil, gas, minerals, forestry); this is mainly due to lack of funds for this purpose.

²⁴⁵ EIU (1996a), pp. 24-25.

²⁴⁶ Law 24051 on hazardous waste, published in January 1992. Other legislation on the protection of the environment and prevention of pollution includes: Decree 1886, 27 July 1983; Law 22190, 11 March 1980; Decree 4858, 29 May 1973; and Law 20284, 10 April 1973 (GATT document DPGNOTIF/90.5, 28 September 1990).

²⁴⁷ World Trade Press (1995); Dun & Bradstreet Information Services (1996); Price Waterhouse (1995).

²⁴⁸ Article 21 of Law 24196, 19 May 1993; Decree 2686/93, 28 December 1993.

²⁴⁹ These include the Montreal Protocol on Substances that Deplete the Ozone Layer (UNEP 1989), the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposals (UNEP 1992), the 1961 Single Convention on Narcotics (UN 1964), the 1971 Convention on Psychotropic Substances (UN 1976), the 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (UN 1990), and the Convention on Biological Diversity (WTO documents WT/CTE/W/6, 31 March 1995, and WT/CTE/W/8, 8 June 1995).

²⁵⁰ WTO document WT/COMTD/1/Add.4/Rev.1, 11 April 1997.

189. A survey made in Argentina suggests that in some cases, product standards have lower relevance than other indirect mechanisms on firms' environmental-management decisions.²⁵¹ Exports of steel, tannery, and pulp and paper industries, which are environmentally sensitive sectors, do not seem to have faced environment-related access restraints to OECD markets. However, some direct pressure resulted from customers/importers who sought changes in production process (e.g. in the packaging and the leather industries); these demands were met without serious difficulties by large exporting firms. It seems that other requirements like eco-labelling, may have greater effects on trade and competitiveness than product regulations, even though compliance with the former is not mandatory.

²⁵¹ WTO document WT/CTE/W/26, 26 March 1996.