

Trade Policy Review Body

TRADE POLICY REVIEW

Report by the Secretariat

ARGENTINA

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

Any technical questions arising from this report may be addressed to Mr Angelo Silvy (Tel. 022/739 5249) and Ms Eugenia Lizano (Tel. 022/739 6578).

Document WT/TPR/G/277 contains the policy statement submitted by Argentina.

Note: This report is subject to restricted circulation and press embargo until the end of the first session of the meeting of the Trade Policy Review Body on Argentina. This report was drafted in Spanish.

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SUMMARY

(1) INTRODUCTION

1. Although affected by the world economic crisis of 2008-2009, the Argentine economy has recovered since then, achieving GDP growth rates of about 9% in 2010 and 2011. However, growth declined to an annual rate of 2.4% in the first half of 2012, while at the same time, accelerating inflation has continued to be a source of concern. Argentina has benefited considerably from its participation in the multilateral trading system, doubling its total exports between 2005 and 2011, a factor which contributed to its rapid recovery from the crisis. Higher international prices for its main exports have also contributed to the recovery.

2. Argentina makes active use of trade policy measures as an instrument to attain its long-term goals, such as promoting overall economic growth or fostering industrialization, development or self-sufficiency. In addition, Argentina also makes use of trade policy instruments to achieve short-term objectives, such as containing inflation and maintaining balance-of-payments equilibrium. For instance, Argentina has sought to dissociate the effects of fluctuations in international prices of exports from its domestic market prices through domestic supply agreements with producers, and by using export duties, which are one of the main sources of tax revenue. It has also used mechanisms such as import licensing and compensation agreements with producers to equilibrate its trade balance and promote domestic production. The use of trade policy to achieve short-term objectives requires constant policy adjustments that add to the complexity of the trade regime, making it less predictable. At the same time, it generates additional costs for the economy.

3. Argentina's trade policy during the review period was generally designed to boost exports and promote domestic production, sometimes through import substitution. However, the application of this combination of policies can sometimes produce opposing effects. On the one hand, the production and exportation of manufactured goods is being promoted through a series of tax incentives, while on the other, export duties are being applied and different registration requirements imposed for the exportation of certain agricultural products, at the risk of undermining the country's export capacity and its competitiveness. Moreover, the use of import licensing and other administrative measures relating to imports can add to production costs, thereby increasing the cost of exportable goods.

(2) ECONOMIC ENVIRONMENT

4. The Argentine economy has recovered from the effects of the world crisis: while real GDP growth did not exceed 0.9% in 2009, it picked up considerably in 2010 and 2011, reaching rates of 9.2% and 8.9% respectively. This growth was driven in part by strong domestic demand, and was largely due to Argentina's status as a major exporter of primary products. Argentina also made active use of fiscal, monetary and income policies to stimulate its economy and overcome the effects of the crisis. More recently, however, growth has slowed down as a result of a fall in domestic and foreign demand. Although real GDP growth reached 5% in the first quarter of 2012 year-on-year, the economy stagnated in the second quarter; GDP growth for the first half of 2012 was 2.4% with respect to the same period in 2011.

5. Argentina's public finances showed a surplus during most of the review period, but they deteriorated in 2011 and 2012. Tax revenue as a share of total revenue contracted from 19% of GDP in 2006 to 14.3% in 2011. This was compensated in part by social security contributions, whose share doubled, largely as a result of the nationalization of the pension system. Among the different taxes,

the share of VAT and the Income/Profits Tax (*Impuesto a las Ganancias*) grew during the period. The share of export duties also grew, from 2.2% of GDP in 2006 to 2.9% in 2011, while import duties accounted for 0.8% of GDP in both those years. Export duties accounted for some 20.5% of total tax revenues in 2011 up from 11.8% in 2006.

6. Argentina has a managed floating exchange rate system. Over the past few months, the peso has appreciated in real terms against the dollar. The acceleration of inflation is a source of concern, although it does not appear to be fully reflected in the official data, which takes into account only variations in the consumer price index (CPI) of the Greater Buenos Aires area. While export policy is seeking to stabilize the price of exportable products in the domestic market by applying duties, the import policy that is being applied, by discouraging imports, could push up the price of imported products, thereby affecting the level of inflation.

7. Argentina has benefited considerably from its participation in the world economy during the period under review, despite implementing inward-looking policies that could have discouraged trade. Merchandise exports reached some US\$84 billion in 2011, almost twice the level reported for 2006. Agricultural products and fuel exports accounted for approximately one third of total exports, with processed agricultural goods (including meat) accounting for another third, and manufactured goods for the remaining third. Argentina's export markets are relatively diversified: 56% of total exports in 2011 went to the seven main export destinations. Merchandise imports reached US\$74 billion in 2011. The surplus on the trade balance has been declining over the past few years, mainly owing to a deterioration of the oil balance, which posted a deficit of US\$3 billion in 2011, 50% higher than in 2010.

8. After peaking in 2009, the balance-of-payments current account surplus decreased considerably in 2010 and 2011, reflecting not only a more rapid increase in imports of goods and services than in exports, but also a sharp increase in the outflow of investment income.

9. During the period under review, the authorities continued to implement a debt reduction policy. The objectives of this policy for 2012 included obtaining the necessary funds to service the debt maturing that year that could not be covered by the expected primary surplus, and further reducing the burden of future debt servicing in relation to projected government revenue. In this same context, the National Government also adopted measures to reduce debt in the provinces. As a result of this debt reduction policy, GDP growth, and a primary surplus in public finances during the period under review, the share of public debt in GDP was reduced from over 60% in 2006 to 41.6% in 2011.

(3) TRADE AND INVESTMENT POLICY

10. During the review period, Argentina used trade policy as an instrument to achieve socially inclusive economic development targets that, according to the authorities, seek to combine economic growth with objectives such as reduction of unemployment and poverty. Since 2006, several changes were made to the institutional structure responsible for formulating and implementing trade policy. The Ministry of the Economy and Public Finance (MEFP) is currently responsible for trade policy.

11. The President has the authority, under the Constitution, to issue "necessity and urgency" decrees when exceptional circumstances make it impossible to observe the usual constitutional provisions governing the enactment of a law, except in the case of legislation governing criminal, tax, electoral matters or political parties. However, such decrees are subject to approval or rejection by each of the Chambers of Congress. Unless there is an explicit ruling to the contrary, the decrees enter

into force as soon as they are issued. A number of these "necessity and urgency" decrees have been issued since 2007, including the decree which provided for the temporary intervention in Yacimientos Petrolíferos Fiscales (YPF) for a period of 30 days in order to ensure business continuity, preservation of the company's assets and wealth, and the supply of fuel, and to ensure that the country's needs were met.

12. Argentina is a founding member of MERCOSUR, and in that context it has signed five preferential agreements since 2007, of which only two have entered into force for Argentina (India and Israel). It also has a number of agreements under the Latin American Integration Association (LAIA).

13. Foreign investment is authorized without restriction in all sectors with the exception of fisheries, mass media, the purchase of land and real estate in certain areas, and cabotage services. In the insurance sector, there is a reciprocity requirement. Foreign investment is generally not subject to prior approval.

14. The Investment Law guarantees the right to repatriate investments and to transfer net and realized profits abroad at any time. However, since 2001 Argentina has introduced numerous requirements for the purchase and transfer of foreign currency. These controls have become a central feature of Argentina's current economic policy and are used to boost reserves, manage the exchange rate, limit private sector foreign currency liabilities and prevent capital flight.

15. Argentina authorizes the payment of interest, dividends, profits and royalties abroad without restriction provided the accounts have been closed and certified by an external auditor. It also allows for the repatriation of investment, after it has remained one year in the country, with certain limitations. In principle, there is no quantitative limit on the repatriation of foreign direct investment (FDI), but since October 2011, for FDI to be repatriated, the funds for any new investment or purchase of shares in local companies and real estate must have entered and been liquidated through the Single Free Exchange Market (MULC). If the foreign currency has not entered through the MULC, the investor must apply to the Central Bank of the Argentine Republic (BCRA) for authorization to repatriate FDI. Furthermore, the Central Bank's prior authorization is required for any repatriation of funds invested in financial institutions or non-financial companies that control financial institutions.

16. Argentina has a variety of incentive schemes at the national and provincial levels to promote investment (domestic and foreign), competitiveness, and exports. These include horizontal and sectoral programmes to stimulate investment in capital goods and technological innovation, to promote the development of small and medium enterprises (SMEs), and to facilitate access to credit at preferential or fixed interest rates. Some of these programmes are contingent on the purchase of domestic goods. There are also incentives to encourage investment in certain specific sectors of the economy. Argentina grants incentives on the basis of geographical location and to companies established in the Free Zones.

(4) TRADE POLICIES BY MEASURE

17. During the period under review, Argentina's use of non-tariff restrictions has increased, mainly related to registration requirements, import and export procedures, and import licensing. Moreover, the clarity of the regime has tended to be undermined by the apparent lack of transparency in the application of some measures.

18. Import procedures in Argentina have undergone a number of changes since the last review, some of which, according to the authorities, were intended to facilitate trade, for instance the introduction, starting on 1 February 2012, of the Advance Sworn Import Declaration (DJAI) for all imports for consumption, and the elimination of the Prior Automatic Import Licence (LAPI) as from 5 September 2012. However, for certain imports, the product and/or importer still need to be registered.

19. Argentina continues to use precautionary criterion values for imports to safeguard the country's fiscal interests. During the period under review, the list of products and/or country groups subject to criterion values has changed several times. In order to determine the criterion values, the Directorate-General of Customs (DGA) considers, *inter alia*, the official declared value at the place of importation for consumption of the goods and the information from databases available in the public or private sector.

20. Since the last review, the structure of Argentina's tariff has undergone a significant change, with the elimination, in 2010, of minimum specific import duties (DIEMs) that affected 8% of all tariff lines. Argentina now applies only *ad valorem* tariffs. However, the law provides that DIEMs can be re-established in certain circumstances. Since 2006, tariff protection has increased: the simple average MFN tariff increased from 10.4% in 2006 to 11.4% in 2012. The average applied MFN tariff in 2012 was 10.1% for agricultural products (WTO definition) lower than the protection of 11.5% granted to non-agricultural products. Tariff rates of 15% or lower applied to 73% of tariff lines, while 27% of tariff lines were subject to rates higher than 15%; 4.2% were subject to a rate of 35% (4.4% in 2006). There has been no significant variation since 2006 in the sectors enjoying the highest tariff protection: they are still textiles and clothing, footwear and certain vehicles, as well as oil seeds.

21. Most imports in Argentina are still subject to a statistical tax of 0.5% of the customs value with a cap of US\$500, or a verification of destination charge up to a maximum of 2% of the customs value.

22. Argentina does not apply tariff quotas to MFN imports. However, it does use preferential tariff quotas in certain trade agreements.

23. Imports may be subject to automatic or non-automatic licensing. The number of products subject to import licensing, both automatic and non-automatic, increased during the review period. However, in September 2012, Argentina eliminated the LAPI, thereby substantially reducing the number of tariff lines subject to automatic licensing. The use of non-automatic licensing increased during the review period, in particular for textiles and textiles articles, and machinery and mechanical appliances. Products subject to non-automatic import licensing are generally subject to specific technical regulations. A sworn declaration (conformity certificate) is also required for imported products subject to specific technical regulations.

24. The Internal Commerce Secretariat (*Secretaría de Comercio Interior*) has introduced mandatory certification systems for certain products, issuing resolutions establishing the type of certification that has to be used, the symbols that must be displayed on the products and how they should be marked. Manufacturers, importers and distributors of products and services subject to mandatory certification systems must provide the Internal Commerce Secretariat with an authenticated copy of the conformity certificates issued by the recognized certification bodies before engaging in any trade. In some cases, the accuracy of the information provided has to be certified before the products can be placed on the market or imported. These requirements have been imposed, in part, with the declared aim of protecting consumers.

25. Argentina ranks fourth among Members that have recourse to anti-dumping measures in the WTO. During the review period, it introduced new legislation to regulate investigations and reviews of existing measures. During 2006-2011, Argentina applied 57 anti-dumping measures. However, during the same period, it did not apply any countervailing measures nor did it initiate any investigations.

26. Although one of the objectives of Argentina's trade policy is to promote exports, the Argentine trade regime imposes mechanisms to control them as a means of ensuring domestic supply and price stability. Consequently, in addition to the general registration requirement, exports such as grain, meat and dairy products have to be entered into a specific register. Argentina maintains a value control system for exports for consumption aimed at controlling the declared value so as to guarantee the revenue obtained through export duties. Certain agricultural products are also still subject to official export prices. These official prices are established to assess the export duties, fees and other taxes on exports or to calculate reimbursements and refunds in connection with exports of the goods in question.

27. Argentina continues to apply export duties. These duties are used as a tool to cushion the effect of exchange rate fluctuations on domestic prices, particularly those of household necessities, and as a tax measure to finance public spending. With a few exceptions, all exports are subject to export duties. The rates have increased over the review period, and currently range from 5% to 100%. Since Argentina is a major exporter of agricultural products and a leading world exporter of certain products such as oilseed cake, cereals, and soya and its by products, the application of export duties could have an impact on world prices of these products.

28. However, at the same time, to promote exports Argentina has introduced a number of tariff concession schemes which include: various investment promotion programmes, the temporary admission regime (*Destinación suspensiva de importación temporal*), the In-Factory Customs Regime (RAF), the free zone regime and special customs zones. Some of these regimes, such as subsidies for mining and forestry activity, the free zone regime, and the capital goods, information technology and telecommunications products regime, have been notified to the WTO Committee on Subsidies.

29. According to the Law on the Defence of Competition, any act or conduct relating to the production and exchange of goods or services is prohibited if it has the aim of limiting, restricting, undermining or distorting competition or market access, or if it constitutes an abuse of a dominant market position that harms the general economic interest. The practices themselves are not prohibited, but only their effects. The law is applicable to all natural or legal persons, public or private, that undertake economic activities in Argentine territory, or that undertake economic activities outside the country insofar as their acts, activities or agreements affect the Argentine market. During the period under review 14 rulings were issued regarding anticompetitive practices in industries such as audiovisual, oil, and gas and cement distribution.

30. Argentina continues to implement a price regulation policy to stimulate consumption, strengthen domestic production and improve income distribution. The Executive has the authority to issue regulations governing marketing, intermediation, distribution and/or production even if no supply emergency has been declared. In this context, the Government has made use of domestic market supply agreements and price agreements with producers in various activities and also with distributors. Another instrument that is used to maintain domestic prices is the agricultural activities compensation regime.

31. Argentina is an observer to the Plurilateral Agreement on Government Procurement. It uses the purchasing power of the State as a tool to promote and protect domestic industry, placing particular emphasis on small and medium enterprises through programmes such as *Compre Trabajo Argentino* (Buy Argentine Labour), "buy provincial" and "buy municipal" which grant preferences ranging from 5% to 7% for domestic or local producers as applicable. Since 2012, Argentina has also been granting a preferential margin of 7% to tenders from suppliers that export, and certain services, such as air transport, must use domestic suppliers.

32. In 2007 Argentina amended its Intellectual Property Law to exempt from payment of copyrights the reproduction and distribution of scientific and literary works in special systems for the blind and other people with visual disabilities. Starting in 2008, legislation was also introduced to protect collective marks. Regulations for the protection of geographical indications and designations of origin for agricultural products and foodstuffs were introduced in 2009. That same year, a time-frame was established for the protection of the rights of artists whose performances are fixed on phonograms, as well as phonogram producers. In 2012, Argentina adopted guidelines for patentability examination directed to chemical/pharmaceutical patent applications.

(5) TRADE POLICIES BY SECTOR

33. Argentina is a major producer of agricultural goods, especially cereal and livestock products. At the international level, it is striving for greater liberalization of trade in agricultural and livestock products, and the agricultural negotiations are one of its main interests in the WTO. Argentina's support for the agricultural sector is generally limited: practically all of the notified support falls within the Green Box, tobacco being the only exception. Tariff protection for agricultural products is lower than for the manufacturing sector (ISIC definition): it was 7.2% in 2012, as compared to an overall average of 11.4%. Argentina does not maintain any tariff quotas at the multilateral level, but it does have preferential tariff quotas for certain agricultural products. Exports of agricultural products are subject to duties which vary from 5% to 32%.

34. The mining sector, which is open to domestic and foreign private investors, enjoys a number of tax benefits which have been notified to the WTO. While mining activities are coordinated by the Federal Government, the provinces have the authority to define their own policies and to manage their mining resources, as well as to levy mining royalties. Exports of mining products are subject to export duties at a rate which generally varies from 5% to 10%. Since May 2012, mining companies enjoying tax benefits must use domestic companies for maritime transport services.

35. Argentina is the fourth largest producer of crude oil in Latin America, and has the third largest natural gas reserves. In order to stimulate production to fully meet the energy needs of the domestic industry the "Oil Plus" and "Refining Plus" programmes were implemented in 2008. The beneficiaries of these programmes receive tax credit certificates from the Energy Secretariat, granted when a company's effective production exceeds its base production. Between 2008 and 2012, 26 projects were admitted under the "Refining Plus" programme, representing total investments of US\$2.6 billion. However, despite these programmes, Argentina's oil production and exports have declined during the period under review. Exports of crude oil are subject to duties which vary according to the international price of oil, and can fluctuate between 25% and 45%.

36. The provinces have control over the oil fields within their territory. As a result, two regimes are currently in force in the hydrocarbons sector, one involving permits and leases under federal jurisdiction, and the other involving contracts under provincial jurisdiction. In May 2012, with the nationalization of the company YPF, new guiding principles were introduced for

Argentina's hydrocarbons policy, including the promotion of joint ventures of public and private capital both national and international, for the exploration and exploitation of conventional and non-conventional hydrocarbons, and obtaining a surplus in the hydrocarbon trade balance.

37. The production of natural gas has also declined during the period under review and most distributors of natural gas have had their rates frozen since 2002. These, coupled with an increase in domestic demand and the imposition of export duties on natural gas of 100%, and 45% for propane gas, have resulted in a change in Argentina's trade position with respect to gas: since 2008, Argentina has been a net importer of natural gas.

38. Exports as well as imports of manufactured products grew rapidly during the review period, with import growth slightly outpacing export growth. In 2011, exports of manufactures (including processed foods) totalled US\$28.9 billion, approximately one-third of total exports, while imports reached US\$60.4 billion. The leading manufactures exports were automotive products (35% of the total), chemical and related products (20%), metal processing (11%), and precious stones and metals (10%). A substantial share of exports of manufactures can be attributed to large conglomerates and multinational corporations, some of which have majority foreign participation. Many of the exports of manufactured products, for example, in the automotive sector, are imported-input intensive.

39. Argentina assists the manufacturing sector through horizontal fiscal incentive schemes as well as export promotion schemes such as free-export zones and temporary admission. Special arrangements also apply to the production of capital goods under the capital goods, information technology and telecommunications products regime. The manufacturing sector has access to special credit facilities for research and development projects and technological development and innovation. Border measures used to protect the manufacturing sector include tariffs, automatic and non-automatic import licensing and contingency measures, in particular anti-dumping duties. The simple average MFN tariff rate for the manufacturing sector (ISIC definition) was 11.7% in 2012, or 11.5% under the WTO definition of non-agricultural products. During the period under review, imports of a significant number of manufactures continued to be subject to non-automatic licensing, while a duty of 5% was levied on most exports of manufactured products.

40. Argentina covers most of its energy needs through its own resources. Most of the hydroelectric power stations are privately owned, although the two largest are State-owned. The electricity sector is characterized by a strong foreign presence. Argentina is interconnected with the Brazilian, Paraguayan, Uruguayan and northern Chilean power systems and is a net exporter of electricity to those countries. The policies implemented in the electricity sector aim at promoting sustainable development and encouraging the use of renewable energies. Under Argentine law, the end-user market has been divided into a regulated segment (end users) and another open to competition (large users). In the regulated segment, the distributor holding the concession is guaranteed a monopoly and the tariffs are regulated. The large users are free to procure electricity on the market.

41. Telecommunications services in Argentina are provided on a competitive basis. However, fixed telephony continues to be dominated by two "traditional operators", whose contracts were declared open for renegotiation in 2002 and whose rates were frozen at that time. As of mid-2012, these rates have not been revised. Operators are free to set the rates of other telecommunications services.

42. Argentina's financial sector successfully overcame the world financial crisis of 2008-2009, and its solvency level is considered adequate. The degree of subscribed capital in 2011 was 15.5% of credit risk-weighted assets, 62% higher than the legal requirement. During the first months of 2012, with growth in financial intermediation slowing down slightly, the degree of subscribed capital rose to 15.9%. Argentine law does not impose any restrictions on the nationality of investors wishing to participate in the local financial system or on transactions that can be conducted by the institutions to which they belong. Foreign-owned financial institutions operating in Argentina receive national treatment, while foreign insurance companies receive such treatment subject to reciprocity.

43. Prior permission must be obtained in order to operate on the insurance market based on the criteria of opportunity and desirability. Insurance covering risks on Argentine territory may be contracted only through companies established in Argentina. The capital market in Argentina revolves mainly around the Buenos Aires Securities Market (Merval), although there are securities markets operating in other cities, together representing barely 1% of the Merval's turnover.

44. Domestic air and maritime transport services (cabotage) are reserved for national companies, though exceptions may be allowed. Airports are State owned, but the management of the major airports has been contracted out to private enterprises or consortia. Most ports are under private management, but six of them, including the port of Buenos Aires, are still State run.

45. In general, the practice of a profession is not regulated in Argentina. However, there are regulations governing the content of curricula for diplomas corresponding to professions whose exercise could compromise public interest or place the health, safety, rights, property or education of the population directly at risk. As regards the supply of professional services, in order to exercise a profession in Argentina, professional qualifications obtained abroad must be revalidated at a national university. Argentina has made specific commitments regarding a number of professional services under the GATS, including legal, accounting, engineering and architectural services.

46. The tourism sector is recognized under Argentine law as being of national interest. In 2010 the Ministry of Tourism was created to strengthen and extend the Government's action in the sector, which is eligible for general and specific incentives.
