

PARAGUAY

TRADE SUMMARY

The U.S. trade surplus with Paraguay was \$435 million in 2003, an increase of \$46 million from \$389 million in 2002. U.S. goods exports in 2003 were \$489 million up 12.9 percent from the previous year. Corresponding U.S. imports from Paraguay were \$53 million, up 22.1 percent. Paraguay is currently the 68th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Paraguay in 2002 was \$114 million, down from \$414 million in 2001.

IMPORT POLICIES

Paraguay has a relatively open trade regime. Paraguay is a member of MERCOSUR (Common Market of the South), a common market and customs union comprised of Argentina, Brazil, Paraguay and Uruguay. Since 1995, Paraguay has increased many of its external tariffs on products from non-MERCOSUR countries in order to conform to the MERCOSUR Common External Tariff (CET) of up to 23 percent. The tariffs on the 399 items on Paraguay's list of exceptions to the CET will be increased annually until they reach parity with the CET in 2006.

For exports to Paraguay, a Paraguayan consulate in the country from which the exports originate must certify specific documentation, such as the commercial receipt, certificate of origin, and cargo manifest. If there is no Paraguayan consulate in the country where the exports originate, the documents can be certified in the nearest country with a consulate or in the border consulate office in the country from which the exports enter Paraguay (in the case of ground or river shipments). Multiple changes in regulations make it difficult for exporters to ensure they are following the most current regulations, and could cause dispatch delays in shipments and lead to unexpected fines.

Paraguay is obligated to implement the World Trade Organization (WTO) Agreement on Customs Valuation; however, it has not yet notified its implementing legislation and checklist to the relevant WTO Committee.

GOVERNMENT PROCUREMENT

In the past, U.S. companies have protested non-transparent procurement procedures, citing bid specifications that favor a preferred bidder and allowance for more than one of a parent company's subsidiaries to each submit bids. Other complaints included the discriminatory use of bid procedures to disqualify a non-preferred bidder, declaring the absence of bids when a non-preferred bidder submitted the best bid, and not requiring preferred bidders to comply with tender requirements. The new administration of President Duarte has launched major transparency initiatives, however, in particular the publication on the Internet of all government tenders and of information on bidders as of January 2004. All pending tenders have been reviewed by the Comptroller General's Office and several have been suspended or cancelled because of perceived improprieties in the adjudication process. Paraguay is not a member of the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Paraguay belongs to the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the World Intellectual Property Organization (WIPO). It is also a signatory to the Paris Convention, Berne Convention, Rome Convention, the Phonograms Convention, and the WIPO Copyright, and Performances and Phonograms Treaties. In January 1998, the United States Trade Representative (USTR) identified Paraguay as a Priority Foreign Country under the Special 301

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provisions of the Trade Act of 1974, and in February 1998, the United States initiated a Section 301 investigation of Paraguay's acts, policies and practices regarding intellectual property.

Paraguay is currently subject to Section 306 monitoring. In November 1998, the U.S. Government and the Government of Paraguay signed a comprehensive Memorandum of Understanding (MOU) on the protection of intellectual property, which allowed the U.S. to remove Paraguay from its Priority Foreign Country status and to terminate the Section 301 investigation. In the MOU, the Paraguayan Government committed to implement institutional and legal reforms and to strengthen intellectual property rights enforcement and prosecution. In addition, Paraguay agreed to ensure that its government ministries use only authorized software. The two Governments negotiated a new MOU in December 2003, which focuses on areas that are still of concern, especially the lack of effective enforcement of intellectual property rights.

Copyrights, Trademarks and Patents

Paraguay continues to be a transshipment point for pirated and counterfeit goods to large neighboring markets, in particular Brazil. However, there have been notable successes, including the destruction of several multi-million dollar, high-technology pirate CD factories, the seizure of millions of blank and pirated CD's, the destruction of large amounts of counterfeit goods and the imposition of significant fines and jail terms. The Duarte administration has been particularly active and focused in its fight against piracy, counterfeiting and contraband, declaring it a national priority. Initial results have been promising, but much work remains to be done.

A high profile trademark case in December 2001 resulted in the imposition of a prison sentence of two and a half years and a heavy fine for the offenders, but no one convicted of intellectual property infringement crimes in Paraguay has ever served time in prison. There have been two cases in which offenders were sentenced to prison terms. The December 2001 case is still under appeal. In the other case, the offender fled the country.

OTHER BARRIERS

Law 194/93 established the legal regime governing relationships between foreign companies and their Paraguayan representatives. Modeled after the Puerto Rico's Dealers Act, this law requires that foreign companies prove just cause in a Paraguayan court to terminate, modify or fail to renew contracts with Paraguayan distributors. Severe penalties and high fines may result if the court determines that the foreign company ended the relationship with its distributor without such just cause, thus leading to expensive out-of-court settlements. In several cases, however, the courts have upheld rights of foreign companies to terminate representation agreements after just cause was established, mainly lack of sales performance from local representatives. This law may discourage U.S. investment through fear of potential lawsuits.

Privatization

Paraguay has an uneven record on privatization. Political pressures have impeded the process, as the large state-run companies most attractive to foreign buyers (such as telecommunications, water/sewage, and electrical companies) employ thousands of potential voters and are outlets for political patronage. An effort at privatizing the telecommunications company failed in 2002, due to intense political pressure and allegations of mishandling.