PARAGUAY

TRADE SUMMARY

The U.S. trade surplus with Paraguay was $390 million in 2002, an increase of $33 million from $356 million in 2001. U.S. goods exports in 2002 were $433 million, up 11.4 percent from the previous year. Corresponding U.S. imports from Paraguay were $44 million, up 33.8 percent. Paraguay is currently the 70th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Paraguay in 2001 was $415 million, down from $416 million in 2000.

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 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 WTO committee.

GOVERNMENT PROCUREMENT

In the past, U.S. companies have protested non-transparent procurement procedures, citing: (1) bid specifications that favor a preferred bidder and (2) allowance for more than one of a parent company's subsidiaries to each submit bids, while counting these bids toward the minimum qualifying bids to validate the tender process. Other complaints included the discriminatory usage of bid procedures to disqualify a non-preferred bidder, declaring the bid vacant when a non-preferred bidder makes the best bid, and permitted non-compliance with tender requirements by preferred bidders. One U.S. firm expressed concerns about a possible unfair adjudication in 2002. Paraguay is not a member of the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Paraguay belongs to the WTO and the World Intellectual Property Organization (WIPO). It is also a signatory to the Paris Convention, Bern 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 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.

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. Paraguay is currently subject to Section 306 monitoring. Although some of the specific action items listed in the MOU have been completed by Government of Paraguay, many still need to be addressed. The Special Enforcement Period (SEP) of the MOU has been extended twice to give Paraguay an opportunity to demonstrate its resolve in fighting IPR violations. The governments of the United States and Paraguay held their last technical review of the MOU in Asuncion in November 2002.

PARAGUAY

Copyrights and Trademarks

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-tech pirate CD factories, the seizure of millions of virgin and pirated CD's, the destruction of large amounts of counterfeit goods and the imposition of significant fines and jail terms. The establishment of public prosecutors dealing exclusively with intellectual property crimes has made a difference in enforcement actions, as has a concerted effort over the past year and a half to conduct frequent and repeated raids in centers of counterfeiting.

On December 27, 2000, the first sentence was handed down on an intellectual property case under the new criminal procedural code, which provides for public trials with oral arguments and immediate sentencing. Last year, a major U.S. software manufacturer conducted a successful campaign to entice the private sector to legalize its software.

A new trademark law was enacted in August 1998, which provides specific protection for well-known trademarks and enforcement measures and penalties for infractions. A high profile trademark case in December 2001 resulted in the imposition of a prison sentence of two and half years and a heavy fine for the offenders. Other important trademark cases, in particular concerning tobacco companies, are being debated in the courts.

Patents

On November 30, 2000, a new patent law entered into effect, similar to patent legislation in Paraguay's MERCOSUR neighbors. The law provides weak patent protection and gives a patent holder only 90 days to negotiate an agreement with a prospective licensee prior to a compulsory license being issued.

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 a spotty record of privatization. The Government of Paraguay refinanced the liquor producer after privatization and now the state is again the majority shareholder. The steel company is also seeking refinancing from the government. Political pressures impede the process even further, 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.