PARAGUAY

TRADE SUMMARY

U.S. goods exports in 2013 were $1.9 billion, up 10.2 percent from the previous year. Corresponding U.S. imports from Paraguay were $277 million, up 40.6 percent. The U.S. goods trade surplus with Paraguay was $1.6 billion in 2013, an increase of $97 million from 2012. Paraguay is currently the 64th largest export market for U.S. goods.

IMPORT POLICIES

Tariffs

Paraguay is a founding member of the MERCOSUR common market, formed in 1991. MERCOSUR's full members are Argentina, Brazil, Paraguay, Uruguay, and Venezuela. MERCOSUR suspended Paraguay from participating in MERCOSUR meetings following the June 22, 2012, impeachment of Paraguayan President Fernando Lugo. While Paraguay was suspended, MERCOSUR admitted Venezuela as a full member in July 2012. Paraguay had opposed Venezuela's entry into MERCOSUR. The Paraguayan Senate approved Venezuela's entry into MERCOSUR on December 10, 2013, likely paving the way for Paraguay's full return to MERCOSUR in 2014.

MERCOSUR's Common External Tariff (CET) averages 11.5 percent and ranges from 0 percent to 35 percent *ad valorem*, with a limited number of country-specific exceptions. Paraguay's average bound tariff rate in the WTO is significantly higher at 33.5 percent. According to current MERCOSUR procedure, any good imported into any member country must pay the CET to that country's customs authorities. If the product is re-exported to any other MERCOSUR country, the CET must be paid again to the second country upon importation there. Thus, for any U.S. good imported into landlocked Paraguay via any other MERCOSUR country, all of which have ocean ports, the CET is effectively doubled.

Paraguay's import tariffs tend to be much lower than the CET, ranging from 0 percent to 30 percent, with an average applied tariff rate of 10.1 percent. Paraguay is permitted to maintain a list of 649 exceptions to the CET until December 31, 2019. At the MERCOSUR Common Market Council (CMC) ministerial meeting in December 2011, MERCOSUR members agreed to allow member countries to increase import duty rates temporarily to a maximum rate of 35 percent on 100 items per member country. In June 2012, the MERCOSUR CMC authorized each member country to increase tariffs on an additional 100 products. To date, Paraguay has not raised tariffs pursuant to these ministerial decisions.

In August 2010, the MERCOSUR CMC moved toward the establishment of a Customs Union with its approval of a Common Customs Code (CCC) and decision 5610 (December 2010) to implement a plan to eliminate the double application of the CET within MERCOSUR. The plan was to take effect in three stages with the first phase to have been implemented no later than January 1, 2012, but the deadline was not met. In November 2012, Argentina became the first MERCOSUR member to ratify the CCC. The CCC still must be ratified by the other MERCOSUR member countries.

Nontariff Barriers

Paraguay requires non-automatic import licenses on personal hygiene products, cosmetics, perfumes and toiletries, textiles and clothing, insecticides, agrochemicals, and poultry. Obtaining a license requires review by the Ministry of Industry and Commerce. Imports of personal hygiene products, cosmetics, and perfumes and toiletries also require a health certification and therefore must undergo a review by the Ministry of Health. The process usually takes 10 days but can take up to 30 days for goods that require a health certification. Once issued, the health certifications are valid for 30 days.

Paraguay prohibits the importation of used cars over 10 years old and used clothing.

Customs Procedures

Paraguay requires specific documentation for imports, such as the commercial receipt, certificate of origin, and cargo manifest, to be certified by either the Paraguayan consulate in the country of origin or at the Ministry of Foreign Affairs in Paraguay; the latter requires an additional fee.

Paraguay requires all companies operating in the country to contract the services of a customs broker. The customs broker fees are standardized by Paraguayan law.

GOVERNMENT PROCUREMENT

Paraguay's Public Contracting Law stipulates that all public contracting at the national and local levels with a value in excess of approximately $6,000 must be done via the National Bureau of Public Contracting (DNCP). Foreign firms can bid on tenders deemed "international" and on "national" tenders through the foreign firms' local legal agents or representatives. Paraguayan law gives preference to locally produced goods in public procurements open to foreign suppliers, even if the domestic good is up to 20 percent more expensive than the imported good. It is reported that Paraguay's public procurements involve widespread corruption.

On October 28, 2013 the Paraguayan Congress passed a law to promote Public-Private Partnerships (PPPs) in public infrastructure and allow for private sector entities to participate in the provision of basic services such as water and sanitation. Implementing regulations for the PPP law were signed on March 12, 2014. As a result, the Executive Branch can now enter into agreements directly with the private sector without the need for Congressional approval.

Paraguay is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Paraguay was listed on the Special 301 Watch List in 2013, and the United States continues to monitor Paraguay under Section 306. In 1998, the United States initiated a Section 301 investigation of Paraguay and determined that Paraguay's acts, policies, and practices with respect to the protection and enforcement of intellectual property rights (IPR) were unreasonable and discriminatory and constituted a burden or restriction on U.S. commerce. The United States subsequently suspended the Section 301 investigation and negotiated a Memorandum of Understanding (MOU), which was intended to resolve the underlying IPR issues. The MOU was originally concluded in November 1998 and was extended several times thereafter. The MOU was renegotiated in 2008 and then extended in December 2009 and again in December 2011. The MOU expired on April 30, 2012, and the United States and Paraguay have not been able to agree on the terms for a new MOU. The United States is encouraged by Paraguay's creation of the National Directorate of Intellectual Property in 2013 and by Paraguayan officials' recent interest in concluding a new MOU.

While Paraguayan authorities have engaged in some raids and seizures of pirated and counterfeit goods, significant concerns remain because of weak border enforcement which allows for transshipment for counterfeit and pirated goods. Ineffective prosecution of IPR violators and court sentences are insufficient to deter infringement. For example, Ciudad del Este has been included in the 2013 Out-of-Cycle Review of Notorious Markets due to the prevalence and sale of counterfeit and pirated goods, including circumvention devices and modified game systems. Infringing goods sold at this and other similar markets in Paraguay are often found in neighboring countries Argentina and Brazil.

Serious concerns also remain about inadequate protection against unfair commercial use of undisclosed test or other data generated to obtain marketing approval for agrochemical or pharmaceutical products and the shortcomings in Paraguay's patent regime. Under Paraguayan laws enacted in 2007 and 2008 (Law 3283 and Law 3519, respectively), Paraguay must be the first country in which marketing approval for agrochemical or pharmaceutical products is sought in order for data protection to be available.

INVESTMENT BARRIERS

Under Paraguayan Law 194 from 1993, foreign companies must demonstrate "just cause" to terminate, modify, or decide not to renew contracts with Paraguayan distributors. Severe penalties and high fines may result if a court determines that the foreign company ended the relationship with its distributor without first having established that just cause exists. This requirement often leads to expensive out-of-court settlements. In a few cases, the courts have upheld the rights of foreign companies to terminate representation agreements after finding the requisite showing of just cause. However, the effect of the law is to discourage foreign investment, given concerns about potential lawsuits and contractual interference.

Some investors have raised concerns with possible corruption in Paraguayan government agencies. The judiciary has often been unreliable in enforcing the laws that protect foreign investment. In addition, executive branch ministries, regulatory agencies, and the tax agency often lack the resources, expertise, or impartiality necessary to properly carry out their respective mandates, creating uncertainty for investors.

Two laws, Article 195 of the Civil Procedural Code and Law 1376/1988, read in tandem, raise a particular concern for potential investors. A plaintiff pursuing a lawsuit may seek reimbursement from the defendant of legal costs, calculated as a percentage (not to exceed 10 percent) of claimed damages. In larger suits, the amount of reimbursed legal costs often far exceeds the actual legal costs incurred. Such measures may serve as a disincentive to foreign investment in Paraguay.