

Argentina

1. A Brief introduction to the Bilateral Trade and investment

According to the statistics of China Customs, the total bilateral trade volume between China and Argentina in 2006 amounted up to US \$ 5.7 billion, with an 11.3% increase compared with last year, among which China's export to Argentina was reported a 51.3% increase over last year to US \$ 2 billion while import from Argentina a 2.6 % decline to 37 billion dollars compared with last year, and China had an unfavorable trade balance of US \$ 17billion. Products China exported to Argentina mainly included motor cycles, bicycles with donkey engine, automatic data processing equipment and components, video recording and reproducing apparatus, organic compound and inorganic compound, air pumps and vacuum pumps etc. Products imported from Argentina included soy beans, soybean oil, petroleum and crude oil, copper ore sand and concentrate, seamless steel pipes and leathers etc.

According to the Ministry of Commerce(hereinafter referred to as MOFCOM), by the end of 2006, the accumulated turnover of engineering contracts completed by Chinese companies in Argentina had reached US \$ 280 million, and the volume of completed labor service contracts had reached US \$ 93.16 million.

According to MOFCOM, China's total non financial foreign direct investment(FDI), approved by or filed with MOFCOM, reached US \$ 560,000 in 2006. Argentina investors invested in 19 projects in China in 2006, with a total contractual investment of US \$ 18.43 million and an actual utilization of US \$ 6.86 million.

In 2006, approved or recorded by China Ministry of Commerce, the total volume of China's non financial investment in Argentina was US \$ 560,000.

Besides, according to the statistics of China Ministry of Commerce, Argentina invested projects in China recorded 19 in 2006, with contracted investment amounting to US \$ 18.43 million, including US \$ 6.86 million paid up capital.

2A Brief Introduction to the Trade Investment Regime

2.1 Legislation on trade and investment

Argentina's trade related legislation mainly consists of its Customs Regulations, and acts and decisions governing export refunds, bonded zones imports, trade remedies, and commodity inspection.

Argentina's legislation governing investment mainly includes Executive Order No.1853/1993 issued in 1993, Foreign Investment Act No.21382 promulgated under the said Executive Order. Besides, investment related legislations also include the Constitution of Argentina, the Business Association Law No. 19550, the Mining Industry Investment Law and the Forestation Investment Law, etc.

2.2 Trade Administration and Its Development

2.2.1 Tariff regimes

Argentina's import tariffs are classified into Ordinary Custom duties and Special Custom duties, with the latter applied mainly to the imported goods from the member countries of the free trade area within MERCOSUR. Only the Ordinary Customs duties are applied to imports from China at present.

In 1994, member countries of MERCOSUL formulated Common External Tariff in the light of MERCOSUL Committee's Resolution No.22/92. Except for automobiles which were levied 35% tariff and a limited number of goods from some specific countries, a great majority of the imported goods subject to the Common External Tariff are levied an ad valorem tax ranging from 0% to 20%, with the average tariff at about 11%.

According to the MERCOSIUL Committee's CMC 38/05 Decision, Before Dec.31, 2008, products under 100 8 digit tariff numbers from the NCM member countries will be exempted from the CET every year. Besides, the tariff numbers will be adjusted very six months, and 20% of the exceptional tariff numbers can be adjusted at most.

In addition, a 21% VAT and a 9% additional VAT are levied on various imports.(Both are imposed on the basis of the CIF prices of the import commodity, and VAT must be paid before the dutiable commodity passes the customs. After selling out the said commodity, the importer may have the amount of the pre-paid tax deducted from the total amount of taxable VATs.)

2.2.2 Import Administration

Argentina's import licenses are categorized as automatic import license and non automatic license, and are supervised by the Office of Industry, Commerce and small and Medium Companies. The No. 24425 Acts of Argentina contains some stipulations concerning the Non automatic License system, and the National Foreign Trade Management Directorate is responsible for verifying and issuing the license.

The automatic licenses currently administered include the Sworn Declaration of Product Composition(DJCP) and the Prior Automatic Import License(LAPI). Procedures for the DJCP are manual and its applications are submitted to the Directorate of Imports under the Undersecretariat for Trade Policy and Management. And the LAPI is the first computerized import license processed by the MARIA Computer system in Argentina.(SIM).

Products subject to the DJCP license mainly cover textiles and Clothing industry. And those subject to LAPI include footwear parts, paper in reams and rolls, textiles(cotton and synthetic yarns), components and spare parts of the agricultural machinery, telephone accessories, cardboard boxes, wood furniture(bedroom furniture and cupboards), dried egg yolks and canned peaches etc.

In 2006, products subject to Argentina's non automatic license included: footwear, paper, bicycles, washing machines, toys, tires and inner tubes and motorcycles.

Argentina banned the import of worn garments, used tires, modified auto parts, second hand or repaired medical apparatus. Besides, prior governmental approval shall be obtained for the importation of cotton seeds, potatoes to be used as seeds, fresh fishes, vegetables, dry nuts, hard nuts, drummed apples, poultry, eggs, salted fishes, dried fishes, pesticides, stuff for husbandry, foodstuffs, pharmaceuticals, explosives, firearms, ammunitions, plants and related products, tobacco and glucide.

Quotas must also be obtained for importing automobiles while pulp, paper products and certain selected goods are subject to provisional import quotas.

2.2.3Export Administration

Argentina's No.23101 Acts establishes the export promoting regime to encourage the medium and small companies to enter international market and to reduce the cost of exported products with high additional values. The 755th Article of Custom Act No.22415 stipulates that the National Executive Authority has the right to reduce taxes for the exported products.

To promote the export of wheat flour and its byproducts, Argentina started to reduce or exempt the VAT of wheat processed products as from Oct.21, 2006. The National Office of Agricultural and Commercial Control under the Secretariat of Agriculture, Livestock, Fishery and Alimentation is responsible for the registration of 'the Flour

Production Items'. The exporter should register in the National Office of Agricultural and Commercial Control the amount of the wheat flour and its byproducts to be exported, and every year the first 2 million tons of the overall national output will be exempted from VAT. The National Office of Agricultural and Commercial Control and the Federal Administration of Public Revenue are responsible for normalizing the application procedure of wheat flour production.

To propel its foodstuff to enter the world market, the Secretariat of Agriculture, Livestock, Fishery and Alimentation has launched the quality inspection mark 'Argentina Natural Choice' and established Argentine Food Prize. The Secretariat is responsible for the registration of the mark which will be conferred onto the food processors who have reached the relevant quality standards. The quality inspection system will urge enterprises applying for the said quality mark to draft quality control manuals in terms of the quality standards of each product. This quality control measure also includes a third party hearing system, and the Secretariat of Agriculture, Livestock, Fishery and Alimentation will supervise the implementation of this measure and grant gratis the right of using the quality inspection mark.

On Oct.3, 2006, the Secretariat of Agriculture, Livestock, Fishery and Alimentation of Argentina and the General Administration of Quality Supervision, Inspection and Quarantine of People's Republic of China signed the 'Agreement on Phytosanitary Requirements on Argentine Exported Tobacco Leaves to China', in the light of which, the tobacco leaves Argentina exports to China must comply with relevant regulations.

2.2.4 Trade Remedies

Argentina's No. 24425 Act had integrated some relevant treaties of GATT 1994 into its legislations and the NO.1326 Act promulgated on Nov.10, 1998 has incorporated 'WTO Anti dumping Agreement' into Argentina's trade legislations.

On Sept.12, 2006, Argentina's Ministry of Economy and Production promulgated Act No.1219/2006 which applies to countries of non market economy or those transferring to market economy. The Act concerns how to determine such problems as the normal values and price comparability of the products imported from above said countries in the anti dumping investigation. As for the products imported from the non market economy countries or from those transferring to market economy, the normal values should be determined on the basis of the domestic sales prices of the third country of market economy or of the prices of the like products exported by the third country to other countries(including Argentina).

Parties involved may state their opinions on the selected third country within ten days

after the authoritative department publishes the investigation announcement on Argentina's 'Official Bulletin'.

2.2.5 Other related regimes

Argentina and Brazil reached an agreement in July 2006, deciding to establish the non-USD regime for bilateral trade settlement and to adopt gradually a mutual currency for bilateral trade settlement, so as to pave the way for the establishment of the future common currency of NCM. As the first step, the technical personnel from the central banks of both countries will conduct respectively the technical research for this and draw up specific proposals.

2.2.6 Trade Investment Administration

The Ministry of Economy and Production is in charge of Argentina's foreign trade, and its subordinate Secretariat of Industry, Commerce and Small and Medium Companies is responsible for the enactment of the disciplines and surveillance over the implementation thereof. Under the Secretariat there is an Office of Under Secretary of Foreign Trade that deals with the routine affairs involved in foreign trade. Argentina's national customs is also an enforcement body of the regulations and policies governing foreign trade. The Ministry of Foreign Affairs is in charge of the negotiations on economic and trade affairs between governments, while the subordinate Directorate of International Economic Negotiation participates in the specific negotiations.

With respect to the foreign investment administration, the Secretariat of Industry, Commerce and Small and Medium Companies is also responsible for the implementation of the Foreign Investment Law. The subordinate Investment Promotion Agency mainly functions to identify trade opportunities in different sectors and regions, to provide and publish information on investment, and to promote investment in Argentina in collaboration with other relevant countries and its provincial administrations.

2.3 Investment Administration and Its Development

Argentine government encourages foreigners to invest in such industries as automobile and auto components manufacturing, mining, forestry, software development, ecological petroleum.

Argentina's reserve of the mining resources ranks No.6 in the world, 70% of which remains undeveloped. To invite more foreign investment in mining industry, Argentina has promulgated particularly the No.24196 'Mining Investment Law', to establish a 30-year guarantee of fiscal stability for new projects and to ensure the

extension of existing projects.

To propel the development of forestry, Argentina has promulgated Act No.25080/1999, namely 'Law of Forestry Investment' to encourage the investment in forest cultivation. The law establishes a fiscal stability for a period of 33 years for investors.

Act No.24942 has set up a new mechanism for encouraging investment and adopted measures such as the accelerated depreciation for machinery, equipment and infrastructure works to incorporate them into cost and the policy of refunding VAT for the imported goods destined for use in investment projects.

Foreign investors have the same rights and obligations as the Argentine nationals in economic activities and may adopt any kind of investment forms permitted by Argentine laws, such as companies, partnership with limited liability, branches, joint ventures, temporary partnership or temporary associates, etc.

Foreign companies may invest without prior approval and may have unrestricted access to economic activities of all sectors except important military field and places, which includes industry, mining, agriculture, commerce, finance, service and other economic activities related with production or exchanging of products or services, and are free to withdraw the capital and remit it to other countries.

2.4 Administration Regime Related with Trade Investment and Its Development

The Secretariat of Industry, Commerce and Small and Medium Companies under the Ministry of Economy and Production is in charge of implementing the policy concerning the non automatic license for importing motorcycles. The Secretariat is responsible for the applying procedure of the license, interpreting the license measures and providing accurate details, besides, it also holds the responsibility for adjusting the products covered by the tariff list.

2.5 Management measures for Specific Products

On Aug.30, 2006, the Ministry of Economy and Production issued Resolution No.689/2006 concerning the import of motorcycles. The new Resolution imposes a restriction on the imported motorcycles in the form of non automatic license and applies mainly to motorcycles with the volume of the air cylinder below 50cc, below or at 125cc or over 125cc and other motorcycles.

3 Barriers to Trade

3.1 Tariffs and Tariff Administrative Measures

In 2006, Argentina's average tariff rate was about 10.4%, that for agricultural products 9.9% , and that for non agricultural products 10.5%. The tariff for about 430 products under the 8 digit tariff numbers was 35%, and besides, Argentina levies 0.5% statistics fee for most imported products.

3.2 Import Restrictions

From Oct, 2005 to Oct.2006, Argentina applied the non automatic license to toys, footwear and motorcycles. It is understood that apart from the said products, the non automatic license is also applied to washing machines, carpets, paper for printing and firearms and ammunitions. The complicated applying procedure for this kind of license and its short term of validity(60 or 90 days only) bring importers huge inconvenience and result in some instability to the export of related products.

3.2.1 Toys and Footwear

On Apr.30, 2006, Argentina government proclaimed the new measures for protecting domestic footwear and toy manufacturing industries, requiring that importers must apply to the Argentine Government for license when importing footwear and toys from China and Brazil, the validity period of which is not stable. Products subject to the new measure also include the ones Argentina does not produce domestically. As a result, the import of these products will not create any competition to Argentina's domestic industries or hinder these industries' development. Meanwhile, the period allowed by the new measure for the application of import licenses has been found too short for importers to complete all the relevant procedures.

3.2.2 Motorcycles

On Aug 30, 2006, the Ministry of Economics and Production proclaimed Resolution No.689/2006 under the pretext of the over growing importation, deciding to adopt non automatic license for the import of motorcycles. The new Resolution applies mainly to four kinds of motorcycles which respectively have the volume of the air cylinder below 50cc, below or at 125cc or over 125cc and other motorcycles.

Since Argentina imports the four kinds of motorcycles mainly from China, the Chinese side has expressed concern over the influence of the implementation of the resolution on the Chinese motorcycle exports to Argentina.

3.2.3 Other Measures

In Sept.2005, Argentina signed an agreement with Brazil, deciding to adopt a pre judging measure against products from China. According to this agreement, the two

countries will exchange information about the imports from China and will oblige the technical panel to study and decide what measures to take to restrict the import of related products.

3.3 Export Restrictions

Argentina Government requires that all the exports of agricultural products must be registered and will be priced referentially in terms of the registrations of the very day. On Dec.20, 2006, Argentina promulgated Resolution No.775 concerning the termination of the registration of corn export. On Jan.11, 2007, the Argentine Ministry of Economy issued Resolutions No. 9 and 10, declaring to impose an additional 4% export duty on soybeans, soybean oil and other selected products.

3.4 Barriers to Customs Procedures

In order to fight against low priced customs declarations, the Argentine Federal Bureau of Public Revenue(AFIP) amended in August 2005 the standards for the evaluation of imports. According to the new standards, the customs declaration made at or below 80% of the standard value shall be subject to a punitive additional VAT and an income tax ranging from 3% to 5% and from 7% to 10% respectively. The new standard value of such products as textiles, toys, footwear, household electrical appliances is calculated at 200% of the original reference value.

In 2006, Argentine Federal Tax Bureau requires that the declaration of such products as fabrics, clothing, footwear and toys imported from China, Taipei China, Malaysia, Central America and the South area of Brazil should be conducted at the 14 specially designated customs established at Buenos Aires, Mar Del Plata, Rosario before they enter Argentine market. If the designated products from the above mentioned countries and regions are declared at other customs, they must go through 'the Special Red Channel' for more detailed examination.

3.5 Technical Trade Barriers

On Jun. 12. 2006, Argentina declared two Regulations, namely 'the MERCOSUR Draft Resolution: Technical Regulations on the Verification of the Net Weight of Matches and Toothpicks' and 'the MERCOSUR Draft Resolution: Technical Regulations on the Net Weight of the Pre packed Products', which stipulate specific rules and regulations for verifying the net weight of matches and toothpicks which are sold pre packed, and synergized the current several articles concerning the net weight of the pre packed products into one single technical regulation.

On Sept. 27, 2006, Argentina issued 'the Fifth Section of Argentine Food Code: Rules for Food Labeling and Advertising', which proposes to add the following content in Article No. 233 of the Said Rules for Food Labeling and Advertising, 'Labels for foods permitted by Argentine Food Code(foodstuff, additives, raw materials, drinks) should be displayed in a conspicuous spot and printed in the font size no smaller than 1mm according to the regulations of the registration department, which should also carry the national food registration number issued by authoritative organization printed on the relevant license or the food registration number issued by the National Bureau of Agricultural and Foodstuff Quality and Sanitation'.

3.6 Sanitary and Phytosanitary Measures

Argentina promulgated 'Amendment No. 1340 of Argentine Food Code' on Sept 26, 2006 to replace 'Article No. 1340 of Argentine Food Code', which defines the microbial norms the special foodstuff must confirm to. The execution standards of these norms vary with products.

3.7 Trade Remedies

According to the statistics of WTO, the number of anti dumping investigations initiated by Argentina between 1995 and 2005 ranks No.4 among all the member countries, totally 204 cases, accounting for 7.2% of all the anti dumping investigations launched by members within the same period. Among these, the number of anti dumping investigations against China accounts for 23% of all the cases launched by Argentina in the period, ranking No.1 of all the nations being investigated. By the end of 2005, of the 41 final judgments of the anti dumping cases, 34 cases were adjudicated as anti dumping, accounting for a percentage as high as 82.9, even higher than those in America(73.2%), EU(65.1%) and South Africa(81.0%).

From 1991 to 2006, Argentina called for 52 trade remedies investigations against China, of which 48 were anti dumping investigations, accounting for 92.8%. By the end of 2006, five safeguard measure investigations launched by Argentina related to Chinese products, of which 3 cases involved light industry products, and the other 2 concerned fabrics and automobile respectively.

The product and industry scope where Argentina conducts anti dumping investigation against China is being expanded incessantly. By the end of 2006, industries involved had included light industries, textiles, machinery and automobiles, metal products, chemicals, metallurgy, electronics, building materials and pharmaceutical.

By the end of 2006, the anti dumping cases being effectively executed by Argentina altogether involved 57 kinds of products, of which 15 related to China, accounting for 26.3%.

(1) Anti dumping

(a) New Cases Initiated in Year 2006

On Sept.5, 2006, Argentine Undersecretariat of Trade Policy and Management issued No. 287 Resolution, which declared that Argentina would apply the anti dumping investigation procedure to such products as glasses, mugs, and pots originally made in China and Brazil.

(b) The Progression of the Anti dumping Cases Initiated in Year 2005

The primary ruling by the Office of Unfair Competition under the Undersecretariat of Trade Policy and Management ascertained that the dumping profit margin of Chinese furfural and products was 78.46%, and that for furfural alcohol was 12.15%. But the primary ruling by Argentine Foreign Trade Committee that was responsible for industry injury investigation ascertained that these said products did not jeopardize Argentine national industries and the case was concluded with no measures taken. But the Austin seamed stainless steel pipes and products originally made in China will be subject to a provisional lowest import price restriction(FOB) of US \$ 4.54 per kilo for 4 months. Argentine Office of Unfair Competition also ruled that the dumping profit margin of the China made manual screwdrivers was 189.47%, but similarly, Argentine Foreign Trade Committee ascertained that the involved products did not result in any injury to the domestic like industries and concluded the case without taking any measures. Additionally, Argentina adopted a provisional restrictive measure to the anti dumping case of China made tapelines and imposed the lowest FOB price of USD 1.97 per piece on this product, which went into effect from Oct.25, 2006 and will be valid for 4 months.

(c) The Anti dumping Review

The products involved in Argentina's anti dumping review against China in 2006 included Celphos, thermos flasks, microwaves, spokes and capped spokes used in tires of bicycles and motorcycles, new inflated rubber tires used in bicycles, ball bearings, playing cards and air conditioners, etc. The results and progressions of these cases are as follows: keep the lowest restrictive import price for the Celphos at USD 13.26 per kilo, which will be valid for five years as from Jun.15, 2006; keep the lowest restrictive import price initiated by the Argentine former Ministry of Economy and Production on Dec.3 2002 for the ball bearings of 30mm—120mm originally

made in China, namely the lowest CIF price ranging from USD 17.66 to USD 49.97 per kilo, with a five year validity period as of May 30, 2006; the evidence collecting for the anti dumping review investigation against spokes and capped spokes used in tires of bicycles and motorcycles and new inflated rubber tires used in bicycles imported from China has been completed, and the anti dumping review procedure for Chinese playing cards, air conditioners and microwaves has been prolonged.

On Oct.12, in the light of relevant Argentine resolutions, the Undersecretariat of Trade Management and Policy launched the review investigation procedure for the anti dumping case against thermos flasks originally made in China, and announced that this case will be investigated with America as the substitute country for defining the related normal value. The product involved was the glass liner with the capacity below or at 2.5 liter and the review investigation is still in process now.

(d) The Status of Economy market

On Nov.17, 2004, China and Argentina signed the 'Memorandum of Understanding Between People's Republic of China and the Republic of Argentina on the Cooperation in the Field of Trade and Investment', in which Argentina side formally acknowledged China's status of economy market. But until the end of 2006, Argentine Government's Resolution on acknowledging China's economy market status still remained unapproved by Argentine Parliament, resulting in the long delay of the enactment of the 'Memorandum of Understanding' and producing many difficulties and challenges for Chinese side.

(e) Time Limit for Submitting the Pleading Documents

When processing the anti dumping investigation, Argentine government requires that involved companies submit pleading documents to the Office of Unfair Competition under the Undersecretariat of Trade Management and Policy within 45 days, and submit questionnaires within 30 days. Materials and answered questionnaires involved should be translated into Spanish by public translators and will be double attested by Argentine Consulate in China and Argentine Ministry of Foreign Affairs. This procedure greatly increases the difficulty for Chinese companies to defend themselves and hinders these companies' pleading process.

(2) Safeguard Measures:

On Jun.8, 2006, Argentina launched safeguard measure investigation against the write once discs in the light of Resolution No.2006/158 enacted by the Secretariat of Industry, Commerce and Small and Medium Companies, and the case is still in process presently.

(3) Argentina's Commitment to the Promises in the No. 7 Appendix of the Protocol on the Accession of the People's Republic of China.

In the process of China's negotiation about the accession, Argentina proposed to set up restrictions to China's textiles and garments, non-sports shoes and toys and promised to annul the quota restrictions for the said products before Jul.31, 2002, and to grant a five-year transitional period to gradually slash the current specific duties. On Dec.12, 2001, Argentina translated the timetable settled jointly with China about the levying methods for the specific duties and lessening year by year the lowest specific import duties(DIEM) for some Chinese products into Resolution No.825/2001 of Argentine Ministry of Economy. Currently it is implementing the duty-reducing scheme and will employ the 35% ad valorem duties as of Jan.1 2007.

3.8 The Barriers to Trade in Service

Argentina has made the commitment to allow foreign suppliers of non-insurance financial services to take all forms of commercial presence and to provide substantially full market access and national treatment to foreign suppliers of non-insurance financial services. But currently, Argentina has established some loaning restrictions to the businesses initiated by foreign bank branches based on local paid-in capital instead of parent bank's capital. This effectively removes the rationale for foreign banks to establish branches and initiate business activities.

There are nationality restrictions for some internal shipping, private security, and education providers.

4 Barriers to Investment

The Resolution made by the Parliament of Argentine city Luján decided to stop issuing the business license for small-sized supermarkets by the end of 2006.