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NEWSLETTER. LAW AND BUSINESS IN ARGENTINA.

June 2007

FOREIGN TRADE REGIME

1. GOVERNMENT AGENCIES

The National Secretariat of Industry, Trade and Mining (“NSITM”) is the main authority ruling Argentine trade.

The Public Revenue Federal Administration (“PRFA”) is the Argentine tax authority and within its competence drafts customs rules, regulations, and tariff schemes, and supervises the Customs Office.

The Customs National Administration (“CNA”) is responsible for the administrative application of the Customs Code governing foreign trade.

The Ministry of Public Health and Social Welfare (“MPHSW”) handles the registration of pharmaceuticals and other health products, prior to importation.

The Industry Under secretariat (“IU”) supervises the automobile industry and importation of vehicles.

The Secretariat of Agriculture, Cattle, Fishing and Food (“SACFF”) regulates agricultural, cattle, fishing and food imports.

The National Foreign Trade Commission (“NFTC”) investigates dumping and unfair imports.

2. CUSTOMS MAIN REGULATIONS

IMPORT

Basic tariff rates applied to the CIF (cost, insurance, and freight) value of imports, for most of the tariff lines, range from 0% to 35% (*ad valorem* duties).

In all cases, duties are established by identifying goods in accordance with their respective harmonized codes under *Mercosur* Common Code (“MCC”) provisions, based on the Harmonized Commodity Description and Coding System for classifying goods and assigning tariffs.

An additional 0.5% is imposed as statistical tax on all products originated in countries not belonging to the *Mercosur*.

Additional charges on imports include 21% value-added tax (VAT) applicable to CIF values, plus tariff plus statistics tax (VAT is applied to all products regardless of whether they are imported or produced in Argentina).

A 10 % advance payment on VAT (except for capital goods imported by final users) must be effected on the date of entry, which is credited upon final payment. Likewise, there is a 3 % anticipated profit tax on all consumer goods (deductible from net profit tax).

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Excise taxes may also apply to specific products (such as cigarettes, whisky, other hard liquor, beer, soft drinks, etc.).

All taxes must be paid for and registered before Customs grants clearance.

Restrictions and prohibitions on imports

1. Used Capital Goods

Importation of used capital goods and equipment is restricted; some of such imports are subject to a 28% duty rate (there are some exceptions) and a Customs inspection to certify that the goods have been adequately reconditioned and updated as to be acceptable, and to verify the valuation criteria which have been applied. Such used articles must carry certifications from the supplier attesting as to the type, degree and quality of reconditioning of the equipment, confirmed by the Argentine embassy in the country of origin of those goods.

2. Import Permits

Certain hazardous or otherwise controlled items -such as pharmaceutical drugs, foods, health products, explosives, firearms and ammunition- require an import permit which must have been previously issued by the pertinent local office. These permits usually require a similar certificate from the exporting country and the granting thereof may be subject to delays, so special care should be taken.

3. Sanitary Certificates

Most food and health related goods require a sanitary certificate in order to be allowed into Argentina. Additionally, Argentine law requires that all shipments of livestock, plants, bulbs, cuttings, rhizomes, roots, and tubers for propagation be accompanied by a sanitary certificate issued by the specialized authority from the exporting country. The same requirement applies to grains and plant products (such as barley and peanuts) and all seeds -with the exception of coffee and cocoa beans imported for immediate roasting.

Salted and dried fish must also be covered by a sanitary certificate.

4. Licenses and Permits

Argentina requires two kinds of import licenses, one for automobiles and another for general consumer goods usually known as Previous Automatic Imports License -PAIL-.

Automobile licenses must be requested by the importer at the ITM Secretariat, while PAILs may be obtained by the importer's customs broker through the "María System".

5. Temporary Admission Regime

There are several temporary admission regimes that allow goods to be imported free of duties, as long as they are afterwards exported again.

In all cases, a bond covering import duties must be submitted.

Capital Goods

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These goods may be subject to temporary importation for a period of up to three years and they must be used in the production of other goods or services.

Intermediate Goods

Raw materials, intermediate goods and packaging to be used in exports can be imported for a period of up to one year.

Exports using these products must be completed and ready for exportation within a year from the admission of the inputs. This period of time may be extended for an additional year. A bond must be posted for a value covering the approximate amount of duties and other charges for the regular importation of the items. The bond is canceled when the merchandise is reexported.

Other Goods

Other goods that might be needed for temporary use inside Argentine territory can be imported for a period of up to six months.

Different time limits (always under six months) are applied to commercial samples, goods for shows or competitions, professional tools for a temporary passenger, etc.

Free trade zones and special customs area

Argentina has free trade zones in the city of La Plata, province of Buenos Aires, and in the provinces of San Luis, Tucumán, La Pampa, Córdoba, Entre Ríos, Corrientes, Santiago del Estero, Misiones, Santa Cruz,

Salta and Mendoza.

The province of Tierra del Fuego is a Special Customs Area that allows duty-free imports of capital goods not produced in Argentina and planned for use in high-priority industries, as well as of goods to be assembled in plants located in Tierra del Fuego and for sale in continental Argentina.

Customs control

Argentine has introduced a data processing system allowing for quick cargo clearance and payment of duties ("*Sistema María*") and has implemented an automatic system for the selective control of merchandise.

Goods may go through one of three different channels: green channel (no inspection), orange channel (documentation inspection) and red channel (physical and documentation inspections).

The channel assignment is made according to the goods involved. If the goods are subject to specific controls (i.e. pharmaceutical drugs, guns, etc.), they will be submitted to legally required control by means of the "red channel". On the other hand, if the goods are not necessarily subject to specific controls, then the channel will be assigned randomly among the green, orange and red channels.

EXPORT

Basic tariff rates applied to FOB (free on board) value of exports for most tariff lines range from 5% to 25%.

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As is the case with imports, duties are established by identifying goods by means of their harmonized codes contained in the MCC.

3. UNFAIR PRACTICES

Antidumping and countervailing duty investigations seek to remedy unfair pricing of imported merchandise. If the imported product is determined to have been dumped or subsidized and to be the cause of economic injury to the domestic industry, import duties are assessed to offset the level of dumping (measured as the amount by which the price in the exporting country exceeds the price in the importing country) or the amount of subsidies (equal to the economic benefit conferred to the foreign exporter by the subsidy).

In 1992 Argentina signed the General Agreement on Tariffs and Trade (GATT) related to antidumping issues and countervailing duties, which was incorporated into the Argentine legal system by means of Law 24,176. Such resolutions were likewise adopted within the framework of the WTO Uruguay meeting by means of Law 24,425.

The national authorities in charge of investigations of dumping practices are (i) the NFTC, and (ii) the Foreign Trade Undersecretariat ("FTU").

The NFTC is in charge of carrying out investigations related to the existence of injurious imports, or possible damage to the national industry.

The FTU is in charge of investigating the existence of dumping practices or subsidies, as well as the relationship existing between the denounced unfair practice and the damage allegedly caused by it.

An investigation is commonly initiated by a petition filed with the investigating authorities on behalf of a domestic "interested party", which is usually either a producer of a given product with respect to which an investigation is required, or a trade association of companies that produce said product.

Petitions must be filed with the FTU jointly with the specific allegation of the dumping or subsidy, and the evidence supporting those claims.

The FTU then evaluates the formal validity of the filing (with prior notice to the NFTC so that the latter may render its opinion regarding the petitioner's qualification).

Once the conditions for admissibility have been met, the case is sent to the NFTC so that it may evaluate the existence of the alleged damage to the national industry.

Both the FTU and the NFTC must render an opinion regarding the commencement of the investigation within the scope of their jurisdiction. After all relevant considerations have been made, the case is submitted to the NSITM so that it may rule on the initiation of the formal investigation on the merits of the case.

Actions may be filed by the FTU as a matter

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of cause provided that there is at least preliminary evidence of offensive actions.

Once the investigation commences, the NFTC will seek to determine whether any damage to the national industry was effected, while the FTU may take the same course of action regarding the determination of the existence of dumping or subsidy. For such purpose, interrogatories are held. Such interrogatories must be answered within the term fixed by the authorities which cannot be less than thirty (30) days. Within four months as of the initiation of the investigation, the competent authority must submit its conclusions regarding the need to establish precautionary measures to the Ministry of Economy and Production.

Provisional measures cannot be applied unless a preliminary determination as to (i) the existence of dumping, subsidy, or damage has been made, and (ii) a link between the offensive action and the damage has been established.

When the referred to issues are established, the parties are served notice so that they may render an opinion. The information submitted by the parties may be verified by the authority abroad, in which case the parties must fully cooperate and –if required- pertinent authorization by the foreign government will be necessary.

In addition to this, both the NFTC and the FTU may conduct hearings in order to examine any allegation or objection, within the scope of their attributions.

Towards the end of the investigation, the NFTC submits a report to the FTU, which must include a brief description of the international system applicable to the industry under analysis, the elements which determine the relationship existing between the anticompetitive conduct and the damage caused, the value of imports under anti-competitive practices, market perspectives in the absence of corrective measures, the market reaction as a result of the application of measures and their effects on consumers, and -finally- a recommendation on the measures to be taken.

Subsequently, the FTU renders its conclusions, which are based on those made by the NFTC and by its practice areas. Such conclusions are then submitted to the Ministry so that it may issue a final ruling. The latter must be published in the Official Gazette.

Actions shall not extend for a term longer than the one established by the WTO, and the applicable rights shall be valid (subject to review) for five years provided they are necessary. The aforementioned rights shall not exceed the margin represented by the dumping or subsidy.

Final resolutions may be appealed by means of an action to be filed with the judicial courts.