



## Executive Summary

The Government of Argentina (GOA) took actions in the past year to improve the investment climate in Argentina. To regain investor confidence, the GOA settled outstanding international arbitral awards, engaged with the International Monetary Fund (IMF) to improve economic reporting data, and compensated the Spanish-firm Repsol for the partial expropriation of YPF in 2012. Argentina also engaged with the Paris Club group of creditors to address legacy debt issues. A January 2014 currency devaluation reduced costs and asset prices in dollar terms. Over the past year, one measure of Argentina's country risk has fallen approximately 35 percent from 1210 basis points to 790. The GOA has signaled its desire to see continued foreign direct investment (FDI) flows to enhance the nation's productive capacity and GDP growth potential. Although improved from the year before, investor confidence remains low. Longstanding concerns regarding the lack of transparency in government policymaking diminish the attractiveness of prospective investments in some sectors. Decisions that affect companies, both foreign and domestic, are frequently taken without industry input and rarely with a formal comment period. GOA actions to curb the remittance of profits abroad have also led some foreign companies to question whether their money should be invested in the country if they are unable to access it later. Currency controls delay companies' access to dollars to pay suppliers.

The GOA's all-encompassing import licensing system has made it burdensome to import the materials necessary for the day-to-day functioning of a business. Factories and distributors occasionally sit idle while the GOA delays granting approval to move inputs through customs, a process that can be unpredictable. Companies that export more from Argentina than they import generally receive preferential access, but even these firms have reported difficulties in securing certain goods. Price controls have also caused difficulties for businesses.

Argentina continues to owe debt to private bondholders. Ninety-two percent of the defaulted USD 82 billion of private debt has been swapped for a mix of new bonds with a substantial loss in net present value. Some bondholders, known as the "holdouts," have not participated in the swaps and continue to pressure Argentina via the U.S. courts to settle its outstanding debt for the actual amount they are owed plus interest.

Argentina's growth slowed in 2013 to 3 percent and unemployment remained steady at 6.4 percent, according to official figures. Central Bank reserves dipped to USD 27 billion down from their high of USD 52 billion in early 2011. This decline has been due to reserves having been used to service debt, maintain the exchange rate, and meet other balance of payment needs. The 2014 budget allowed the use of USD 9.8 billion in Central Bank reserves to make debt payments. Argentina ran current and financial account deficits in 2013 that also contributed to a decline in reserves.

After several years of publishing non-credible statistics, Argentina's official statistics agency (INDEC) released substantially revised inflation and GDP growth data that are closer in line with private estimates. The IMF had formally censured Argentina in February 2013 because of manipulation of inflation and GDP data, a breach of obligation to the Fund under the Articles of

Agreement. As of publication of this report, the IMF had not yet released its conclusions regarding its review of Argentina's new data.

### 1. Openness to, and Restrictions Upon, Foreign Investment

According to a Presidential decree governing foreign investment in Argentina, foreign companies may invest in Argentina without registration or prior government approval, and on the same terms as investors domiciled in Argentina. Investors are free to enter Argentina through merger, acquisition, green-field investments, or joint ventures. Foreign firms may also participate in publicly-financed research and development programs on a national treatment basis. In December 2011, the Argentine Congress passed Law 26.737 (Regime for Protection of National Domain over Ownership, Possession or Tenure of Rural Land) limiting foreign ownership of rural land to a maximum of 15 percent of all national productive land. Individuals or companies from a same nation may not hold over 30 percent of that amount; and individually each foreign individual or company faces an ownership cap of 1,000 hectares (2,470 acres) in the most productive farming areas, or the equivalent in terms of productivity levels in other areas. As approved, the law is not retroactive. Section 11 of the Law establishes that "for the purposes of this Law and according to the Bilateral Investment Treaties (BITs) underwritten by the Republic of Argentina that are in force at the time this Law becomes valid, the acquisition of rural land shall not be considered an investment as it is a non-renewable natural resource provided by the host country."

Foreign and Argentine firms generally face the same tax liabilities. In general, taxes are assessed on consumption, imports and exports, assets, financial transactions, and property and payroll (social security and related benefits).

The GOA has established a number of investment promotion programs. Those programs allow for Value-Added Tax (VAT) refunds and accelerated depreciation of capital goods for investors and offer tariff incentives for local production of capital goods. They also include sectoral programs, free trade zones, and a Special Customs Area in Tierra del Fuego Province, among other benefits. A complete description of the scope and scale of Argentina's investment promotion programs and regimes can be found at <http://www.industria.gov.ar>, <http://www.inversiones.gov.ar> and <http://www.mecon.gov.ar/basehome/promocion.htm>. Information about programs that specifically apply to small and medium businesses may be found at <http://www.sepyme.gov.ar>.

#### Argentina

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions Index	2013	(106 of 177)	<a href="http://cpi.transparency.org/cpi2013/results/">http://cpi.transparency.org/cpi2013/results/</a>
Heritage Foundation's Economic Freedom Index	2013	(166 of 178)	<a href="http://www.heritage.org/index/ranking">http://www.heritage.org/index/ranking</a>
World Bank's Doing Business Report "Ease of Doing Business"	2013	(126 of 189)	<a href="http://doingbusiness.org/rankings">http://doingbusiness.org/rankings</a>

Global Innovation Index	2013	(56 of 142)	<a href="http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener">http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener</a>
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## 2. Conversion and Transfer Policies

The GOA began imposing significant restrictions on remittances of capital overseas in 2011. These were formally implemented in December 2012 with Resolution 3417. In 2012, the Central Bank issued Regulation A-5318 officially banning the purchase of dollars by residents (either Argentine or foreign) as a form of financial savings (although it does not prevent residents from maintaining existing dollar saving accounts and time deposits). This measure formally ended the previous norm that had allowed individuals to buy up to USD 2 million per month without having to specify the destination of the funds (e.g., debt payment, investments, savings, international travel expenses, etc). Residents could only buy foreign currency for international tourism purposes, and these purchases were also subject to caps and controls by the GOA of the origin of funds to acquire the currency and a 35 percent withholding tax that can be deducted from an individual's income and wealth tax obligation. The Federal Tax Authority (AFIP) subsequently uses Resolution 3333 to regulate retail purchases of foreign exchange for travel. Requestors provide information as to the source of their money and proof that it was acquired legally. In addition to other personal data such as birth date, profession, and tax ID numbers, they must also provide details about their planned trips, including where, when, and why they are traveling. Since the issuance of this norm, the government has reportedly provided additional verbal instruction to banks and foreign exchange houses that further limit the purchase of foreign exchange.

In January 2014, the GOA allowed residents to purchase a limited quantity of foreign exchange for savings depending on the person's declared income. The buyer can choose to withdraw the foreign currency within the first year and pay a 20 percent tax, or else leave the funds in a local bank for a year longer with no tax.

Since 2011, government restrictions on foreign currency purchases have led to the expansion of an informal retail foreign exchange market. The informal dollar rate reached ARS 13 to the USD in January 2014, exceeding the official exchange rate (ARS 8 pesos to the USD) by more than 60 percent. As of publication, the gap between the informal and the official exchange rate has fallen to 30 percent.

Companies have reported difficulties in exchanging pesos for dollars in order to pay for imports. These measures are thought to be in place to address balance of payments concerns, but they have resulted in occasional goods shortages and difficulties for companies doing business in Argentina. Companies must complete multiple steps to import a good into the country. Certificates-of-origin for some goods must be notarized by the Argentine embassy or consulate in the country in which they were produced. This consularization requirement holds for products that have multiple parts from multiple countries. The company must then obtain import license approval, which is known by its Spanish-language acronym "DJAI." Following DJAI approval, companies must then petition the Central Bank for access to foreign exchange. Companies are also often asked to submit detailed financial and operational information.

The GOA subjects speculative capital inflows to three major requirements: (a) investments may not be transferred out of the country for 365 days after their entry; (b) proceeds from foreign exchange transactions involving these investments must be paid into an account in the local financial system; and (c) a 30 percent unremunerated reserve requirement, meaning 30 percent of such transactions must be deposited in a local financial entity for 365 days in an account that is denominated in dollars and receives no interest payment.

There are some notable exceptions to the deposit requirement. A deposit is not required for capital inflows to finance energy infrastructure. Nor is a deposit required on inflows for the purchase of real property by foreigners as long as the foreign exchange liquidation occurs on the day of settlement (and transfer of the title). A deposit is also not required for inflows from foreigners to be used for (a) tax payment and (b) social security contributions within 10 days of the settlement of the foreign currency. In October 2011, the Central Bank imposed new market controls on non-residents. They are now required to immediately “register capital inflows into the local foreign exchange market when they purchase a local company, contribute capital, or purchase real estate.”

Foreign entities are banned from participating in Central Bank initial bond offerings, but foreign firms may trade Central Bank debt instruments on the secondary market. The Central Bank also requires that exporters deposit U.S. dollar proceeds from exports in “local” banks (*cuentas de corresponsalía de entidades financieras locales*) within a specified number of days depending on the good exported (usually between 10-30 days).

Hard currency earnings on exports, both from goods and services, must be converted to pesos in the local foreign exchange market. In 2011, the GOA eliminated the exceptions previously granted to hydrocarbon and mining exports. These firms must now convert their revenues to pesos on the local foreign exchange market. Revenues from re-exports of some temporary imports and exports to Argentine foreign trade zones are still exempted from this requirement. In October 2011, the Argentine insurance regulator issued Resolution 36.162 requiring “all investments and cash equivalents held by locally registered insurance companies be located in Argentina.” This has exposed insurance companies to greater country risk since they are unable to diversify their assets outside of Argentina. In 2012, the GOA further expanded the investment requirements for insurance companies requiring them to allocate part of their overall investments in “instruments related to local productive projects.” The minimum percentage required ranges from 5 percent for labor risk insurers to 10 percent for property insurers and 12 percent for life insurers. A government committee composed of the secretaries of Finance, Economic Policy and Development, Internal Trade, Industry, and SMEs as well as the superintendent of Insurance determine the projects eligible to receive such investments.

The Argentine Central Bank issued Circular A5272/73 in January 2012 increasing bank liquidity requirements for operational risks and minimum capital requirements, which sharply limited dividend payments.

The Central Bank expanded in 2012 the list of activities involving the transfer of money abroad by local subsidiaries to headquarters that will require prior approval (Circular A5295). These

activities now include: IT services; business and professional services' royalties, patents, trademarks and copyrights; commercial guarantee payments on exports of goods and services; foreign film, audio and video rights; and services for technology transfer, and rental and leasing income, among other activities. The regulations apply to transactions greater than USD 100,000 in value.

In February 2014, the Central Bank issued Circular A5536 capping the foreign exchange exposure of private banks. The norm limits a financial institutions' foreign currency exposure to 30 percent of their net worth and future exchange rate contracts to 10 percent. Private estimates suggest that 50 percent of the positions held by banks in Argentina are "dollarized," representing nearly USD 9 billion in assets. This implied that banks will liquidate USD 3.5 billion through a mix of foreign currency, dollar bonds, and future contracts – with most of that presumably going to Argentina's Central Bank.

### **3. Expropriation and Compensation**

Section 17 of the Argentine constitution affirms the right of private property and states that any expropriation must be authorized by law and be previously compensated. Fair compensation for expropriation is also guaranteed by international treaty obligation. Article 4 of the United States-Argentina BIT states that investments shall not be expropriated or nationalized except for public purpose upon prompt payment of the fair-market value in compensation. In October 2008, the government nationalized Argentina's private pension funds, which amounted to approximately one-third of total GDP, and transferred the funds to the government social security agency. In December 2008, the Argentine parliament also passed legislation nationalizing the Spanish-owned flag air carrier Aerolineas Argentinas.

President Cristina Fernandez de Kirchner expropriated 51 percent of oil and gas company YPF from Spanish-owned Repsol in 2012. The state takeover of the company was widely criticized by the European Union and others and increased investor caution. The government announced a settlement with Repsol approximately two years later in 2014, which the Argentine congress approved on April 23, 2014.

### **4. Dispute Settlement**

The GOA officially accepts the principle of international arbitration. The United States-Argentina BIT provides for binding international arbitration of investment disputes that cannot be settled through amicable consultation and negotiation between the parties. The GOA is a member of the International Center for the Settlement of Investment Disputes (ICSID), the United Nations Commission on International Trade Law (UNCITRAL), and the World Bank's Multilateral Investment Guarantee Agency (MIGA). Companies that seek recourse through Argentine courts may not also pursue recourse through international arbitration.

Prior to and following the 2001/2 Argentine economic crisis, a number of U.S. investors in privatized public utilities filed ICSID arbitration claims against the GOA arguing that the government rulings de-linking public utility tariffs to foreign inflation indices and a January 2002 "pesofication" of dollar-denominated contracts were a de facto expropriation of their investments. In addition, some U.S. investors filed ICSID arbitration claims based on disputes

with provincial governments over unforeseen changes in tax laws and liabilities. Customs treatment and delays in re-negotiating public utility rate changes also provoked investment disagreements.

A longstanding bilateral concern had been non-payment of three final awards granted to U.S. investors: (1) a September 2007 final ICSID judgment awarding approximately USD 133 million plus interest; (2) a September 2009 final judgment awarding USD 165 million plus interest; and (3) a September 2011 final decision awarding USD 2.8 million with interest. Based on claimant petitions alleging that Argentina failed to act in good faith to recognize as binding, or enforce, an arbitral award, the Government of the United States withdrew Argentina's status as a beneficiary of Generalized System of Preferences (GSP) trade benefits in May 2012. Argentina settled the ICSID judgments in October 2013 with the three U.S. companies by paying them a portion of the judgment through a mixture of bonds.

Domestic investment dispute adjudication is available through local courts or administrative procedures. Many foreign investors prefer to rely on private or international arbitration when those options are available.

## **5. Performance Requirements and Incentives**

Formally, no performance requirements are aimed specifically at foreign investors. Government incentives apply to both foreign and domestic firms.

## **6. Right to Private Ownership and Establishment**

In general terms, foreign investors have the same rights as Argentines to establish and own businesses, or to acquire and dispose of interests in businesses.

The media law caps foreign capital ownership of media outlets at 30 percent; requires a minimum national content of between 60 to 70 percent; requires that all transmission signals be owned totally or partially by the national government; establishes a minimum screen quota for Argentine movies; imposes a 0.5 percent of annual revenue fee on foreign programmers for acquiring Argentine films; requires advertisement transmitted by broadcast channels or national channels be produced locally; dictates that all investment in advertising on a non-national signal be covered by exemptions and reductions to income tax; gives foreign media operations differing tax treatment from local companies; and limits the number of broadcasting licenses (based on geography and market segment) to be held by a single licensee. Measures regarding the limitation of foreign ownership in media outlets are not retroactively applied to existing foreign investments currently covered by BIT provisions of non-discriminatory treatment. The U.S.-Argentina BIT contains such protection for U.S. firms.

## **7. Protection of Property Rights**

Secured interests in property, including mortgages, are recognized and common in Argentina. Such interests can be easily and effectively registered. They also can be readily bought and sold. The government of Argentina adheres to most treaties and international agreements on

intellectual property and belongs to the World Intellectual Property Organization and the World Trade Organization (WTO). The Argentine Congress ratified the Uruguay Round agreements, including the provisions on intellectual property in Law 24425 on January 5, 1995. Since 1996, however, Argentina has been on the Office of the U.S. Trade Representative's intellectual property rights Priority Watch List.

**Patents:** Patent protection remains a theme of particular importance in Argentina's intellectual property rights regime. Extension of adequate patent protection to pharmaceuticals and genetically modified seeds has been a source of bilateral disagreement. Representatives of U.S. companies with significant interest in patented product sales in Argentina say that the patent issuance process is slow and that the backlog of patent applications remains substantial. The National Intellectual Property Institute (INPI) has taken a number of steps to reduce the backlog, including the implementation of fast-track procedures, and opportunities for companies to prioritize their patent applications before INPI several times over the past years. In April 2002, the United States and Argentina reached an agreement with respect to most of the claims in a WTO dispute brought by the United States with respect to Argentina's implementation of its Trade Related Aspects of Intellectual Property Rights (TRIPS) obligations. New patent legislation implementing part of the April 2002 agreement was passed in December 2003. Several issues remain unresolved, however. The United States and Argentina have agreed to leave these issues within the WTO dispute settlement mechanism for action.

Some U.S. and European pharmaceutical firms have expressed concern that some provisions in the amended legislation limit their ability to protect patented products via the use of judicial injunctions to prevent patent violations. The unlicensed production by Argentine firms of pharmaceuticals whose patent rights are owned by foreign companies is a longstanding concern to foreign pharmaceutical companies. In May 2012, INPI published a joint Resolution (118/2012, 546/2012 and 107/2012) that sets new standards for chemical and pharmaceutical patent applications. The guidelines instruct patent examiners to reject new use, new form, and new formulation patents, and specify a number of other changes to drugs that will no longer be acceptable. Companies have stated that the measures were implemented without sufficient transparency and that they significantly diminish protection of their intellectual property.

**Copyrights, Trademarks, Trade Secrets, and Semiconductor Chip Layout Design:** Although Argentina's copyright law dates to 1930, it provides a sound legal framework to protect intellectual property such as books, films, music, and software. Piracy of CDs, DVDs, and software is widespread, but declining due in large part to the introduction of online content streaming services. While enforcement continues to be sporadic and pirated products are widely available on the market, the government of Argentina has passed laws designed to allow authorities to mount undercover operations; to flag electronically suspect shipments; to facilitate the seizure and detention of suspect merchandise; and to rotate more frequently customs personnel. The Customs administration in 2006 instituted a voluntary trademark registry and owner notification program. Seizures of imported counterfeit goods have since risen dramatically. Some industry actors have noted that further protection for trademark owners should include the right to demand destruction of fraudulent goods to prevent reentry to the market. The government has decreased the time needed for trademark registration and increased the rate at which trademarks are registered. Many industry observers claim that the trademark law, passed in 1980, provides civil damages that are insufficient to be an effective deterrent. The

judiciary is reluctant to impose deterrent penalties such as prison sentences in criminal cases, and it is rare that companies press criminal charges. Argentina has no specific law on trade secrets although penalties for unauthorized revelation of trade secrets are applied to a limited degree under commercial law. Argentina has signed the WIPO Treaty on Integrated Circuits, but has no law dealing specifically with the protection of layout designs and semiconductors.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at <http://www.wipo.int/directory/en/>.

Embassy point of contact: María Soledad Iglesias Liste [IglesiasS@state.gov](mailto:IglesiasS@state.gov)

Local attorneys list link: <http://argentina.usembassy.gov/legal.html>

## **8. Transparency of Regulatory System**

Argentine government authorities, including the Ministries of Economy, Production, and Planning and a number of quasi-independent regulatory entities, have mandates to foster competition and protect consumers. Some international investors have expressed concern about abrupt changes in sector-specific regulatory regimes that in their view increase uncertainty. In general, national taxation rules do not discriminate against foreigners or foreign firms (e.g., asset taxes are applied to equity possessed by both domestic and foreign entities). Government tax authorities scrutinize tax declarations of foreign corporations operating in Argentina with the intent of curbing the use of offshore shell corporations to shelter profits and assets from taxation. This has led to tax disputes with foreign-owned firms that have structured their operations in a manner they believe to be consistent with Argentine law, while minimizing total corporate tax obligations to all of the countries in which they operate.

Argentina is a member of the U.N. Conference on Trade and Development's international network of transparent investment procedures. Lomas de Zamora, the second largest province of Buenos Aires offers detailed information on administrative procedures applicable to income generating operations, including the number of steps, name and contact details of the entities and persons in charge of procedures, required documents and conditions, costs, processing time, and legal bases justifying the procedures <http://lomasdezamora.eregulations.org/>. Two other provinces (Berazategui and VicenteLopez) plan to offer the same information system online by the end of 2014.

## **9. Efficient Capital Markets and Portfolio Investment**

The Argentine Securities and Exchange Commission (Comisión Nacional de Valores - CNV) is the federal agency that regulates securities markets offerings. Securities and accounting standards are transparent and consistent with international norms.

The Argentine Congress approved in November 2012 a new law to amend regulations over the domestic stock market. The bill expands the local capital market, but it also provides for greater regulatory intervention in financial deals and corporate administration of listed companies. U.S. banks, securities firms, and investment funds are well-represented in Argentina and are dynamic players in local capital markets. In 2003, the government began requiring foreign banks

to disclose to the public the nature and extent to which their foreign parent banks guarantee their branches or subsidiaries in Argentina.

The private pension fund system -- consolidated in 1995 -- provided a growing base for capital markets until the 2001-2002 economic and financial crises. Following the government's 2005 debt restructuring, private pension funds once again became significant players in domestic capital markets. The government's nationalization of the private pension funds' assets in November 2008 shut down the funds' investment activities, however. As a result of the nationalization, Argentina's Social Security Agency (ANSES) now holds large equity stakes in domestic and foreign firms trading on the local stock exchange, and has also taken on the private pension funds' holdings of federal and provincial government debt. This nationalization considerably decreased the liquidity and depth of the securities market in Argentina.

Following new provisions introduced in the Central Bank charter reform approved in mid-2012, banks operating in Argentina holding at least 1 percent of total market deposits are required to lend at least 5 percent of their deposits -- approximately ARS 15 billion -- for "productive investments" at an interest rate of 15 percent by December 2012. This interest rate is well below private estimates of inflation. In December 2012, the GOA again required major banks to lend another 5 percent of their deposits (approximately ARS 17 billion) for "productive investments" at similar rates required in the previous program. In June 2013, the GOA for a third time required the largest banks to lend 5 percent of their deposits (approximately ARS 20 billion) for "productive investments" by December 2013. In this instance, the program allowed small and medium sized enterprises (SMEs) to use up to 20 percent of their loans for working capital. Once again in December 2013, the government extended the program under similar terms for a fourth time adding about ARS 20 billion at a rate of 17 percent.

## **10. Competition from State-owned Enterprises**

The Argentine government owns stakes ranging from 1 percent to 31 percent in 46 publically-listed companies through ANSES. U.S. investors also own shares in some of these companies. As part of the ANSES takeover of Argentina's private pension system in 2008, the government agreed to commit itself to being a passive investor in the companies and limit the exercise of its voting rights to 5 percent, regardless of the percentage of a company it actually owned. In April 2011, the GOA removed the 5 percent cap and moved to increase ANSES' influence over these companies by nominating members for their boards of directors and exercising influence over issues such as dividend payments.

The Argentine government also owns or participates in companies in the following sectors: Civil commercial aviation, water and sanitation, oil and gas, electricity generation, transport, paper production, banking, railway, shipyard, and aircraft ground handling services.

## **11. Corporate Social Responsibility**

There is an increasing awareness of corporate social responsibility (CSR) among both producers and consumers. Foreign and local enterprises both tend to follow generally accepted CSR

principles, such as the OECD Guidelines for Multinational Enterprises. CSR practices are welcomed by beneficiary communities throughout Argentina.

## **12. Political Violence**

Demonstrations are common in metropolitan Buenos Aires and occur in other major cities and rural areas. Protesters on occasion block streets, highways, and major intersections, causing traffic jams and delaying travel. While demonstrations are usually nonviolent, individuals sometimes seek confrontation with the police and vandalize private property. Groups occasionally protest in front of the U.S. Embassy or U.S.-affiliated businesses. Though political violence is always concerning, it is not widely considered a hindrance to the investment climate in Argentina.

## **13. Corruption**

According to the World Bank's worldwide governance indicators, corruption remains an area of concern in Argentina. In the latest Transparency International Corruption Perceptions Index (CPI) that ranks countries and territories by their perceived levels of corruption, Argentina ranked 106 out of 178 countries.

There is a strong regulatory framework for combating corruption, but enforcement is uneven, and a slow-moving judiciary makes rooting out corruption difficult. The law provides criminal penalties for official corruption. Public officials are subject to financial disclosure laws, and the Ministry of Justice's Anti-Corruption Office (ACO) is responsible for analyzing and investigating federal executive branch officials based on their financial disclosure forms. The ACO is also responsible for investigating corruption within the federal executive branch or in matters involving federal funds, except for funds transferred to the provinces. While the ACO does not have authority to independently prosecute cases, it can refer cases to other agencies or serve as the plaintiff and request a judge to initiate a case. Reports of the activities of the ACO may be found at <http://www.anticorrupcion.gov.ar>.

Argentina is a party to the OAS Anti-Corruption Convention and ratified the OECD Anti-Corruption Convention in 2001. Argentina has signed and ratified the UN Convention against Corruption (UNCAC). It is an active participant in UNCAC's Conference of State Parties. It is also an active participant in the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption (MESICIC).

## **14. Bilateral Investment Treaties (BITs)**

The governments of Argentina and the United States signed a BIT in 1991. The agreement was amended, ratified by the Congresses of both countries, and entered into force on October 20, 1994. The Argentina-United States BIT can be found on the following site: <http://2001-2009.state.gov/documents/organization/43475.pdf>. Argentina does not have a bilateral tax treaty with the United States.

The BIT provides protections against capital movement restrictions, expropriations, and performance requirements; it also establishes a means for the settlement of investment disputes.

The BIT lists sectors in which Argentina maintains exceptions to national treatment for U.S. investors: real estate in border areas, air transportation, shipbuilding, nuclear energy, uranium mining, and fishing. U.S. investors must obtain permission from the Ministry of Defense's Superintendency for Frontiers to invest in non-mining activities in border areas.

Argentina has over 50 BITs currently in force and valid double taxation treaties (DTAs) with Australia, United Kingdom, Denmark, Germany, Belgium, France, Italy, Sweden, Canada, Bolivia, Brazil, Finland, Norway, and the Netherlands. In addition, a number of treaties concerning the exemption of income from international transport are in force. Argentina and Switzerland signed on March 20, 2014 a Tax Information Exchange Agreement (TIEA), which will allow both countries to share information on financial accounts and other assets of their respective taxpayers. The agreement must be ratified by the legislatures in both countries.

### **15. OPIC and Other Investment Insurance Programs**

The GOA signed a comprehensive agreement with the Overseas Private Investment Corporation (OPIC) in 1989. The agreement allows OPIC to insure U.S. investments against risks resulting from expropriation, inconvertibility, war or other conflicts affecting public order. OPIC programs are currently used in Argentina. Argentina is also a member of the World Bank's Multilateral Investment Guarantee Agency (MIGA).

### **16. Labor**

Argentine workers are among the most highly educated in Latin America. Wages in dollar terms have historically been competitive. The peso depreciation in January 2014 reduced the dollar cost of labor in Argentina, making it a more attractive place for investors. Argentina has relatively high social security charges and other labor taxes. As of the fourth quarter of 2013, the unemployment rate was 6.4 percent according to official government statistics. The Ministry of Labor, Employment, and Social Security estimated that 33.5 percent of the urban workforce worked in the informal sector as of the fourth quarter of 2013.

Organized labor plays an active role in labor-management relations and in the Argentine political system. Standoffs between management and union activists do occur, but many managers of foreign companies say that they have good relations with their unions. While negotiations between unions and industry are largely market-driven, they occasionally require mediation by the Ministry of Labor.

Argentine law affords unions the right to negotiate collective bargaining agreements and offers recourse to mediation and arbitration. The Ministry of Labor ratifies collective bargaining agreements, which covered roughly 75 percent of the formally employed work force. There are no special laws or exemptions from regular labor laws in the Foreign Trade Zones (FTZs).

### **17. Foreign-Trade Zones/Free Ports**

Argentina has two types of tax-exempt trading areas: FTZs, which are found throughout the country; and the more comprehensive Special Customs Area (SCA), which covers all of Tierra del Fuego Province and whose benefits apply only to already established firms.

Argentine law defines an FTZ as a territory outside the “general customs area” (GCA, i.e., the rest of Argentina) where neither the inflows nor outflows of exported final merchandise are subject to tariffs, non-tariff barriers, or other taxes on goods. Goods produced within a FTZ generally cannot be shipped to the GCA unless they are capital goods not produced in the rest of the country. The labor, sanitary, ecological, safety, criminal, and financial regulations within FTZs are the same as those that prevail in the GCA. Foreign firms receive national treatment in FTZs.

Under the current law, the GOA may create one FTZ per province, with certain exceptions. More than one FTZ per province may be allowed in sparsely populated border regions (although this provision has not been fully utilized). Thus far, the GOA has permitted FTZs in many of the 23 Argentine provinces. There are already ten free trade zones in Argentina, according to the AFIP and the Argentine government announced in February 2014 the installation of two new free trade zones in Province of Santa Cruz. The new free trade zones will be located in the cities of Caleta Oliva and Rio Gallegos. The most active FTZ is in La Plata, the capital of Buenos Aires Province.

Merchandise shipped from the GCA to a FTZ may receive export incentive benefits, if applicable, only after the goods are exported from the FTZ to a third country destination. Merchandise shipped from the GCA to a FTZ and later exported to another country is not exempt from export taxes. Any value added in an FTZ or re-export from an FTZ is exempt from export taxes.

Products manufactured in an SCA may enter the GCA free from taxes or tariffs. In addition, the government may enact special regulations that exempt products shipped through an SCA (but not manufactured therein) from all forms of taxation except excise taxes. The SCA program provides benefits for established companies that meet specific production and employment objectives. The SCA program applies only to Tierra del Fuego Province. The government reduced some SCA benefits in the early 1990s. Some of these benefits were later reestablished at first only for those firms previously established in Tierra del Fuego Province, and later applied to all firms. The SCA program is scheduled to expire at the end of 2023. In late 2006, Economy Ministry Resolution 776 abolished the export tax exemption enjoyed by oil companies operating in Tierra del Fuego Province. The Argentine Congress passed a law in November 2009 establishing value-added tax rates up to 21 percent on cell phones, televisions, digital cameras and other electronic items not produced in the southern Tierra del Fuego foreign trade zone. According to the government, the bill aims to increase government revenue through higher tax collection, and encourage investment in Tierra del Fuego to promote local manufacturing and job growth. Additionally, the law removes certain tax benefits and taxes electronic products between 20.5 percent and 26 percent, which is reduced by two-thirds for electronics produced in Tierra del Fuego. However, the use of non-tariff barriers to effectively mandate the local production of many electronic goods is often the primary reason that foreign firms choose to assemble electronic products in Argentina.

## 18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

TABLE 2: Key Macroeconomic data, U.S. FDI in host country/economy

	Host Country Statistical source*		USG or international statistical source		USG or international Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
<b>Economic Data</b>	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (Millions U.S. Dollars)	2012	468,301	2012	475,500	INDEC, <a href="http://www.indec.gob.ar">www.indec.gob.ar</a> <a href="http://www.worldbank.org/en/country">http://www.worldbank.org/en/country</a> (The difference is due to statistical corrections done by INDEC on regular basis.)
<b>Foreign Direct Investment</b>	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (Millions U.S. Dollars, stock positions)	2012	N/A	2012	14,396	(BEA) click selections to reach. On historical-cost basis Bureau of Economic Analysis
Host country's FDI in the United States (Millions U.S. Dollars, stock positions)	2012	N/A	2012	209	(BEA) click selections to reach Bureau of Economic Analysis
Total inbound stock of FDI as % host GDP (calculate)	2012	N/A	2012	3.03%	

**TABLE 3: Sources and Destination of FDI**

**Instructions:** CHOOSE YOUR COUNTRY'S Name from IMF website <http://cds.imf.org> ((Note: IMF censured Argentina in Feb 2013 for reporting unreliable economic data.))

Argentina did not report data according to cds.imf.org data table.

In past reports we used UNCTAD data, Source:

<http://unctadstat.unctad.org/TableViewer/tableView.aspx> -- According to the United Nations Conference on Trade and Development (UNCTAD) World Investment Report 2012, the total stock of FDI in Argentina at the end of 2012 was estimated at USD 110.7 billion. The stock of U.S. FDI in Argentina in 2012 was estimated at USD 14.4 billion by the U.S. Bureau of Economic Analysis. In 2012, according to UNCTAD, total FDI inflows were estimated at USD 12.5 billion and outward FDI flows amounted to USD 1.1 billion.

**TABLE 4: Sources of Portfolio Investment  
Argentina, June 2013**

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			Equity Securities			Total Debt Securities		
World	21,765	100%	World	12,800	100%	World	8,965	100%
United States	20,427	94%	United States	11,803	92%	United States	8,624	96%
Luxembourg	682	3%	Luxembourg	682	5%	Brazil	294	3%
Brazil	397	2%	Spain	124	1%	Germany	39	0.44%
Spain	124	1%	Brazil	103	1%	Chile	4	0.05%
Germany	40	0.18%	China, P.R.: Mainland	22	0.17%	Uruguay	3	0.03%

Source: <http://cpis.imf.org/>

**19. Point of Contact at Post**

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