

## QUICK POLICY INSIGHT

# Protectionism in Argentina: Old habits die hard

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On 25 May 2012, after several attempts to find an amicable solution, the EU challenged before the World Trade Organisation (WTO) Argentina's decision to submit all imports to a system of 'non-automatic licensing'. The purpose of Argentina's new mechanism is twofold: to discourage importers with burdensome and expensive customs procedures and to reinforce the country's economy by reducing its dependence on foreign goods and services. The impact on EU trade to Argentina is likely to be very high, since the new measures affect all kinds of imports. In 2011, Argentina's EU imports totalled EUR 8.3 billion.

Argentina is known to be one of the biggest users of defensive measures and has often been accused by its trading partners of protectionism. In past months, the Argentinean Government has introduced a set of measures that restrict foreign investors' access to the country and has proceeded with the re-nationalisation of the oil and gas company YPF.

Argentina had implemented similar industrial policies in the past based on import-substitution. As a result, the country was isolated from world trade and, a decade ago, faced a disastrous economic and social crisis.

## Six decades of isolation

One century ago, Argentina was among the 10 richest countries in the world. The South American country was well integrated in the world trading system and attracted substantial flows of foreign capital from both the US and Europe<sup>1</sup>.

Although some protectionist measures were adopted in the aftermath of the Great Depression of the 1930s, it was only after 1945 that Argentina decided to reduce its foreign trade exchanges. The country implemented

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<sup>1</sup> Alan Beattie, False Economy, Chapter 1, (2009)

Although Argentina was once wealthy and open to foreign trade, the country essentially isolated itself after the second World War.

an economic system very close to autarky that lasted until the mid-1970s.

By doing so, Argentina chose not to participate in the unprecedented expansion of international trade that followed the end of Second World War. Instead, Buenos Aires embarked on an ambitious process of 'import-substitution' industrialisation that resulted in often-uncoordinated cycles of economic expansion followed by sharp recessions.

Import substitution can be defined as follows:

A Government strategy that emphasises replacement of some agricultural or industrial imports to encourage local production for local consumption, rather than producing for export markets. Import substitutes are meant to generate employment, reduce foreign exchange demand, stimulate innovation, and make the country self-reliant in critical areas such as food, defence, and advanced technology<sup>2</sup>.

Argentina's decision to turn its back on an export-led growth strategy was based on political, rather than economic, considerations. Argentina's governments and powerful lobbies blocked all attempts to liberalise the country's economy. This policy resulted in a progressive deterioration of the domestic economy and transformed a once wealthy and fast growing nation into a quasi 'third world' country with significant economic and social problems<sup>3</sup>.

As economists have described it, 'for at least 50 years, successive Argentine governments intentionally distorted producer prices by setting import tariffs and export duties and maintaining a dual exchange rate mechanism. These distortions altered the allocation of resources in the economy, which in turn affected the political equilibrium'<sup>4</sup>.

Argentina's import-substitution strategy was only dismantled only after a substantial deterioration of the country's economic and political conditions, which led to a devastating economic and social crisis in 1999-2001.

Once the strategy was altered, a cheap currency combined with the structural reforms to render Argentina's economy more competitive. The country's manufacturing sector experienced a few years of sustained growth and increasing exports in the early 2000s.

After 2005<sup>5</sup>, however, inflation grew substantially, and the trade surplus declined. In response to these negative trends and to the growing

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<sup>2</sup> [Business Dictionary](#).

<sup>3</sup> Argentina often speaks about itself as a 'developing country' in opposition to the 'developed world' that, in their understanding, still prevent poorer countries to develop. See e.g. Mercopress, Argentina attacks WTO and US on trade issues at OECD ministerial round, (25 May 2012)

<sup>4</sup> Sebastian Galiani and Paulo Somaini (Stanford University), [Path-Dependent Import-Substitution Policies: The Case of Argentina in the 20th Century](#) (September 2010)

<sup>5</sup> Economic slowdown and new protectionist temptations

<sup>6</sup> DG EXPO Policy Department, [Protectionism in the G 20](#) (December 2011)

After the country briefly opened to foreign trade at the beginning of this century, new protectionist tendencies followed once the economy slowed.

dissatisfaction of the country's economic operators, Argentina's President Cristina Fernández de Kirchner began to revise the country's industrial policy and implemented measures to shelter the country's industry and agriculture from growing international competition.

Protectionist tendencies have grown more pronounced since the beginning of the economic crisis in 2008. According to the European Commission, Argentina is the world's biggest user of trade-restrictive measures, and this despite its standing G 20 commitment to keep any protectionist drift at bay<sup>6</sup>. The recent imposition of a generalised system of 'non-automatic licensing' on all Argentina imports has considerably darkened the trade and investment outlook of the South American country.

## The measures in question

Barred from applying unilateral tariffs, Argentina has turned to 'non-automatic import licensing' as a way of to circumventing WTO and Mercosur rules.

Argentina is a full-fledged Member of the Mercosur customs union and is therefore prevented from changing tariffs on its own. To reduce imports and pursue defensive industrial policies, Buenos Aires has instead implemented a new strategy based on a generalised application of a 'non-automatic import licensing system' to all goods entering the country<sup>7</sup>.

This system is based on an extensive (and likely WTO-inconsistent<sup>8</sup>) reading of Article VIII of the GATT 1947 ('Fees and Formalities Connected with Importation and Exportation') and of the Tokyo Round Import Licensing Code<sup>9</sup>.

The import licensing code foresees two distinct sorts of import licensing: (a) automatic and (b) non automatic.

'Automatic import licensing' (licensing maintained to collect statistical and other factual information about imports) is defined as a system of import licenses in which applications are approved in all cases and are generally free of charge<sup>10</sup>.

'Non-automatic import licensing' is defined as a system of licensing that does not fall within the definition of automatic import licensing. Non-automatic licensing is used to administer trade restrictions, such as quantitative restrictions, which must be duly justified within the WTO legal framework.

In other words, no WTO member can have recourse to a 'non-automatic import licensing' system unless it is necessary to implement measures that are in conformity with the relevant WTO rules (e.g. antidumping measures,

<sup>7</sup> 'Licencias No Automáticas de Importación' in the form of 'Certificados de Importación' (CIs).

<sup>8</sup> According to the EU, these rules impose prohibited quantitative restrictions and are, *inter alia*, in breach of the obligations of non-discrimination and national treatment principle under the GATT 1994 and the rules of the Agreement on Import Licensing Procedures.

<sup>9</sup> WTO, GATT 1947, [Article VIII](#) and [Tokyo Round Import Licensing Code](#).

<sup>10</sup> *Ibid*, footnote 2.

The system is likely a breach of WTO rules.

safeguards, security reasons etc.) and unless the system does not have trade-restrictive or trade-distortive effects on imports other than those caused by the underlying restriction.

According to the European Commission, the licensing procedures applied by Argentina are burdensome, impose 'unacceptable and non-transparent conditions' and take six months or longer (instead of 60 days as foreseen by the WTO) to be completed<sup>1112</sup>.

Those goods imported into Argentina that are not subject to the 'non-automatic import licensing' system are submitted to an 'import pre-approval procedure', which is also reported to be long and burdensome<sup>13</sup>.

Another EU concern centres on the obligation that Argentina is imposing on importers to 'balance imports with exports, or to increase the local content of the products they manufacture in Argentina, or not to transfer revenues abroad'<sup>14</sup>. This non-written practice, imposed in a systematic and non-transparent manner, is the precondition for obtaining the license allowing imports of goods in the country.

As of 1 February 2012, the non-automatic import licensing system applies to practically all imports. Restrictions already in place in 2011 affected about EUR 500 million. The recent extension of the measures at stake is likely to hit all EU exports to Argentina, which amounted to EUR 8.3 billion in 2011. The long-term impact of a negative trade and investment climate is significantly higher and will of course also be felt by other countries<sup>15</sup>. The total value of Argentinean imports irrespective of their origin is around EUR 50 billion.

The impact on EU trade is expected to be severe.

The EU is the first WTO member to have requested formal dispute settlement consultations, but will likely be followed by a number of countries. At the WTO's Council for Trade in Goods held on 30 March 2012, 19 countries expressed deep reservations about Argentina's measures and lent their full support to a public joint statement signed by 14 WTO Members<sup>16</sup>. The joint statement specified, 'Argentina has made clear through public government statements that it has also adopted an informal 'trade balancing' policy, whereby companies seeking to import products must agree to export, dollar for dollar, goods of an equal or

The EU and other believe that WTO consultations represent the best way forward.

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<sup>11</sup> European Commission, [Q&As: EU's challenge to Argentina's import restrictions at the WTO](#) (Memo/12/376 - 25 May 2012).

<sup>12</sup> The Argentine Chamber of Importers argues that there are an estimated 100.000 imports' licences frozen at the Commerce Secretariat, in spite of having the green light from Customs.

<sup>13</sup> 'Licencias Automáticas Previas de Importación' (LAPI)

<sup>14</sup> European Commission, [EU challenges Argentina's import restrictions](#) (25 May 2012)

<sup>15</sup> Ibid.

<sup>16</sup> Argentina's import restricting policies and practices: [joint statement](#) by Australia, the European Union, Israel, Japan, Korea, Mexico, New Zealand, Norway, Panama, Switzerland, Chinese Taipei, Thailand, Turkey and the United States. Council For Trade In Goods (30 March 2012)

<sup>17</sup> Ibid.

greater value or establish production facilities in Argentina<sup>17</sup>.

A number of countries have also registered a strong complaint with the WTO Committee on Import Licensing of 27 April 2012.

## A global protectionist strategy

Argentina has imposed a wide range of measures that restrict foreign trade, including limiting foreign investment and land ownership.

In a recent interview, Argentina's Minister for Foreign Affairs Hector Timerman criticised 'people who prefer to have a small office and import instead of contributing to Argentina' [sic] real economy, to national industry and creating jobs for the people'. At the same time, Timerman denied that Argentina's measures had dampened foreign trade: 'Argentina is one of the countries in the world which most increased imports: 30 %, and among G-20 members the country which most increased imports'<sup>18</sup>.

Yet the breadth of measures that Argentina has recently imposed on foreign trade extends well beyond those that the EU is contesting before the WTO.

Argentinean exports as well as imports have been subject to government measures. As early as 2003, Argentina began to protect its agricultural sector by imposing taxes on farm exports. In 2008, further export restrictions were imposed on maize, wheat<sup>19</sup> and beef<sup>20</sup>.

Importers of goods into Argentina face an additional administrative burden in the form of a sworn statement the government has required before authorising imports<sup>21</sup>. A similar system based on sworn statements was also imposed by the Argentine Central Bank; these statements must precede the Bank's authorisation of payments for imports valued in currencies other than the peso<sup>22</sup>.

In December 2011 the purchase of Argentinean land by foreigners was restricted: foreign ownership of rural land has been limited to 15 % of the total, subject to exemptions.

Recently, through Resolution 142/2012 (April 2012) Argentina introduced a discriminatory system for exports

Argentina has also implemented measures to restrict or eliminate foreign

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<sup>18</sup> Mercopress, [Argentina denies protectionism; claims imports in 2011 soared 30%](#) (25 May 2012)

<sup>19</sup> This resulted in an estimated four million tonnes surplus that farmers were unable to sell on their domestic markets or export in third countries.

<sup>20</sup> The Economist, Keep out, South America's two biggest economies are imposing heavy-handed trade restrictions. (24 September 2011).

<sup>21</sup> On 10 January 2012, the Argentina's taxation and customs authority AFIP issued Resolution 3252/2011 which requires importers (registered in 'Registros Especiales Aduaneros') to submit a sworn declaration ('Declaración Jurada Previa de Importación' - DJAI) through a website of AFIP ([www.afip.gob.ar](http://www.afip.gob.ar)) in the 'Sistema Informático Maria' (SIM) prior to the placing of a purchasing order for all imports to Argentina.

<sup>22</sup> European Commission, Ninth report on potentially trade restrictive measures identified in the context of the financial and economic crisis (September 2011 – May 2012)

One of Argentina's most notable recent moves is the nationalisation of the Spanish-owned oil and gas company YPF.

ownership. Insurance companies in particular are now subject to such restrictions. Most spectacularly, the country's largest oil and gas company, YPF, which was owned by the Spanish company Repsol, has been nationalised<sup>23</sup>. Buenos Aires accused Repsol of violating its investment commitments and has refused to offer compensation to the previous owners<sup>24</sup>.

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<sup>23</sup> BBC News, [YPF nationalisation: Is Argentina playing with fire?](#) (16 April 2012)

<sup>24</sup> Oxford Analytica, Spanish Repsol begins YPF lawsuits against Argentina (16 May 2012)