

Argentina

【Risk Warning】

In 2009, Argentina introduced a number of non-automatic import licensing measures that may have a negative impact on relevant Chinese exporters. The Chinese products subject to non-automatic licensing include tires, auto parts, textile and clothing, household articles, machines, and miscellaneous products.

From March 25, 2009, Argentina expanded its non-automatic licensing list by adding certain screws, refrigerating equipments and tools (metallurgy products import certificate), and other miscellaneous products.

In addition, Argentina initiated 18 anti-dumping cases against Chinese products in 2009, involving products of footwear, multi-functional food processors, laminated flooring, stainless knives, steel wheel hubs, electric fans, and tires, among others. Such protective measures have substantially frustrated Chinese exporters. Relevant firms should take precautions of the abrupt changes in Argentina's trade protective measures and be ready with alternative plans.

1. Bilateral Trade and Investment

According to China Customs, the total volume of bilateral trade between China and Argentina in 2009 amounted to US\$ 7.79 billion, down by 46% over the previous year, among which China's exports to Argentina was reported a 31.1 % decrease to US\$ 3.48 billion, while China's imports from Argentina registered a 54 % decrease to US\$ 4.31 billion. China ran a trade deficit of US\$ 830 million with Argentina. China's exports to Argentina mainly include electric motors, electrical equipments, audio-visual equipments and spare parts, mechanical instruments and spare parts, organic chemicals, vehicles and parts, plastic and its products, steel products; China's imports from Argentina chiefly include plant products, animal fats and plant oil, minerals, leather products, animal products, cellulose, paper, and chemical products.

According to China's Ministry of Commerce (hereinafter referred to as MOFCOM), the turnover of engineering contracts completed by Chinese companies in Argentina in 2009 reached US\$ 180 million and that of labor service cooperation contracts US\$ 440 thousand. .

According to MOFCOM, China's non-financial foreign direct investment(FDI) in Argentina, approved by or filed with MOFCOM, totaled US\$ 39.208 million in 2009. Argentina invested in 5

projects in China in 2009 with an actual utilization of US\$ 12.41 million.

2. Argentina's Trade and Investment Regime

2.1 Trade Administration Regime and Its Recent Developments

2.1.1 Tariff Regime

2.1.1.1 Tariff Administration

Argentina accords its trading partners at least most-favored-nation (MFN) status. As a member of the Common Market of the South also known as the Southern Cone Common Market (Mercado Común del Sur or MERCOSUR), Argentina implements uniform customs tariff rates known as the Common External Tariff (CET) together with other member countries. The General Customs Administration (Dirección General de Aduanas or DGA) under Argentina's Federal Administration of Public Revenue (Administración Federal de Ingresos Públicos or AFIP) is responsible for enforcing customs measures. Argentina's Ministry of Planning, Public Investment and Services also plays a part in improving its tariff structure.

Argentina applies an ad valorem duty on most products, but from 2000 Argentina applies mixed duties called "minimum specific duties (DIEMs)"¹ (ad valorem duties plus specific duties) on imports from non-MERCOSUR member countries with no more than 35% of the ad valorem duty. Products currently subject to DIEMs include textiles, apparel and other specific textile products, footwear, caps, certain toys, IT and telecommunications-related products. On December 31, 2007, the Government Communiqué notified *Resolution No.15/2007* issued by the Ministry of Economy and Production (MEP) to extend these measures until December 31, 2010 effective for three years.

2.1.1.2 Average Tariff Levels and Its Developments

According to official data of WTO, in 2009, Argentina's simple average rate of tariff stood at 11.6%, with a rate of 10.3% and 11.9% for agriculture and non-agriculture goods respectively.

On September 10, 2009, the President of Argentina announced that the Argentinean government would refund the export duties on wheat and corn by small and medium-sized farms in case of 6.5 million tons of wheat and 8 million tons of corns are enough for the domestic market in 2010.

¹ DIEMs were originally introduced in 2000 and are applied only when the duty that results from their application is greater than that resulting from the *ad valorem* tariff.

Currently, export duties on wheat and corn are 23% and 20% respectively.

2.1.2 Major Import Administration

Argentina's major laws for relevant import procedures include *No.22415 Custom Code* (ratified on March 2, 1981 and amended by *Decree No. 25986* issued on December 16, 2004) and its detailed rules for implementation (*Decree No. 1001* issued on May 21, 1982 and its *Amendment*).

2.1.2.1 Import Prohibition

Argentina bans the import of used accumulators for mental recovery, sewage sludge for use as fertilizers, second-hand motorcycles and mopeds, second-hand automobiles and auto parts, pesticides (that are prohibited in their places of origin), retreads and used tires (of MERCOSUR tariff headings 40121000 and 40122000), substandard plastic materials and second-hand manufactures, alcoholic products (in bottles of a capacity exceeding 5 liters), medical materials (obsolete, unusable or expired), and narcotics.

2.1.2.2 Import Licensing

Argentina's import licenses, which come in two categories, i.e. , automatic and non-automatic, are administered by the MEP's Secretariat of Industry, Trade and SMEs. The automatic licenses of Argentina include the Sworn Declaration of Product Composition (DJCP) and the Automatic Pre-Importation License (LAPI). Products subject to DJCP mainly cover textiles and clothing. The application for DJCP shall be submitted to the Directorate of Imports under the Undersecretariat for Trade Policy and Management and is handled manually. And products requiring LAPI include footwear parts, paper in reams and rolls, textiles (cotton and synthetic yarns), components and spare parts of agriculture machinery, telephone accessories, cardboard boxes, particular wood furniture, dried egg yolks and canned peaches. The application for LAPI is computer-processed.

In 2009, the secretary of Industry of the Ministry of Economy of Argentina signed an order to strengthen the administration of imports and add 1200 products to the list of LAPI, which are mainly consumption goods including certain bicycles, shoes, audio products, socks, auto parts, toys and electronic products etc. .

In addition to expanding the scope of products subject to automatic import licensing, Argentinean government establishes non-automatic licensing requirements for various products. Argentina's *Decree No. 24425* provides relevant stipulations for non-automatic licenses. Products subject to non-automatic licenses include footwear and its parts, paper, certain bicycles, household articles,

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toys , tires and inner tubes, motorcycles, textiles and miscellaneous products. Import licence applications may be submitted to the Import Directorate within the Undersecretariat for Commercial Policy and Management for review. The administration measures for non-automatic licenses announced in 2009 are as follows:

(1) Auto Tires

The MEP of Argentina issued Notice No. 26/2009 on January 21, 2009 to apply non-automatic licensing to imported auto tires for cars, buses, trucks, and agricultural vehicles with MERCOSUR tariff headings 40111000, 40112090, 40116100, 40119210, 40119290. When imports with a declared value lower than the criterion values of *Resolution No.1907/2005* of the Federal Bureau of Public Revenue require submission of supplemental materials to State Foreign Trade Administration Bureau.

(2) Auto Parts

On August 24, 2009, Argentina's Ministry of Production established non-automatic licensing list for "Auto Parts and Products Thereof," which includes items classified under MERCOSUR tariff headings 5903.10.00, 5903.20.00, 5903.90.00, 6813.81.90, 6813.89.10, 8507.10.00 (except those with a voltage of 12 volts or less and a capacity of 28 Ah or less), 8708.30.19 and 8708.93.00. The above measure will be effective on September 13, 2009.

(3) Textile Apparel Products

In 2009, Argentinean authorities expanded the scope of the textile and apparel products subject to non-automatic licensing on March 25, May 5, and October 23 respectively. The products bound by the license measures are: MERCOSUR tariff numbers 63019000, 63023200, 63026000, 63022100, 63023900, 63029100, 63022200, 63024000, 63039100, 63022900, 63025100, 63039200. The products under the following tariff numbers were added to the list: 61012000, 61013000, 61019090, 61021000, 61022000, 61023000, 61044100, 61044200, 61044300, 61044400, 61044900, 61045200, 61045300, 61046200, 61046300, 61046900, 61061000, 61062000, 61069000, 61151011, 61151012, 61151021, 61151093, 62011100, 62011200, 62011300, 62019200, 62019300, 62019900, 62021100, 62021200, 62021300, 62029100, 62029200, 62029300, 62029900, 62044200, 62044400, 62052000, 62053000, 62059090, 62061000, 62063000, 62064000, 62069000, 62079100, 62089100, 62092000, 62093000 and 62099090.

From November 15, 2009, the textile and apparel products under following MERCOSUR tariff

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numbers will be subject to non-automatic licensing: 51061000, 51062000, 51121100, 51121910, 52053100, 52053200, 52054100, 52062400, 52063200, 52083200, 52083300, 52084100, 52084200, 52084300, 52084900, 52085200, 52094100, 52094300, 52101100, 52101910, 52101990, 54077300, 54078300, 55092100, 55093200, 55101100, 55103000, 55151300, 60063400, 60064100, 61159900, 61169100, 61169200, 61169900, 61171000, 62141000, 62142000, 62143000, 62144000, 62149010 and 65059000.

(4) Household Goods

From May 25, 2009, some household goods including certain air conditioners and indoor household goods were added to the non-automatic licensing list, specifically, the products under following MERCOSUR tariff numbers 84151011, 84151019, 84158300, 85094050 and 85165000.

On May 5, 2009, licensing requirements for certain household goods have been amended to include the products under the MERCOSUR tariff numbers 84146000 (except professional equipment with a voltage supply of 380 VCA), 84183000, 85162900 and 85164000.

(5) Machinery and Tools

From March 25, 2009, Argentina added some products to the non-automatic licensing list, including certain screws, refrigerating equipment and tools (metallurgy products import certificate) of the products of the MERCOSUR tariff numbers 73181200 (except stainless steel), 73181400 (except stainless steel), 73181500 (except stainless steel) and 84186940. Per *Resolution 121/2009*, the licensing requirements will not be applied to the products under 73181400 and 73181500 until May 17, 2009.

(6) Miscellaneous Products

As from March 25, 2009, Argentina established non-automatic licensing requirements for certain miscellaneous goods including certain seats, furniture, slide fasteners, knives and other miscellaneous products under the following MERCOSUR tariff numbers: 82111000, 82119100, 82152000, 82159910, 82119210, 84335100, 85234011, 87019090, 94013010, 94013090, 94014010, 94014090, 94015100, 94015900, 94016100, 94016900, 94017100, 94017900, 94018000, 94019010, 94019090, 94031000, 94032000, 94033000, 94034000, 94035000, 94036000, 94037000, 94038100, 94038900, 94039010, 94039090, 96071100, 96071900, 85272110. Products under tariff number 84137080 were added to this requirement as from November 8, 2009.

As from May 5, 2009, products under MERCOSUR tariff numbers 36050000, 92029000 (only classical and acoustic guitars), 96039000 and 96138000 (only those used in the kitchen, except those to be incorporated in household appliances/apparatus) have been added to the list of miscellaneous goods requiring non-automatic licences.

As from November 8, 2009, products under MERCOSUR tariff numbers 85041000, 49111090, 49119100 and 49119900 were subject to non-automatic license, and the relevant measures took effect as from November 15, 2009.

2.1.3 Major Export Administration

Argentina's major laws for standardizing export procedures include *Customs Code (Law No.22415/1981)*, *Decree No.1001/1982* and *General Resolution No.1921/2005* of the Federal Administration of Public Revenue. Argentina's *Decree No.23101* establishes the export incentive regime designed to encourage small and medium-sized firms to enter international market and to reduce the costs of exports with high added values.

In 2009, the newly established Ministry of Agriculture, Livestock, Fisheries and Food further relaxed the export restrictions on Argentina's beef by expanding the varieties of the exported beef and cutting the current compulsory inventory scale of export enterprises from 65% to 30%.

“Argentina Export Foundation” is supportive to the export of Argentina's companies, and some provinces also have their own export promotion agencies. “Argentina Export Foundation” is an organization with trade promotion function subordinated to Secretariat of Trade and International Economic Relations. Supports the foundation can offer include the provision of trade data (the list of importers and foreign trade opportunities), coordination and preparation for Argentina enterprises participating in international trade affairs as well as organizing business trip and trade mission.

2.1.4 Trade Remedies

Argentina's legal framework concerning trade remedies is mainly based on *Resolution No.281/97* and *Decree No.622/95*. Other pertinent laws include *Law No.24425/1994* which adopts relevant stipulations of *Uruguay Round Agreements*, *Decree No.1059/1996* (Safeguard Measure Rules), *Decree No.2121/1994* which contains operating regulations, and *Decree No.1326/1998* which adopts *WTO Anti-dumping Agreement*, *Resolution No.826/99*, *Decree No.1219/2006* which applies to the imports from non-market economies and transitional economies, and *Decree No.1393/2008*

which concerns the rules and regulations for effective implementation of *Law No.24425*.

The Ministry of Production is the major department for anti-dumping affairs. The Undersecretariat for Trade Policy and Management and the State Trade Commission are responsible for the investigations. The former calculates the extent of dumping and the later examines whether the dumping is causing injury to the domestic industry. When certain enterprises or the Chamber of Commerce submit the application to the Undersecretariat for Foreign Trade requiring anti-dumping investigation on certain imports, the Undersecretariat for Foreign Trade will decide whether to launch an investigation after consulting the Trade Commission. Once the cases are accepted, the preliminary investigation will be launched, and the Secretariat of Industry, Trade and Small and Medium-sized Enterprises will announce the initiation of anti-dumping investigation after 35 days if there is sufficient reason for such investigation. During the investigation period, interested parties (including importers, exporters, Argentina producers and relevant departments) may submit evidence and information related to this investigation. When evidences indicated that dumped imports are causing material injury to the domestic industry, Argentina authority may take provisional measures which will normally last four months. The whole investigation normally takes a year, and finally, the Undersecretariat for Trade Policy and Management and the State Trade Commission will advise the Secretariat of Industry, Trade and Small and Medium-sized Enterprises whether measures be taken or not. If the anti-dumping measures are adopted, the lowest FOB prices will be set or anti-dumping special taxes will be imposed, and the final determination on anti-dumping investigation is usually valid for 2-5 years.

In most cases, after one year of implementation of these measures, all anti-dumping measures can be reviewed when businesses submit the pleading to the Undersecretariat of Trade Policy and Management. Nevertheless, under special circumstances such as major changes of the environment or out of the interests of investigating authorities, the review may be initiated by the investigating authorities or at the request of the related interested parties before one year of implementation. Upon receiving request, the Undersecretariat for Trade Policy and Management and Trade Commission should finish dumping and injury reports respectively within 180 working days, and it may be prolonged to a maximum of 240 working days in complicated cases. The Foreign Trade Commission presents a cause and result report and submits to the Secretariat of Industry, Trade and SMEs and sends a duplicate to the Undersecretariat for Trade Policy and Management within 10 working days after the formation of dumping and injury reports. Within 10 working days of receiving the cause and result report, the Undersecretariat will make a suggestion

to the Secretariat of Industry, Trade and SMEs who will report to the Minister of Production within 15 working days. The Minister of Production will decide whether to maintain, amend or cancel an anti-dumping measures finally. Review should be completed within 9 months after the initiation of the cases and all interested parties are ensured to get involved. The period for review can be extended in case of particularity, but no more than 18 months.

In the anti-dumping investigation, normal values and price comparability of the products imported from relevant countries will be determined in accordance with the *Act No.1219/2006* which was issued by Argentina's former Ministry of Economy and Production and applies to countries of non-economy or those of economy in transition. As for the products imported from the non-market economy or from the economy in transition, 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).

2.1.5 Other Related Regimes

2.1.5.1 Import and Export Inspection and Quarantine System

Decree No.1177/97 and *Resolution No.217/99* issued by the Argentinean government stipulated that commodities under 2400 tariff numbers are subject to inspection before shipment, which mainly involve food, daily necessities, domestic appliances and toys. The designated international commodity inspection organization is Societe Generale de Surveillance S.A (SGS), which will:

- (1) inspect goods' quality, quantity and the place of origin before shipment;
- (2) inspect if the imports' Customs tariff codes are accurately chosen;
- (3) inspect the conformity between the declared price and the price of the place of origin or international market;
- (4) inspect each shipment of goods in respect of their quality and quantity and prove its conformity. The commodity inspection company issues an inspection certificate and establishes an opinion of the good's price.

SGS's inspection procedure must be compliance with the international recognized inspection code. Firstly, importers should submit the application form for pre-shipment inspection after signing contract or 10 days before shipment to SGS's agency in Argentina; the application form can be submitted to SGS office in export country either via fax or e-mail; the number on the form enables

importers to contact customs broker and supplier; then importer shall ask the seller or supplier to contact SGS to facilitate carrying out inspection; SGS shall perform the quarantine inspections at the date and location designated by suppliers within 5 days after receipt of the notice.

Imported foodstuff such as live animals, plants and their products, grain, seeds, salted fish and dried fish shall be subjected to sanitary quarantine inspection.

2.1.5.2 Science and Technology Tax

From 2009, the Congress of Argentina decided to impose a 20.48% science and technology tax on goods including mobile phones, air-conditioner, monitors, global positioning system (GPS), electronic products such as audio-visual equipment, and thermos, dryers and irons. The above-mentioned goods, imported or produced in other parts of Argentina, except made in Province of Tierra del Fuego, should pay the taxes in accordance with the law.

2.1.5.3 Free Trade Zones

There are two major free trade zones (FTZs) in Argentina, namely, Tierra del Fuego FTZ and La Plata FTZ. Goods brought into and consumed in Tierra del Fuego FTZ enjoy preferential duties. Goods shipped into the Antarctic and certain small islands (including South Sandwich Islands and South Shetland Islands) at the request of Argentina are also entitled to preferential duties. Goods imported into Argentina territory from a third country and destined for neighboring countries are duty-free. Goods entering and leaving La Plata FTZ are free of customs duties and statistical rates. Goods imported into La Plata FTZ can be taken apart, sorted out, classified and repackaged to facilitate storage and transportation. Commerce, services and industrial activities can be carried out in La Plata FTZ. Imported goods may be stored at customs-designated warehouses in La Plata FTZ for a maximum of five years, during which period the goods may be sold, transferred or shipped to third countries. Capital goods that Argentina is unable to produce locally may be manufactured in La Plata FTZ and enter other regions of Argentina.

2.1.6 The Restructuring of Trade and Investment Agencies

From September 30, 2009, the government of Argentina announced that the Secretariat of Agriculture, Livestock, Fisheries and Food subordinated to the Ministry of Production upgraded to ministerial level and set up the Ministry of Agriculture, Livestock, Fisheries and of Food to promote the formulation and implementation of agriculture policies as well as the agriculture

production and export of Argentina.

2.2 Investment Administration Regime and Its Developments

Argentina's legislation on investment mainly includes *Foreign Investment Law No. 21382/1993* and its *Regulations*. The Ministry of Production (MP) formulates measures relating to foreign investment, and its Secretariat of Industry, Trade and SMEs implements the *Foreign Investment Law*. The MP's Investment Promotion Agency identifies business opportunities in the country and circulates the information.

Argentina's Horizontal Investment Incentive Schemes operated under *Foreign Investment Promotion Law No. 25924* (promulgated on September 6, 2004) provide preferential terms for investment financing, reduce initial costs of investment, and promote research and development (R&D) as well as regional development. In particular, the Argentinean government encourages foreign investment in such industries as automobile and auto components manufacturing, mining, forestry, software development, ecological petroleum and publishing.

2.2.1 Major Investment Promotion Policies

Foreign Investment Promotion Law No. 25924 established an incentives mechanism to encourage investment in capital goods and civil works, including accelerated depreciation for machinery, equipment and infrastructure. The depreciation of capital goods is calculated from the date of purchase and is completed in three years, while the depreciation period of infrastructure works is cut by 50% compared with the usual period. The purchase of capital goods under investment projects enjoys the reimbursement of value added tax (VAT), which can be paid in cash three months after the purchase.

Argentina's legislation on mining includes *Mining Law No.456/97*, *Mining Investment Law No.24196/93* and its operating regulations (*Decree No.2686/93*), Environmental Protection Code for the Mining Industry (*Decree No.24585/95*). Argentina's *Mining Investment Law No.24196* provides preferential policies for investment in mine exploration, including a 30-year guarantee of fiscal stability for new projects, the extension of existing projects, the exemption of import duties on capital goods, and an upper ceiling for provincial mining taxes.

Similarly, to stimulate investment in forestry, Argentina's *Law on Investment for Cultivated Forests No.25080* (LICF) promulgated in 1999 has supplemented and improved the preferential policies on forestation issued in 1992, stipulating a series of preferential policies ranging from planting, processing to exporting, and establishing tax policy stability for a period up to 33 years for investors.

2.2.1 Policy of Taxation for Investment Management

In 2009, Argentinean government ratified a new round of investment promotion decrees in the field of industry to implement preferential policies on investment projects, including refunding VAT in advance and accelerating depreciation for purchasing capital goods such as machinery equipment.

2.2.3 Restricted and Banned Investment Areas

Argentina places restrictions on foreign participation in the fisheries, communications media (including radio broadcasting and Internet access), and arms and ammunition sectors. *Decree No.25750/2003* imposes a 30% cap on the participation of foreign investors in the ownership of communications media and limits their voting rights to 30%. In addition, for national security reasons, foreign investment in security (border) zones is subject to certain restrictions; for example, to purchase real estate in these zones, foreign investors must apply to the National Security Zones Commission for approval.

2.3 Trade and Investment Related Administration and Its Recent Developments

2.3.1 Government Procurement

Argentina is not a signatory to *the WTO Agreement on Government Procurement*, but it became an observer to the WTO Committee on Government Procurement in April 1997. After the ratification of *Decree No. 436/2000*, a marked change has taken place in Argentina Government Procurement System. National preferences have been introduced again in 2001. National Government Procurement Office monitors government procurement system at national level, in charge of government procurement control, supervision and basic management and drafting the policies, measures and procedures concerning the goods and services contracting.

2.3.2 Exchange Regime

Foreign exchange earnings of Argentina's enterprises from exports shall be exchanged in the unified foreign exchange market. In accordance with the provisions of the MEP's Secretariat of Industry, Trade and SMEs, settlement shall be made within 60 to 360 days after shipment, depending upon the categories of exports. Argentina's Central Bank requests that Argentina's

enterprises complete settlement procedures within 90 days, which can be prolonged to 180 days when there is outstanding debts on buyer's side or exchange earnings is used to pay export credit. For the export of capital goods, technical goods or the project of turnkey plants, when importer and exporter come to an agreement, the settlement can be carried out beyond the deadline set by the Secretariat of Industry, Trade and SMEs as long as the date of settlement does not exceed 3 years from the date of shipment. Foreign exchange earnings from service exports shall also be exchanged in the unified exchange market.

Foreign exchange earnings from trade in services and foreign exchange earnings failed to be settled in the unified free foreign exchange market (MULC) within the prescribed period of time should be exchanged at the reference rate released by the Central Bank on the day the conversion should have taken place. Conversion should be based on the settled rate when the reference rate is higher than it.

2.4 Trade-related Technical Measures Enacted in 2009

2.4.1 Wines

On January 27, 2009, Argentina's National Institute of Vitiviniculture (INV) issued *INV Resolution No. C.24/2008* on the spinning cone process, to approve spinning cone process, in which Flavourtech PTY LTD.'s SCC 10.000 spinning cone column is used, as a method for the partial dealcoholization of wine, and all other equipments using the same technology. But they must be subject to INV's testing and approval.

2.4.2 Paints, Lacquers and Varnishes

Resolution No. 7/2009 issued by Argentinean government in April 2009 updates the maximum limits established for lead in coatings, paints and varnishes. The *Resolution* banned the importation, retail and sale of coatings, paints and varnishes with a lead content higher than 0.06% of the total non-volatile content. Imports of subject merchandise will have to be accompanied by Certificates of Compliance issued by Argentina's National Institute of Industrial Technology (INTI) that will be responsible for the certification procedures by adopting Certification Systems N°4, N°5 or N°7. The following products are excluded from the scope of the ban: paints, lacquers and varnishes used (i) exclusively for artistic purposes, (ii) on agricultural and industrial equipments, (iii) on industrial, agricultural and commercial metallic equipments, (iv) on bridges and port facilities, (v)

on traffic and safety demarcations and signs, and (vi) on motor vehicles, airplanes, vessels and trains. However, these exempted products still need to obtain a certificate of exemption by INTI and must include certain warnings in Spanish on the packaging indicating the excessive of the contents of lead as the following statement: “Warning: This product is lead-containing. Be harmful if ingested. This product is only applied to ...” The *Resolution* took effect as from April 19, 2009.

2.4.3. Toys and Childcare Products

In 2009, the Argentinean government issued a resolution to prohibit the sale, manufacture, importation or exportation of toys and childcare products made with plasticized materials containing di-(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP) or benzyl butyl phthalate (BBP) in concentrations exceeding 0.1 percent. In addition, the resolution banned the sale, manufacture, importation or exportation of children’s toys and childcare articles that can be placed in a child’s mouth if they contain diisononyl phthalate (DINP), diisodecyl phthalate (DIDP) or di-n-octyl phthalate (DnOP) in concentrations exceeding 0.1 percent. Argentinean government announced that the effective date of this ban was extended to October 23, 2009, and clarified the following implementing details: toys are defined as articles intended for children younger than 14 years of age to play with; while the term “childcare article” is defined in the legislation as a product intended to facilitate sleep, relaxation, hygiene and feeding of children. The ban also includes packaging made with flexible PVCs that will be utilised and remain available to children during the useful life of the product. On the other hand, the ban does not cover articles made exclusively of rigid materials, clothing or footwear, electrical wires, or braking cables or tyres of bicycles, tricycles, rollers, skate boards, cribs or baby carriages. The resolution also required imports of toys and childcare articles made of flexible materials to be accompanied by a technical report prepared by Argentina’s Plastic Industry Centre for Research and Development confirming that those products do not contain any of the banned phthalates. Argentinean importers will be required to present either a sworn statement attesting compliance with the phthalate requirements and a document from aforementioned center showing that a request for a technical report was filed with that institution prior to September 23, 2009.

3 Barriers to Trade

3.1 Tariff and Tariff Administrative Measures

Argentina has raised the Common External Tariff (CET) on hundreds tariff lines of products such

as textiles, footwear, automobile and automobile parts to 26% or 35% as from October 2008. Previously, the highest tariff on relevant products is 20%.

3.2 Import Restrictions

In 2009, Argentina continued to adjust the scope of administration of non-automatic licensing by broadening the list of products that require non-automatic licences, including textiles and clothing, household goods, machinery and tools, automobile tires, and miscellaneous manufactured goods, etc., which leads to a substantial limitation to the export of goods from foreign countries. Argentina's non-automatic licensing practices mainly have the following problems and impacts.

3.2.1 Problems in Argentina's Licensing Measures

The licensing measures of Argentina lack transparency and predictability. As is mentioned in the preface of the *Agreement on Import Licensing Procedures*, "Convinced that import licensing, particularly non-automatic import licensing, should be implemented in a transparent and predictable manner". Article 3.3 stipulates that "In the case of licensing requirements for purposes other than the implementation of quantitative restrictions, Members shall publish sufficient information for other Members and traders to know the basis for granting and/or allocating licences". However, the enacting and implementing of licensing measures of Argentina lacks transparency and predictability, which has caused great uncertainty to the export of relevant products from China. For example, *Resolution No.61/2007* concerning import licensing for footwear fails to list specific conditions for granting a license and the time for processing the application. In addition, *the Resolution* indicates that this measure is "temporary monitoring", but it doesn't specify the time of its termination, which gives Argentina's competent department in charge of import licensing a lots space of adjudication .

There is no proper reason to explain the delay of Argentina's import licences application . As is stipulated in Article 3.5(f) in *the Agreement on Import Licensing Procedures*, "the period for processing applications shall, except when not possible for reasons outside the control of the Member, not be longer than 30 days if applications are considered as and when received, i.e. on a first-come first-served basis, and no longer than 60 days if all applications are considered simultaneously."

In the notification to Licensing Committee of the WTO in September 2008, Argentina expresses that the only reason that the competent department refuses to issue license is that the relevant application does not conform to general issuing standards, and those applications in conformity with the standards will be approved within the deadline, with a maximum period of 30 calendar days. However, according to the reflection of Chinese export enterprises, current major problems are the lengthy and arbitrary process for granting non-automatic licenses. The Argentina authorities sometimes even issue a verbal order for quantitative restrictions on enterprises. For example, a Chinese-invested motorcycles assembly factory in Argentina submitted in March 2008 an application for import licenses for motorcycles to the MEP's Secretariat of Industry, Trade and SMEs, although the application contained everything needed and fully complied with relevant requirements, the Argentina authorities spent nearly six months examining the application, a period that far exceeds the 10-30 workdays for import license processing as committed by Argentina to the WTO, some import licenses have not released yet.

In response to accusations of the delay in its import license approval process of Argentinean government, the Argentina Minister of Industry and Tourism states that the market share of Chinese products are replaced by Brazilian products as most products from Brazil have acquired import licensing while Chinese products have difficulty in acquiring it. Thus, due to personal factor, Argentina's non-automatic license measures lead to a negative impact on China's export to Argentina and the reduce of Chinese products market share.

3.2.2 The Impacts and Follow-ups of Argentina's Licensing Measures

After the implementation of administration of non-automatic licensing system, Argentina may launch anti-dumping investigations afterwards in order to further strengthen the restrictions on certain products. For example, when Argentina's Ministry of Economy and Production expands the scope of footwear products subject to non-automatic licensing in November 2008, Secretariat of Industry, Trade and SMEs launched an anti-dumping investigation against footwear products immediately in February 2009. In addition, on March 25, 2009, Argentina promulgated *Resolution No.86/2009*, deciding to initiate an anti-dumping investigation on denim originating from China. Among these, products under MERCOSUR's tariff numbers 52094210, 52094290, 52114210 and 52114290 are subject to non-automatic import licensing of *Resolution No.589/2008* issued by Argentina's MEP in November 2008. There are only 3-4 months between the launching of above-mentioned two cases and the time of Argentina's adjustment of non-automatic licensing.

Businesses and industrial sectors are reminded to pay attention to such inclination and strengthen the pre-judgement of Argentina's related import restriction measures.

Argentina's licensing administration measures have exerted a negative impact on China's export to Argentina. Year 2009 witnessed a significant decline in bilateral trade between China and Argentina, and the import restrictions imposed by Argentina side exacerbated the plight of the bilateral trade between Argentina and China. In addition to the effects of the global economic crisis, trade protectionist measures adopted by Argentina is also an important factor leading to the substantial decline in bilateral trade volume. Among them, Argentina's import license administration intensifies the restrictions on imported goods involving apparel, textiles, footwear, household appliances, leather products, toys, automobile and motorcycle parts and other traditional products.

As financial crisis affects Argentina's financial markets and real economy increasingly, Argentina's business community and labor organizations will exert a pressure on the government together to request government to strengthen the protection for domestic industries. Argentinean government may further tighten its import controls, which may have an adverse effect on China's export, so the relevant Chinese businesses are advised to pay due attention to it.

3.3 Barriers to Customs Clearance

On October 16, 2008, Director of the General Customs Administration announced that the Argentinean government decided to issue a series of measures including setting new "normal value" to restrict imported goods from Brazil and China.

The Argentina Customs has announced the new list of "normal value" , which covers 120 imported goods from Brazil and China the first time. Goods subject to the restrictions include: 50 kinds of textiles, 50 kinds of motorcycle parts and other metal products and 20 kinds of home electrical appliances products.

The so-called import "normal value" is the minimum price of imported products set by the Argentina Customs with the recommendation of the local industrial sector, which is usually higher than the actual prices of imported products. According to the measures of Argentina Customs,

Customs will step up inspection and restrictions on imports with a declared value lower than "normal value". In fact, it's another form of tariff barriers to block these imports from Argentinean market.

3.4 Technical Barrier to Trade

On February 4, 2009, Argentina released *TBT Notification No. G/TBT/N/ARG/246*, to prohibit the importation and marketing of incandescent lamps for general residential use throughout Argentina as from December 31, 2010. At present, many countries and regions have set a timetable for the prohibition of using (sale) incandescent lamp, but some of them at different phases. For example, EU has prohibited the marketing of incandescent lamps above 100 wattage as from September 2009, while will not prohibit its use till 2012. Some set quite a late time of prohibition, for instance, Taiwan and Canada will ban the use of incandescent lamps by 2012 and Korea by 2013. According to Article 2.7 in *the on TBT*, "Members shall give positive consideration to accepting as equivalent technical regulations of other Members, even if these regulations differ from their own, provided they are satisfied that these regulations adequately fulfil the objectives of their own regulations." China suggests that Argentinean government, according to wattage of incandescent lamp, ban the importation and marketing at different stages or postpone the time of prohibition and marketing at least to the end of 2012.

Argentina's *Decree No.287/2000* lays down rigid labeling rules on footwear and textiles, including requirements of the size of print, the way to attach the label, the label information(country of origin and name of the importer) and so on. Importers complained that the relevant labeling requirements slow the import process significantly.

In Argentina, mandatory accreditation applies to products such as household electric appliances, electronic products, electronic components, toys, packaging for dangerous goods, gas utensils, steel for construction, personal protection equipment (PPE), bicycles, and elevators. The procedures of accreditation are complicated and lacking in transparency. In addition, the certification of country of origin of products manufactured with components from different countries is required to include the certification of country of origin of each component. Take lighters as example, the certificate should cover all the parts and components of the product and be issued according to the testing report. Moreover, it requires a check-up of the product every 90 days for compliance to product safety standards, thus imposing a greater burden on exporters.

According to the regulations for the import of medical equipment issued by Argentina's National Administration of Drugs, Food and Medical Technology (ANMAT), imported medical equipment, in order to be registered and marketed in Argentina, should have the Free Selling Certificate issued by High Sanitary Vigilance Countries (HSVC) such as the U.S., Canada, Australia, Japan, Swiss and Israel. Enterprises in countries like the U.S., Canada and Australia can export their medical equipments to Argentina with the Free Selling Certificate issued by their own countries, whereas Chinese enterprises must obtain the certification from the above-mentioned HSVC countries for their exports. This requirement on the part of Argentina actually constitutes a discrimination against Chinese medical equipments in matters of certification.

3.5 Sanitary and Phytosanity Measures

Argentina demands that products of wheat powder, inclusive of biscuits and pastes, should be intensified with iron, folic acid, thiamine, riboflavin, nicotinic acid, with the exception and exemption of particular products on a case-by-case basis, whose procedures are extremely complex. This requirement hampers the access of the relevant products to the Argentina market.

3.6 Trade Remedies

Argentina is one of the countries that apply the largest number of anti-dumping measures, among which China is a main subject. According to the statistics of WTO, products from China account for one quarter of its anti-dumping investigations. By the end of 2009, Argentina has launched a total of 82 trade remedies investigations against Chinese products, including 77 anti-dumping investigations and 5 safeguard measure investigations. Products of 10 industries were covered, such as light industry, textiles, machinery, automobiles, metal products, chemicals, metallurgy, electronics, construction materials and medicine.

In 2009, Argentina has launched 18 anti-dumping cases against Chinese products, covering products such as textiles, footwear, iron and steel as well as electronic devices. Argentina's anti-dumping cases against China are large in number widespread in effect, and arbitrary in practicing.

3.6.1 Anti-dumping Cases

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Anti-dumping investigations against Chinese products initiated in 2009				
No.	Time of registration	Products covered	Customs Tariff Numbers (MERCOSUR Tariff Numbers)	Progress of the case
1	January 6	Plain and diagonal cloth	54076100, 54076900	Started from September 9, 2009, Argentina placed a provisional minimum FOB price of U.S.\$17.60 per kilogram, effective for four months.
2	January 14	Household food processor	85094050	Under investigation
3	January 23	Laminated Flooring	44103200, 44111900, 44113900, 44101120, 44111290, 44111390, 44111490, 44119290, 44119390	Investigation ended on February 4, 2010. Non anti-dumping measures taken.
4	February 26	Footwear	64011000, 64019200, 64019910, 64019990, 64021900, 64022000, 64029110, 64029190, 64029910, 64029990, 64031900, 64032000, 64034000, 64035110, 64035190, 64035910, 64035990, 64039110, 64039190, 64039910,	A four-month temporary anti-dumping measures on footwear imports from China, effective from July 21, 2009.

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			64039990, 64041100, 64041900, 64042000, 64051010, 64051020, 64051090, 64052000, 64059000	
5	March 2	Steel wheel hub	87087090, 87169090	Started from November 20, 2009, Argentina established a provisional minimum FOB price of US\$3.14 per kilogram, valid for 4 months.
6	March 20	stainless steel blade	82119210	Under investigation
7	March 25	denim fabric	52084300,52104910, 52094210,52094290, 52114210, 52114290	Started from November 9, 2009, Argentina established a provisional minimum FOB price of US\$3.13 per meter, valid for 4 months.
8	May 14	Malleable castiron pipe	73071910, 73071990	
9	June 4	Elevator and windlass used for elevator	84253110	Under investigation
10	July 7	Stove igniter in kitchen	96138000	Under investigation
11	September 9	Centrifugal pump	84137080, 84137090	Under investigation
12	September 9	Plastic	90183111, 90183119	Under investigation

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		hypodermic		
13	September 30	Chloromethane	29034911	Under investigation
14	October 19	Electronic heating appliance	85162900	Under investigation
15	November 29	Voltage regulator and electric starting devices	85118030, 85113020, 85118090, 90328911	Under investigation
16	November 2	Steel pipes (for petroleum and natural gas exploit)	73042910, 73042931, 73042939, 73042990, 73062900	Under investigation
17	November 24	Electric fans	84145110, 84145190, 84145990	Under investigation
18	December 23	Tyres	40111000, 40112090, 40116100, 40119210, 40119290	Under investigation

3.6.2 Problems in Argentina's Anti-dumping Investigations against Chinese Products

3.6.3.1 Market Economy Status

In the *Memorandum of Understanding Between the People's Republic of China and the Republic of Argentina on Cooperation in Trade and Investment* signed by the two governments on November 17, 2004, Argentina officially recognized China's status of market economy, announcing the end of discriminatory measures against Chinese import. However, Argentina fails to live up to its announcement in its practice by continuing to use the surrogate price of a third country in determining values, which greatly frustrated Chinese exporters.

Argentina's arbitrariness in practice can be also found in its choice of surrogate countries, which ranges from developing countries (Brazil, for example) to developed countries (such as U.S., Britain and Germany). Given the much higher labor and production cost in those developed countries, it's unfair and irresponsible for Argentina to determine the normal value of Chinese products on that basis. Argentina should eliminate those discriminatory policies as soon as possible and recognize China as a market economy as it promised in *the Memorandum*.

3.6.3.2 Time Limit for Submitting Pleading Documents

In its anti-dumping investigations against Chinese products, the Argentinean government requires that the involved companies submit to the Office of Unfair Competition under the Undersecretariat of Trade Policy and Management pleading documents within 45 days and questionnaires within 30 days. Relevant materials and questionnaires should be translated into Spanish by public translators and countersigned by the Argentina Consulate or Embassy in China and the Argentina Ministry of Foreign Affairs. This procedure greatly increases the difficulty for Chinese companies to defend themselves and hinders pleading process.

3.7 Government Procurement

In respect to government procurement, *Law 25551* establishes a national preference for local industry, with preferential margin ranging from 5% to 7%. There is similar preferential measures at the provincial level, resulting in entry barriers for foreign firms.