

copying of the master diskettes of software programs, directly in Argentina.

Other taxes due at the port of entry amount to 24% of FOB price plus other items (listed below). Value Added Tax is paid on all goods whether local or not. In case of imports it is due at the port of entry. Unlike other goods, imported goods also pay a VAT surplus due upon entry. Both taxes are refunded by the government (ie. they generate a fiscal credit) when selling the goods.

-Software Imports- Other Taxes due at Port of Entry	
Type of Tax	Tax Rate
VAT	18%
VAT Surplus	6%
Source: Novadata	

The total tax structure on software imports, effective as of January 1992, is shown again in the next table. This time attention is called upon the varying criteria the Argentine government uses to calculate the taxable base in order to compute the different taxes. Taking into account the tax base used, total import taxes plus shipping and insurance, amount to 20.6% of FOB price. Handling costs add an additional 6%.

So 26.6% of FOB price becomes a fixed import cost, avoidable only by allowing the Argentine partner or agent to copy the master diskettes in Argentina, as was pointed out earlier. The financial burden at port of entry is increased by VAT and VAT surplus total to 55.6%.

b) Copyright Protection Laws:

Software ownership in Argentina is protected by Copyright Law 11723. The law was originally made to protect rights of artists and writers, so the fiscal treatment of any property registered under it is very benevolent. Income tax

on intellectual goods is 12% annually. The protection is valid during the author's lifetime and 50 years thereafter, in case there are inheritors. Penalties for violating the copyright law are the same as under article 172 of the Fraud Chapter of the Penal Code and include severe economic sanctions to cover damage and jail sentences ranging from a few months to several years. Law 11723 has some inadequacies when it comes to software protection. One of its articles, for example, outlaws any changes to the product, which means that programming under Lotus or Fox, as an example, would be illegal. There is a proposed law in Congress that will change some of the restrictions of the traditional copyright law.

The software industry in Argentina takes substantial measures to curb piracy. Interviewed firms report that vigilance and actions taken should be sustained consistently in order to get results. When efforts are relinquished, piracy returns. Some of the steps taken are:

i) an annual workshop on software property rights that attracts substantial press coverage. This workshop provides an opportunity to exchange ideas on procedures to protect software and deal with piracy, as well as lobbying the government for Court and police help and Congressional cooperation.

ii) Argentine firms have hired lawyers with the purpose of having them specialize in software copyright protection. These lawyers investigate large corporations in order to discover violations of copyright laws. When evidence is established they litigate with the goal of reaching an out-of-court settlement that includes both the paying of a license to use the software as well as the paying of newspaper ads defending software property rights as compensation for damages. Court cases of this kind can take several years (which means large expenditures in legal fees) and often end up in jail sentences plus the paying of the software licence. There is, then, an incentive by both parties to reach out-of-court settlements. Large and medium sized firms targeted are themselves holders of licences, trademarks and patents from foreign corporations that they need to protect. As such, they are often more concerned with their public image in these cases than with the costs of a settlement package.

Even so, the most successful course of action, particularly for foreign software firms planning to operate in the Argentine market, is to restrict litigation to firms that have been dedicated to selling pirated copies.

-Software Imports- Tax Base used at Port of Entry	
Type of Tax	Tax Base
Tariff	FOB + Shipp. + Insur.
Statistics	FOB + Shipp. + Insur.
VAT	FOB + Shipp. + Insur. + Import Taxes
VAT Surplus	FOB + Shipp. + Insur. + Import Taxes
Source: Novadata	