

From Doing Business in Argentina

INTRODUCTION TO THE ARGENTINE LEGAL SYSTEM AND INVESTMENT OPPORTUNITIES

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Argentina is a federal, institutional democracy, with a Constitution enacted on May 1, 1853, amended in 1866, 1898, 1957, and 1994 (official text approved by Law 24430 of January 3, 1995). The Constitution was sourced in that of the United States of America. It enjoys a democratic political system in which different parties actively compete. Moderate parties are dominant as the population provides steady support to sound economic policies.

As a federal country, Argentina is composed of provinces and one autonomous city, the city of Buenos Aires, where the federal government has its offices. Provinces retain all powers that have not been delegated to the federal government in conformity with the constitution; e.g., enacting civil, commercial, penal, labor, and mining codes which apply nationwide.

The country has a bicameral legislature. The lawmaking power in Argentina is shared between the federal Congress and the provincial legislatures of each province. Congress is vested with the exclusive power to enact federal legislation, including laws that deal with such matters as immigration and citizenship, trademarks, patents, inter-provincial and international commerce. In contrast, the legislative assembly of each province retains the lawmaking power not delegated to Congress by the Constitution. Provincial legislative assemblies have legislative jurisdiction to adopt the rules of procedure to be followed before the provincial courts.

The organization of the courts also follows the federal-provincial structure. Each province has its own administration of justice, with first-instance courts, intermediate appellate courts, and a supreme court, organized under the respective provincial constitutions.

Federal justice is administered by a Supreme Court, by national courts of appeals in the federal capital and provinces, and by first-instance courts and oral courts as well.

Judicial procedure in provincial courts depends upon local laws enacted by the respective provinces, and the federal procedure is governed by federal laws.

Argentina's highest tribunal and court of last resort is its federal Supreme Court, composed of nine justices (officially referred to as "ministers") nominated by the president of the Argentine republic and appointed with the consent of the Senate. The appellate jurisdiction of the Supreme Court extends to cases involving a "federal" question.

The appellate jurisdiction of the Supreme Court may be reached through a "writ of certiorari" (*recurso extraordinario*) against final decisions of the highest provincial courts or federal circuit courts of appeals. Federal subject matter jurisdiction includes matters governed

by the Constitution, federal laws, international treaties, and admiralty and maritime jurisdiction. The Supreme Court decides a case and establishes a constitutional principle or standard of constitutional interpretation; the high court is providing a final interpretation of the Constitution not only for that case, but also for subsequent case. Every inferior court in the country is bound by the federal Constitution, so every court should, and in most cases does, feel bound by the interpretative constitutional standards laid down by the Supreme Court.

Argentina ranks high in the minds of many businesspeople looking for new international opportunities. It is the wealthiest nation in all of Latin America on a per capital basis. The economic stability built on the policies of the administration of President Carlos Menem, the liberalization of trade laws, the reduction of tariffs, the drastically reduced inflation rate—which has recently fallen to its lowest point in 30 years—and the country’s growing economy are all features that attract the international trader. As an exporter, Argentina is looking for ways to diversify production and increase exports, especially nontraditional, higher-value-added exports, as it revitalizes its economy. As an importer, it demands a wide range of goods to meet business expansion and upgrades in diverse sectors as well as the wants and needs of its consumers, particularly those of its battered but recovering middle class, still the largest in Latin America. Practically all areas of the economy could benefit from foreign investment.

Argentina is perhaps the most cosmopolitan nation in South America. Located on the southeastern extreme of the South American continent, it has traditionally been closely linked with Europe.

Although Argentina has played a noteworthy role in the continent’s history, its development has been unique within the larger Hispanic tradition. Its potential began to tarnish during the 1930s, and during the 1950s the country dropped off the roster of the most prosperous nations in the world to be listed among the developing countries of the world. Those intent on looking backward continue to argue over the reasons for Argentina’s failure to develop its potential. However, during this decade, analysts have become more interested in assessing its renewed rise.

Argentina has a total surface area of 3,761,274 sq km, of which about three-fourths—just under 2.8 million sq km—is located on the South American continent (the rest consists of a sector of Antarctica and three groups of islands in the South Atlantic). Based on area, continental Argentina is the eighth largest country in the world, and the second largest in Latin America.

With an estimated population of 36.5 million in mid-1999, Argentina ranks 31st in the world in population. Some 88 percent of Argentines live in urban areas; more than 12 million (36 percent) live in the Buenos Aires metropolitan area, which has a density of 14,827 persons per sq km in the federal capital.

Argentina claims international frontiers that stretch across 25,728 km. Most are on the Atlantic Ocean, but on the west Argentina is bounded by Chile across the Andes Mountains; to the northwest lies Bolivia; Paraguay is nearly due north; and Brazil and Uruguay are found to the northeast. The Argentine Andes rise to a height of 22,841 feet at Aconcagua, the

highest elevation in the Americas, but much of Argentina is low-lying and flat: some 45 percent lies below 656 feet in altitude, while only 10 percent lies above 6,562 feet. Argentina's climate ranges from subtropical in the northeast, to temperate in the central region, to arid and semiarid and cold in the south and along the mountains. Each of these main three climatic zones covers approximately one-third of the country's area.

About one-third of continental Argentina consists of grasslands, and 16 percent is classified as natural forests. Nearly 11 percent is under cultivation (31 million hectares, of which about 21 million are annual crops). The rest represents urban development, undeveloped land, bare rock, and inland waters. Central Argentina holds the country's main agricultural resources: its fertile pampas, noted for production of grain, cattle, and oilseeds. Argentina ranks eleventh in the world in wheat production and is a major producer of oilseeds, corn (maize), and meat. The country also produces substantial quantities of wine grapes, cotton, sugar, tobacco, rice, and fruit. Its mineral resources include oil and natural gas, manganese, lead, zinc, iron, copper, tin, gold, and uranium.

Unlike the people in other areas of Hispanic America, Argentines are mostly of European origin. At least 85 percent of the population is white, with the remainder classified as Mestizo, Indian, or other non-white (relatively few Indians remain as genetically or culturally separate groups). Between the 1850s and 1940, more than 3.5 million immigrants arrived in Argentina, about 45 percent of them from Italy and 32 percent from Spain. Before the 1960s, substantial numbers also came from Britain, Germany, France, Switzerland, Denmark, Poland, Russia, the Middle East, and Japan. Spanish is the official language and is spoken universally, but a number of Argentines also speak English, Italian, German, or French.

Despite the mix of ancestries and languages, Argentines are fiercely nationalistic, although many are sometimes unsure regarding their cultural allegiance. This ambivalence about whether they are more Latin or European is most common in Buenos Aires, which many other Argentines view as constituting a separate world. One common saying holds that "Argentina is the most European" of the Latin American nations.

Approximately 90 percent of the population is nominally Roman Catholic. However, some studies indicate that fewer than 20 percent of Argentines are actively practicing Catholics. Protestants and Jews each account for about 2 percent of the population, with the remaining 6 percent representing adherents of various other religions.

See the Appendix at the end of this book for additional basic macroeconomic data.