

Practitioner's perspective

Investing in turbulent times

How business friendly is Argentina's current environment?
Ricardo Truppel at Baker & McKenzie explains

Trade and investment between India and Latin America has increased substantially in the past decade. A similar situation exists in Argentina where Indian companies are present in many sectors.

But is Argentina's current environment investor and business friendly? Argentina is open to foreign investments and foreign investors are treated by law as nationals. Yet, the country has not received positive coverage in the press over the recent past and facts on the ground do not help. Argentina has the second highest rate of inflation in the region, foreign currency reserves are declining even as exchange restrictions continue, and activity in certain areas is decreasing. All of this is, *prima facie*, not encouraging.

However, business and life goes on and history shows that the situation can change very fast. The past few decades have been marked by cycles of turbulence: from hyperinflation at the end of the 1980s to the big deregulation and privatizations in the 1990s; from a foreign debt crisis in the early 2000s to a successful 65% discount debt-restructuring a few years later. The past decade — dominated by the former-president Néstor Kirchner and his wife, current president Cristina Fernández — has seen government intervention increasing even as the economy has grown at an average of 6.3% per year. Elections are due in the last quarter of 2015 and as we enter into the last year of Fernández's presidency Argentina is facing a slowdown.

Change in the air? But there is room for hope that the environment may change even before the elections. Having funded its financial needs mostly through local financing, Fernández's government recently restructured its outstanding debt with multilateral entities (the Paris Club) and with global companies that had claims on account of expropriations and international arbitration awards. Such actions were expected to give Argentina access to multilateral and

foreign loans at reasonable interest rates.

But these efforts received a setback when a US court ordered Argentina to pay a very small minority of "hold-outs" (who refused to be part of earlier debt-restructuring agreements) the nominal value of the original bonds. This has created a substantial hurdle for Argentina's government to fulfil payment of certain restructured bonds. Even though Argentina deposited the amount due to the restructured bondholders on time, the payment could not be made as the US court had ordered that the "hold-outs" should be compensated first or at least simultaneously.

This situation, as well as the risk of an extended cross-default, impacted the government's efforts to return to the international financial community. But there are expectations that Argentina may settle with the "hold-outs" after 1 January 2015, when clauses detailing rights upon future offers in agreements with the restructured bondholders lapse.

Doing business: In the meanwhile doing business in Argentina is cumbersome, particularly when it involves foreign exchange and payments abroad. Almost all imports require prior approval from the government and payments sent abroad require further authorization. While repatriation of capital is rarely authorized and royalty payments are only authorized between non-related companies, payment of dividends to foreign beneficiaries is limited and requires prior authorization. Information to be filed with the authorities has increased. So also governmental controls. In addition, products that fulfil basic needs are to be offered at lower prices to a segment of the population and price increases of certain goods require prior approval.

How do international companies function in such an environment? Most adjust to the circumstances. Imports: affiliates of international companies extend payment terms with their suppliers. Dividends: are capitalized or

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reinvested locally, but also transferred abroad through a bond purchase and sale transaction (a blue-chip-swap or *contado con liqui*) that is not illegal but is monitored by the government.

Despite such a scenario, companies have generally done well in Argentina over the past decade on account of a growing internal market and exports. New investments are expected in the oil and gas industry (Argentina has large shale gas and oil resources) as well as in the telecommunication sector. In addition, newly enacted regulations are expected to provide certainty and a stable legal framework.

Indian companies will find many opportunities in partnership and exchange of know-how with Argentine partners. The country is a powerhouse of agriculture and uses advanced technologies and best practices in all sectors. It is efficient in storage and logistics, rich in minerals and has qualified manpower in almost all industries and service sectors.

To flourish in this environment a reliable local business partner and an experienced and trusted adviser on the ground are vital. The offices of Baker & McKenzie in Argentina, Brazil, Chile, Peru, Colombia, Venezuela and Mexico are available to assist Indian companies in Latin America.

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