

BOLIVIA

TRADE SUMMARY

The U.S. goods trade deficit with Bolivia was \$147 million in 2006, an increase of \$73 million from \$74 million in 2005. U.S. goods exports in 2006 were \$215 million, down 1.9 percent from the previous year. Corresponding U.S. imports from Bolivia were \$362 million, up 23.6 percent. Bolivia is currently the 110th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Bolivia in 2005 was \$177 million, down from \$224 million in 2004.

IMPORT POLICIES

Tariffs

Bolivia has a three-tier tariff structure. Capital goods designated for industrial development may enter duty-free; non-essential capital goods are subject to a 5 percent tariff; and most other goods are subject to a 10 percent tariff.

Non-Tariff Measures

Supreme Decree 27340, dated January 31, 2004, banned the importation of all used clothing. Although the ban was lifted to allow imports of certain used clothing, Supreme Decree 28761, dated June 21, 2006, continued the waiver of the ban only until April 20, 2007, with no possibility of an extension. In the same decree, the Bolivian government renewed its existing bans on old or damaged clothing, intimate apparel and bedding, and the requirement of certificates of disinfection issued at both the place of origin and destination for imports of all permitted used clothing.

U.S. industry reports that permitted imports of used clothing may be subject to non-tariff trade barriers. According to industry, Bolivian customs often disagrees with official invoices, typically asking importers to pay whatever valuation local customs authorities consider “fair value” for the shipment. U.S. officials are continuing to monitor the situation to determine what, if any, barriers exist.

STANDARDS, TESTING, LABELING AND CERTIFICATION

The Bolivian government imposes few specific import standards. The National Certification and Standardization Organization is charged with developing Bolivian product standards.

Supreme Decree 26510 established food product labeling requirements in 2003. Products normally retain their original labels, but must have complementary labeling showing the importer’s or distributor’s taxpayer identification number, sanitary registration number and ingredient translations.

GOVERNMENT PROCUREMENT

Since 1999, private (mostly foreign) firms have controlled the most significant of what were once state-owned enterprises, but government expenditures still account for a significant portion of Bolivia’s gross domestic product. The central government, regional governments (at the state and municipal levels) and

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other public entities remain important buyers of machinery, equipment, materials and other goods and services.

In an effort to encourage local production, the Bolivian government changed its purchasing rules in March 2004, through Supreme Decree 27328 dated January 31, 2004. Government purchases (except insurance contracts) under \$20,000 may be made through direct invitation and price comparisons, with a minimum of three quotes. The government is legally required to issue tenders for purchases between \$20,000 and \$1,000,000. Importers of foreign goods can participate in these procurements only when locally manufactured products and service providers are unavailable or when the Bolivian government fails to award a contract. The government can call for international bids only for purchases between \$1,000,000 and \$5,000,000. Suppliers submitting bids for purchases over \$5,000,000 must comply with specified prerequisites established in bidding documents exclusive to each purchase.

Bolivia is not a party to the World Trade Organization Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

In 1999, the Bolivian government established the National Intellectual Property Service (SENAPI) to oversee IPR issues. The organization initiated a USAID-supported restructuring process in early 2003, but as of March 2007, the process remained incomplete.

Copyrights

The 1992 Copyright Law protects literary, artistic and scientific works for the lifetime of the author plus 50 years. The Law protects the rights of Bolivian authors, foreign authors domiciled in Bolivia and foreign authors published for the first time in Bolivia. Foreigners not domiciled in Bolivia enjoy protection under the Copyright Law to the extent provided in international conventions and treaties to which Bolivia is a party. Bolivian copyright protection includes the exclusive right to copy or reproduce works; to revise, adapt or prepare derivative works; to distribute copies of works; and to communicate the work publicly. Although the exclusive right to translate works is not explicitly granted, the Copyright Law does prevent unauthorized adaptation, transformation, modification and editing. The law also provides protection for software and databases.

Patents and Trademarks

SENAPI reviews patent registrations for form and substance and publishes notices of proposed registrations in the Official Gazette; if there are no objections within 30 working days, patents are granted for a period of 20 years.

The registration of trademarks parallels that of patents. Once obtained, a trademark is valid for a 10-year renewable period, but can be cancelled if not used within the three years after it was granted.

Enforcement

The 1992 Copyright Law recognizes copyright infringement as a public offense, and the 2001 Bolivian Criminal Procedures Code provides for the criminal prosecution of IPR violations. Despite these legal protections, IPR enforcement remains insufficient, and Bolivia remains on the U.S. Trade Representative's Special 301 Watch List. There is a continued need for more deterrent penalties to be applied in civil and criminal cases. Border enforcement also remains weak. Video, music and software piracy rates are among the highest in Latin America, with the International Intellectual Property Alliance

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estimating that piracy levels have reached 90 percent for recorded music. IIPA estimated software piracy rates of 83 percent in 2005.

INVESTMENT BARRIERS

Outside the hydrocarbons sector, foreign investors face few restrictions. The 1990 Investment Law provides for equal treatment of foreign firms and guarantees the unimpeded repatriation of profits, the free convertibility of currency, and the right to international arbitration (limited to contractual rights) in all sectors. Companies must follow the Bolivian commercial code to discontinue operations and repatriate their capital. The Bolivian government continues to discuss a bankruptcy law.

In the mid-1990s, the Bolivian government implemented its capitalization (privatization) program, which differed from traditional privatizations in that funds committed by foreign investors: (a) could only be used to acquire a 50 percent maximum equity share in former state-owned companies; and (b) were directed not to the Bolivian treasury, but to investment funds supporting the national pension system.

Bolivia has signed bilateral investment treaties with several countries, including the United States. The U.S.–Bolivia Bilateral Investment Treaty entered into force in June 2001. The treaty guarantees recourse to international arbitration, which may permit U.S. companies to obtain damages in disputes that cannot be adequately addressed in the Bolivian legal system, where judicial processes can be prolonged, non-transparent and occasionally corrupt.

Article 139 of the Bolivian Constitution stipulates that all hydrocarbon deposits, whatever their state or form, belong to the Bolivian government. No concessions or contracts may transfer ownership of hydrocarbon deposits to private or other interests. The Bolivian government exercises its right to explore and exploit hydrocarbon reserves and trade related products through the state-owned firm Yacimientos Petrolíferos Fiscales Bolivianos (YPFB). The law allows YPFB to enter into joint venture contracts for limited periods of time with national or foreign individuals or companies wishing to exploit or trade hydrocarbons or their derivatives.

Under the 1996 Hydrocarbons Law, the Bolivian government reduced royalties paid to the Bolivian treasury and local governments under existing joint venture contracts and attracted \$4.6 billion in new investment, eventually signing 72 shared risk contracts.

In May 2005, the government of Bolivia adopted Hydrocarbons Law 3058, which required investors to migrate to new contracts within 180 days, imposed an additional 32 percent tax on revenues and forced producers to relinquish all hydrocarbons to the state. The law required companies to sell all hydrocarbons through YPFB and to satisfy the domestic market before exporting. Companies must contend with artificially low domestic prices set by the hydrocarbons regulator.

The Bolivian government subsequently issued a May 1, 2006, Supreme Decree “nationalizing” the hydrocarbons sector. The decree generally restated the provisions of the 2005 statute, giving companies six months to negotiate new operating contracts, transferring to the state control over the entire production chain and offering YPFB majority share of five companies, including two with U.S. investment.

All production companies signed new contracts in October 2006, just days before the deadline, and agreed to pay 50 percent in taxes and royalties, plus a varying take for YPFB ranging from zero percent to 32 percent. In late November 2006, the Bolivian Congress approved the new contracts. Separate negotiations between the government of Bolivia and the five companies destined for YPFB takeover continue.

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