BOLIVIA

TRADE SUMMARY

The U.S. goods trade deficit with Bolivia was $75 million in 2005, an increase of $9 million from $67 million in 2004. U.S. goods exports in 2005 were $218 million, up 12.6 percent from the previous year. Corresponding U.S. imports from Bolivia were $293 million, up 12.6 percent. Bolivia is currently the 100th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Bolivia in 2004 was $221 million, down from $360 million in 2003.

FREE TRADE NEGOTIATIONS

In May 2004, the United States initiated free trade negotiations with Colombia, Ecuador, and Peru. To date, the United States has concluded free trade agreements with Peru and Colombia. Negotiations with Ecuador will resume in late March 2006. Bolivia has participated as an observer and could become part of the agreement at a later stage. The United States has significant economic ties to the region. Total two-way goods trade with the Andean countries of Peru, Colombia, and Ecuador was approximately $24 billion in 2004. The stock of U.S. foreign direct investment in these countries in 2004 was $7.7 billion.

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 certain types of used clothing, including old, destroyed, or useless articles of apparel; used bedding and intimate apparel; used shoes; and certain destroyed or useless textile articles (rags, cords, string, and rope). U.S. industry reports that imports of other types of used clothing, while not banned from import into Bolivia, may be subject to other non-tariff trade barriers. According to industry, Bolivian customs often does not agree with official invoices that are presented. In those instances, importers are typically expected to pay whatever valuation the local customs authority deems to be '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 no specific import standards. The National Certification and Standardization Organization (IBNORCA) is charged with developing Bolivian product standards. In the future, products for use in the oil and gas industry may have to comply with certain specific requirements.

Food product labeling requirements were established in 2003 by Supreme Decree 26510. Products normally retain their original labels, but they must also have complementary labeling showing the importer's or distributor's taxpayer identification number (RUC), sanitary registration number, and ingredient translations.

GOVERNMENT PROCUREMENT

Since 1999, private (mostly foreign) firms have controlled the most significant of former state-owned enterprises, but government expenditures still account for a significant portion of Bolivia's GDP. The central government, sub-central governments (state and municipal levels), and 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 (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 when purchases are between $1,000,000 and $5,000,000. Suppliers submitting bids for purchases over $5,000,000 must comply with specified prerequisites, which are established in bidding documents exclusive to each purchase.

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

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Bolivia belongs to the World Trade Organization (WTO) and the World Intellectual Property Organization (WIPO) and is a signatory to the Paris Convention for the Protection of Industrial Property, the Berne Convention for the Protection of Literary and Artistic Works, the Nice Agreement, the Geneva Phonograms Convention, and the Convention for the Protection of New Varieties of Plants.

In 1999, the Bolivian government established the National Intellectual Property Rights Service (SENAPI) to oversee IPR issues. The organization initiated a USAID-supported restructuring process in early 2003, but as of October 2005, that process was not yet complete.

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, respectively. However, IPR protection remains insufficient. Despite the prosecution of a criminal case in 2003, enforcement efforts are sporadic and largely ineffective. As a result, Bolivia remains on the U.S. Trade Representative's Special 301 Watch List. Video, music, and software piracy rates are among the highest in Latin America, and the International Intellectual Property Alliance estimates that piracy levels have reached 100 percent for motion pictures and 90 percent for recorded music.

Copyrights

The 1992 Copyright Law protects literary, artistic, and scientific works for the lifetime of the author plus 50 years. It 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.

Patents and Trademarks

Patent registrations are reviewed for form and substance. A notice of the proposed patent registration is published in the Official Gazette, and if there are no objections within 30 working days, a patent is 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 three years.

Enforcement

Although the exclusive right to translate works is not explicitly granted, the law does prevent unauthorized adaptation, transformation, modification, and editing. The law also provides protection for software and databases.

INVESTMENT BARRIERS

Together with other legislation, the 1990 Investment Law opened Bolivia's economy to foreign investment. The 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.

In-kind transfers are not allowed. Companies must follow the Bolivian commercial code to close down operations and repatriate their capital. The Bolivian government is still discussing a bankruptcy law.

In the mid-1990s, the Bolivian government implemented its "capitalization" (privatization) program. The program differed from traditional privatizations in that the 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 meant to support the national pension system.

Bolivia has signed bilateral investment treaties with several countries, including the United States. The U.S.–Bolivia Bilateral Investment Treaty (BIT) 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 Government of Bolivia. 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 Government of Bolivia reduced royalties paid to the Bolivian Treasury and local governments under these 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 required producers to relinquish all hydrocarbons to the state, losing ownership of production at the wellhead and greatly reducing the value of company assets. Companies are no longer free to commercialize their own products. Instead, they must sell all hydrocarbons through YPFB, which charges a service fee. Companies must satisfy the domestic market before exporting, and they must contend with artificially low domestic prices set by the Bolivian hydrocarbons regulator. As of October 2005, seven hydrocarbons companies, including three U.S. firms, have threatened to pursue international arbitration under their countries' bilateral investment treaties with Bolivia. However, they are paying, for the time being, the higher taxes and fees, but have not agreed to the new contracts. Companies are also being forced to sell gas locally at below-market prices, with the companies absorbing the losses.