BOLIVIA

TRADE SUMMARY

The U.S. goods trade deficit with Bolivia was $85 million in 2007, a decrease of $62 million from $147 million in 2006. U.S. goods exports in 2007 were $278 million, up 29.0 percent from the previous year. Corresponding U.S. imports from Bolivia were $363 million, up 0.1 percent. Bolivia is currently the 106th largest export market for U.S. goods.

The stock of U.S. foreign direct investment in Bolivia was $172 million in 2006 (latest data available), down from $218 million in 2005.

IMPORT POLICIES

Tariffs

Bolivia has a three-tier tariff structure. Capital goods designated for industrial development may enter duty free; nonessential capital goods are subject to a 5 percent tariff; and most other goods are subject to a 10 percent tariff. However, the administration of President Evo Morales enacted a Supreme Decree that reduces rice and corn tariffs to zero.

Nontariff 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 nontariff trade barriers.

According to industry officials, 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

Bolivia's National Animal and Plant Health and Food Safety Service (Servicio Nacional de Sanidad Agropecuaria e Inocuidad/SENASAG) appears to apply some standards differently to third countries than to fellow Andean Community members. Bolivia continues to ban U.S. beef and beef products through Bovine Spongiform Encephalopathy (BSE) related restrictions, despite the fact that in May 2007, the World Organization for Animal Health (OIE) classified the United States as a controlled risk country for BSE. This classification clarifies that U.S. beef and beef products are safe to trade, provided that the appropriate specified risk materials are removed.

GOVERNMENT PROCUREMENT

Government expenditures 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 procurement and contracting of service rules in July 2007 (Supreme Decree 2729190, dated July 11, 2007). Government procurements under $1 million in value must be awarded to Bolivian producers, except for material and services that are not produced in Bolivia. 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 to a domestic supplier. The government can call for international bids.

Bolivia is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

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 that process was not completed. The current head of SENAPI, appointed by President Evo Morales, has declared a “revolution” in SENAPI, and currently the office seems to be focused on the registration of traditional knowledge.

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. However, IPR protection remains insufficient and ineffective. 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.

Patents and Trademarks

Supreme Decree number 29004, issued in January 2007, establishes a “Prior Announcement” requirement for pharmaceutical patents to allow the government, with the input of various interest groups, to determine whether a pharmaceutical patent would “interfere with the right to health and access to medicines.” This additional step in the patent process increases delays, raises questions of confidentiality of proprietary information, and adds an unclear “social good” element to the patent process.

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. 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 estimating that piracy levels in 2006 reached 100 percent for motion pictures, 90 percent for recorded music, and 82 for software piracy.

INVESTMENT BARRIERS

The 1990 Investment Law opened Bolivia’s economy to foreign investment. The 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 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 and modification to its commercial code.

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 to the company's investments.

Bolivia has signed bilateral investment treaties with several countries, including the United States. The United States-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, nontransparent, and occasionally corrupt. In 2006, however, the new Bolivian administration announced its intention to renegotiate its bilateral investment treaties. In October 2007, Bolivia became the first country ever to withdraw from the International Center for the Settlement of Investment Disputes, a World Bank body that referees contract disagreements between foreign investors and host countries.

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.

In May 2005, the Government of Bolivia adopted Hydrocarbons Law 3058, which required investors to convert to new contracts (production sharing contracts) within 180 days, imposed an additional 32 percent tax on production, 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.

On May 1, 2006, the administration of President Evo Morales enacted another Supreme Decree (SD 28701) under which petroleum companies had to pay an additional temporary 32 percent tax on over production. This new charge was rescinded following the signing of new contracts, but companies complain that they are also being forced to sell natural gas and crude locally at below-market prices, with the companies absorbing losses. Moreover, as of February 2008, the state of disorganization and lack of institutional capacity at YPFB is significantly hindering the ability of production companies to realize additional investments.

Outside the hydrocarbons sector, foreign investors face few legal restrictions, although a possible change to the mining code could require all companies to enter into joint ventures with the state mining company, COMIBOL.