BOLIVIA

TRADE SUMMARY

The U.S. goods trade deficit with Bolivia was $236 million in 2011, up $63 million from 2010. U.S. goods exports in 2011 were $667 million, up 31.5 percent from the previous year. Corresponding U.S. imports from Bolivia were $903 million, up 32.8 percent. Bolivia is currently the 88th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Bolivia was $300 million in 2009 (latest data available), down from $324 million in 2008.

IMPORT POLICIES

Bolivia's new constitution, adopted in February 2009, establishes broad new guidelines to give priority to local production. However, to date, the only legislation enacted to support this effort is Law 144 (the "Productive Revolution Law") approved on June 26, 2011. The law aims to achieve an adequate domestic food supply by supporting communal groups and unions of small producers. The "Productive Revolution Law" allows the production, importation, and commercialization of genetically modified products, though it calls for mandatory labeling. The Bolivian government has yet to issue regulations to implement the law.

Tariffs

In an effort to protect Bolivia's local industry, the government changed its tariff structure in November 2007. Under this scheme, imported capital goods designated for industrial development enter duty free; non-essential capital goods are subject to a 5 percent tariff; and most other goods are subject to tariffs of 10 percent to 20 percent. In May 2009, Bolivia established a 35 percent tariff on most apparel and textiles, home furnishing products, and wooden furniture (Supreme Decree 125). According to the WTO, Bolivia's simple applied average tariff is 10.3 percent. The simple average tariff is 12.4 percent for agricultural products and 10 percent for non-agricultural products.

Bolivia is a member of the Andean Community regional trade group. The other members of the Andean Community are Colombia, Ecuador, and Peru.

In February 2008, Bolivia established by decree a zero percent import tariff for live bovine animals; fresh bovine meat; fresh, frozen and refrigerated chicken meat; wheat and wheat flour; corn; rice; and vegetable oil. The decree also prohibits the export of these products, except for vegetable oils and oilseeds. The decree has been modified several times to establish export quotas and certificates in order to ensure adequate domestic supply and control domestic prices for specific commodities.

Additional tariff modifications occurred during a national food shortage that started in the last months of 2009 and continued in 2010. During that time, the Bolivian government enacted two supreme decrees affecting tariffs in order to assure adequate domestic food supply. In October 2009, the Bolivian government authorized the importation of frozen bovine meat, wheat, and wheat flour without the payment of tariffs for six months (Supreme Decree 346). Supreme Decree 671, approved October 13, 2010, authorized the duty-free importation of sugar cane and sugar until March 2011, and Supreme Decree 770 extended this benefit until the last day of August 2011.

To complement and support the "Productive Revolution Law," on August 2, 2011, the Bolivian government eliminated tariffs for the next five years on all products related to the agricultural sector (Supreme Decree 943). These products include seeds, salt for cattle feeding, animal vaccines, animal drugs, and all machinery that might be used during the agricultural process.

Nontariff Measures

The Bolivian government generally does not apply specific restrictions to trade in goods, such as permits or import licenses. However, since January 2008, all importers must register with the Bolivian National Customs Office.

Since December 2008, Supreme Decree 28963 has gradually reduced the age of vehicles that may be imported. Since January 2011, the maximum age of cars permitted for import is three years old. Additionally, Bolivia has prohibited the importation of diesel vehicles with engine displacement smaller than 4,000 cubic centimeters, all vehicles that use liquefied petroleum gas, and cars with right side steering. While the import restriction on cars older than three years limits the import of U.S.-made vehicles, the import prohibition on cars with right side steering has led to increased demand for U.S. vehicles.

Since October 15, 2008, the importation of guns and ammunition for civilian use (Supreme Decree 29747) has been prohibited. The only institutions authorized to import these items are the National Bolivian Police and the Bolivian Armed Forces, which must first obtain authorization from the government.

Since January 2004, Bolivia has banned the importation of certain types of used clothing, used shoes, and certain damaged textile articles. Since April 20, 2007, Bolivia has banned all used clothing imports.

GOVERNMENT PROCUREMENT

In 2004, Bolivia enacted the "*Compro Boliviano*" (Buy Bolivian) program through Supreme Decree 27328. This program supports domestic production by giving preference to Bolivian products in government procurement. Under procurement rules modified in 2007 and 2009, the government must give priority to small and microproducers and peasant associations in procurements under $100,000. In addition, the government requires fewer guarantees and imposes fewer requirements on suppliers that qualify as small or microproducers or peasant associations.

Bolivian companies also are given priority in government procurement valued between $142,000 and $5.7 million. Importers of foreign goods can participate in these procurements only where locally manufactured products and service providers are unavailable or where the Bolivian government does not select a domestic supplier. In such cases, and where procurement exceeds $5.7 million, the government can call for an international tender. At times foreign companies that want to submit a tender for government consultancy contracts have to do so in association with a Bolivian company.

As a general matter, the tendering process is nontransparent. Government requirements and the details of the tender are not always defined and procurement notices are not always made public. For example, none of the strategic companies (including YPFB, ENDE, Mutun, Evaporitic Resources, and the Hydrocarbon Industrialization Company) are required to publish their tenders through the official procurement website (SICOES or *Sistema de Información de Contrataciones Estatales*). Concerns have been raised that these companies are not required to follow the procedures established in the national procurement law.

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

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Bolivia was listed on the Watch List in the 2011 Special 301 report. Key concerns cited in the report include rampant piracy and counterfeiting, including counterfeiting of medicines. The report noted the need for significant improvements to the Bolivian intellectual property rights (IPR) enforcement regime, against piracy and counterfeiting, including through substantial additional resources and a greater commitment by enforcement and judicial authorities. Bolivia should also increase its efforts to improve public awareness about IPR protection and enforcement.

INVESTMENT BARRIERS

Government policy changes stemming in part from the adoption of a new constitution in February 2009 have raised concerns among foreign investors. Although the new constitution has yet to be fully implemented, one of its most troubling provisions calls for a limit on foreign companies' access to international arbitration in cases of conflicts with the government. It also states that all bilateral investment treaties must be renegotiated to adjust to this and other new constitutional provisions. Citing these provisions, the government of Bolivia in June 2011 formally notified the United States of its intention to terminate the United States-Bolivia Bilateral Investment Treaty (BIT), which entered into force in June 2001. Pursuant to the terms of the BIT, and barring any further action by Bolivia, the United States-Bolivia BIT will terminate in June 2012, one year from the date on which notice of Bolivia's intent to terminate was transmitted. Existing investors in Bolivia at the time of termination would, however, continue to be protected by the BIT's provisions for 10 years after termination of the treaty. The BIT would be the first to be terminated by a U.S. treaty partner. In a related action, in October 2007, Bolivia became the first country to withdraw from the World Bank's International Centre for Settlement of Investment Disputes (ICSID).

The current Bolivian administration has reversed the privatization efforts of previous governments and has placed increasing emphasis on public ownership of enterprises. In an effort to control key sectors of the economy, the current administration has obtained through contract renegotiations, as required by Bolivian law, at least 51 percent government ownership in a number of companies in the oil, gas and telecommunications sectors. Additionally, in September 2009, as part of renationalization negotiations, the Bolivian government acquired 47 percent to 50 percent of the shares in four electric companies that were privatized twelve years ago; on May 1, 2010, the government took control of 100 percent of the shares and assumed management control of all four of these companies. The government has also announced that additional sectors, including water and railways, could be nationalized.

The government is also using means other than nationalization to reestablish public sector control over the economy. In the past few years, the Bolivian government has created 18 public companies to operate in "strategic" sectors such as food production, industrialization of natural resources, and internal and external market sales. Private sector entities have expressed concern that these public companies engage in subsidized, unfair competition and are leading to a state-driven economic system.

The new Bolivian constitution includes requirements for state involvement in natural resource companies. It states that all natural resources will be administered by the government of Bolivia. The government will grant ownership rights and control the exploitation, exploration, and industrialization of natural resources through public companies, communities, and private companies that will enter joint ventures with the public sector.

With respect to hydrocarbon resources, Article 359 of the new 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). Beginning in 2006, YPFB benefitted from nationalization laws that required operators to turn over all production and to sign new contracts that give YPFB control over the distribution to gas stations of gasoline, diesel fuel, and liquefied petroleum gas. Article 359 allows YPFB to enter into joint venture contracts for limited periods of time with domestic or foreign entities wishing to exploit or trade hydrocarbons or their derivatives.

Outside the hydrocarbons sector, the government is considering a change to the mining code that may require all companies to enter into joint ventures with the state mining company, *Corporacion Minera de Bolivia* (COMIBOL).

Bolivian labor law limits foreign firms' ability to globally staff their companies by restricting foreign employees to 15 percent of the work force.