BOLIVIA

TRADE SUMMARY

The U.S. goods trade deficit with Bolivia was $916 million in 2012, up $681 million from 2011. U.S. goods exports in 2012 were $732 million, up 9.7 percent from the previous year. Corresponding U.S. imports from Bolivia were $1.6 billion, up 82.7 percent. Bolivia is currently the 84th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Bolivia was $406 million in 2011 (latest data available).

IMPORT POLICIES

Bolivia's constitution, adopted in February 2009, establishes broad guidelines to give priority to local production. However, to date, the only legislation enacted to support this requirement is Law 144 (the "Productive Revolution Law") approved on June 26, 2011. The law supports communal groups and unions of small producers in an effort to bolster domestic food production. 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. However, on October 15, 2012 the Bolivian government passed the "Mother Earth Law" (Ley de Madre Tierra) that calls for the phased elimination of all genetically modified products from the Bolivian marketplace. Bolivian government officials have since stated that implementing regulations may interpret the law so as to allow the use of some genetically modified products.

Tariffs

Supreme Decree 29349 of November 2007 established tariff rate categories of 0 percent, 5 percent, 10 percent, 15 percent and 20 percent to be applied to imports of goods into Bolivia. Supreme Decree 1272 of June 2012 amended that decree to permit the imposition of tariffs of 30 percent and 40 percent to goods imported into Bolivia that compete against sensitive local products, including textiles and leather products. Bolivia's simple average applied tariff is 11.2 percent.

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, with the exception of 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.

Import Restrictions/Licenses

The export of certain edible products, including sugar, vegetable oils, soy, and sunflower flour, requires export licenses. At times, exports of staples such as wheat are completely banned due to a Bolivian government policy of ensuring an adequate supply to local markets. To complement the "Productive Revolution Law," on August 2, 2011, the Bolivian government suspended until 2016 import duties on products typically used for purposes of agricultural production (Supreme Decree 943). These products include seeds, salt for cattle feeding, animal vaccines, animal drugs, and machinery that might be used for agricultural purposes.

Nontariff Measures

The Bolivian government generally does not apply specific restrictions, such as permits or import licenses, to trade in industrial and commercial goods. However, 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. The import prohibition on cars with right side steering has led to increased demand for U.S. vehicles.

Since October 2008, the importation of guns and ammunition for civilian use (Supreme Decree 29747) has been prohibited. In accordance with Andean Community Decision 337, Bolivia banned all used clothing imports in April 2007.

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 that were modified in 2007 and 2009, the government must give priority to small and micro-producers 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 micro-producers or peasant associations.

Bolivian companies also are given priority in government procurement valued between $142,000 and $5.7 million. Importers of foreign products can participate in these procurements only where locally manufactured products and local service providers are unavailable or where the Bolivian government does not select a domestic supplier. In such cases, or if a procurement exceeds $5.7 million, the government can call for an international tender. There is a requirement that foreign companies submitting a tender for government consultancy contracts do so in association with a Bolivian company, but the Bolivian government has been known to make exceptions in strategic sectors, as defined by the government.

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 government-owned strategic sector 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 2012 Special 301 report. The report noted that high levels of piracy and counterfeiting persist, and there is a continued need to improve criminal and civil intellectual property rights (IPR) enforcement. The report also stated that Bolivia should provide for more efficient prosecution of IPR violations, for better coordination among Bolivian enforcement authorities, and for additional resources to be allocated to enforcement officials.

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 (BIT) must be renegotiated to adjust to this and other new constitutional provisions. Citing these provisions, in June 2012, the Bolivian government became the first U.S. BIT partner to terminate its BIT with the United States. Existing investors in Bolivia at the time of termination continue to be protected by the BIT's provisions for 10 years after the termination of the treaty. In October 2007, Bolivia became the first country to withdraw from the World Bank's International Centre for Settlement of Investment Disputes (ICSID).

The government of Bolivia has reversed the privatization efforts of previous governments and has placed increasing emphasis on public ownership of strategic enterprises. In an effort to control key sectors of the economy, the Bolivian government has obtained (through legally required contract renegotiations) at least 51 percent government ownership in a number of companies in the oil, gas, and telecommunications sectors. As part of re-nationalization negotiations, the Bolivian government in 2009 also re-acquired 47 percent to 50 percent of the shares in four electric companies that were privatized 12 years earlier; in 2010, the government took control of 100 percent of the shares and assumed management control of all four of these companies. In 2012, the Bolivian government took further control of the energy sector by nationalizing two additional companies, including a large national electricity transportation company, as well as the principal electricity distribution company in the Department of La Paz. The government has announced that additional companies in strategic sectors, including 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 created 20 public companies to operate in "strategic" sectors such as food production, industrialization of natural resources, air travel, 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 *Yacimientos Petrolíferos Fiscales Bolivianos* (YPFB). Beginning in 2006, YPFB benefitted from nationalization laws that required operators to turn over all production to, and sign new contracts that give, YPFB control over the distribution 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). In 2012, in part due to the absence of a new mining law, instability has increased in the sector and several mines have been taken over by protesters, resulting in the Bolivian government nationalizing two privately held mines, and leaving several others in uncertain circumstances.

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