BOLIVIA

INVESTMENT CLIMATE STATEMENT

2015

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Executive Summary

Bolivia is a landlocked country in west central South America. Investing in Bolivia is challenging for both domestic and international companies due to a lack of transparency, a cumbersome legal system, and a regulatory system in transition. Bolivia is currently awaiting the implementation of more than 100 laws and regulations needed to bring the country's legal framework into agreement with the nation's Constitution.

The 2009 Constitution stipulates that:
- The government will prioritize Bolivian investment over foreign investment (Article 320)
- Economic activity cannot damage the collective good (Article 47)
- Citizens are entitled to the right to private property -- as long as it serves a social function and is not against the collective interest (Article 56)
- Transferring national resources that are the "social property of the Bolivian people" in favor of companies, people, or foreign states can be considered an act of treason (Article 125)
- Bolivian Constitutional law supersedes international law and treaties (Article 410) with the exception of human rights treaties.

The Bolivian government has signaled that its upcoming legislative agenda will include new hydrocarbons, electricity and arbitration regulations. Such regulations have been in the works for years, with little progress.

In 2014, the Bolivian government approved an investment law that lacks specificity in terms of incentives and leaves the topic of dispute resolution to be covered by a separate future law. Despite this, the business community hopes its passage indicates a change in the government's attitude towards investment. The 2014 law recognizes foreign investment (Article 4). It also recognizes legal security for national and foreign investment (Article 3), but without elaborating on how it intends to ensure legal security, given the 2009 Constitution's restrictions on international dispute resolution and domestic legal shortcomings. The 2014 Investment law states that the government will establish incentives for investment in key sectors within three months and that an arbitration law will be enacted within three months. However, the Bolivian government has not enacted either provision.

Potential investors in Bolivia should conduct very careful due diligence before investing. Using the Bolivian judicial system to settle disputes can be slow and decisions may be arbitrary. The Bolivian government does not recognize third country arbitration in any of its commercial agreements, so potential investors working directly with the government should consider how disputes would be resolved if they arise. Companies in Bolivia are subject to arbitrary requirements such as the 2013 announcement of the requirement to provide a second Christmas bonus (repeated in 2014), as well as annual, retroactive wage increases.

Despite the real challenges to investing in Bolivia, investors who have adequately assessed the risks can find many profitable opportunities. With real GDP growth of 5.4 percent in 2014, Bolivia experienced an 18 percent increase in nominal per capita GDP; still robust, but slightly lower growth is projected for 2015. This increased wealth led to a 6 percent increase in imports from the United States. Sectors such as heavy construction equipment, hydrocarbon and mining machinery, and telecommunications have all benefitted from Bolivia's growing economy.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

In general terms, Bolivia remains open to foreign direct investment (FDI). The 2014 investment law guarantees equal treatment for national and foreign firms, however it also stipulates that public investment has priority over private investment (both national and foreign) and that the Bolivian government will determine which sectors require private investment.

The Government of Bolivia has delivered to the United States a notice of termination for the BIT between the countries, a termination that will take effect on June 2012. As of June 2012, the treaty will cease to have effect except that it will continue to apply for another 10 years over covered investments existing at the time of termination.

Other Investment Policy Reviews

Bolivia has been a World Trade Organization (WTO) member since 1995. Bolivia's last trade policy review was in 2005.

Laws/Regulations of Foreign Direct Investment

Article 320 of the 2009 Constitution directly affects potential foreign investments because Bolivia no longer recognizes international arbitration forums. In case of controversy, the parties cannot settle the dispute in an international court. However, the legal standard of implementation is still uncertain because there is no implementing law to accompany the Constitutional framework.

Article 320 of the Bolivian Constitution states the following regarding foreign investments in Bolivia:

I. Bolivian investment takes priority over foreign investment.
II. Every foreign investment will be subject to Bolivian jurisdiction, laws, and authorities, and no one may invoke a situation for exception, nor appeal to diplomatic claims to obtain more favorable treatment.
III. Economic relations with foreign states or enterprises shall be conducted under conditions of independence, mutual respect and equity. More favorable conditions may not be granted to foreign states or enterprises other than those established for Bolivians.
IV. The state makes all decisions on internal economic policy independently and will not accept demands or conditions imposed on this policy by states, banks or Bolivian or foreign financial institutions, multilateral entities or transnational enterprises.
V. Public policies will promote internal consumption of products made in Bolivia.

Article 262 of the Constitution states the following regarding foreign investments near the border:

"The fifty kilometers from the borderline constitute the zone of border security. No foreign person, individual, or company may acquire property in this space, directly or indirectly, nor possess any property right in the waters, soil or subsoil, except in the case of state necessity declared by express law approved by two thirds of the Plurinational Legislative Assembly. The property or the possession affected in case of non-compliance with this prohibition will pass to the benefit of the state, without any indemnity."

Part of the stated purpose of the Bolivian judicial system is to uphold the sanctity of contracts. In practice, however, the judicial system faces a huge backlog of cases, is short staffed, and has problems with corruption. Swift resolution of cases, either initiated by investors or against them, is unlikely. Also, the Marcelo Quiroga Anti-Corruption law of 2010 makes companies and their signatories criminally liable for breach of contract with the government, and the law can be applied retroactively. Authorities can use this threat of criminal prosecution to force settlement of disputes. Commercial disputes can often lead to criminal charges. Cases are processed slowly, and suspects can be held legally for 18 months without formal charge as a case is investigated and for 36 months before their case is resolved by a judge. Foreigners are more likely to be deemed a flight risk than Bolivian nationals and, as such, may not receive bail in lieu of pretrial incarceration. Foreigners considering investing in Bolivia would do well to review our Human Rights Report as background on the judicial system, labor rights and other important issues.

Industrial Promotion

Although the Bolivian government frequently mentions that it would like to attract new foreign direct investment (FDI), it has done little to do so. There are no active campaigns to recruit foreign companies at this time.

Limits on Foreign Control

With the exception of the broadcasting sector, there is no requirement that Bolivian nationals own shares of companies, or that foreign equity be reduced over time. There are some areas where investors may judge that special treatment is being given to their Bolivian competitors, for example in key sectors where private companies compete with state owned enterprises. Additionally, foreign investment is not allowed in matters relating directly to national security, and only the government can own natural resources.

The Constitution specifies that all hydrocarbon resources are the property of the Bolivian people and that the state will assume control over their exploration, exploitation, industrialization, transport, and marketing (Articles 348 and 351). The state-owned and operated company, Yacimientos Petrolíferos Fiscales Bolivianos (YPFB), manages hydrocarbons transport and sales and is responsible for ensuring that the domestic market demand is satisfied at prices set by the hydrocarbons regulator before allowing any hydrocarbon exports. YPFB benefitted from government action in 2006 that required operators to turn over all of their production to it and to sign new contracts that gave YPFB control over the distribution of gasoline, diesel, and liquid petroleum gas (LPG) to gas stations. The law allows YPFB to enter into joint venture contracts for limited periods with national or foreign individuals or companies wishing to exploit or trade hydrocarbons or their derivatives. For companies working in the industry, contracts are negotiated on a service contract basis and there are no restrictions on ownership percentages of the companies providing the services.

The Constitution (Article 366) also specifies that every foreign enterprise that conducts activities in the hydrocarbons production chain representing Bolivia will submit to the sovereignty of the state, and to the laws and authority of the state. No foreign court case or foreign jurisdiction will be recognized, and foreign investors may not invoke any exceptional situation for international arbitration, nor appeal to diplomatic claims.

According to the Constitution, no concessions or contracts may transfer the ownership of natural resources or other strategic industries to private interests. Instead, temporary authorizations to use these resources may be requested at the pertinent ministry (mining, water and environment, public works, etc.). The Bolivian Government is still renegotiating more than 10,500 commercial agreements related to forestry, mining, telecommunications, electricity, and water services in order to comply with these regulations

The Telecommunications, Technology and Communications General Law (Law 164, Article 28) stipulates that the licenses for radio broadcasts will not be given to foreign persons or entities. Further, in the case of broadcasting associations, the share of foreign investors cannot exceed 25 percent of the total investment, except in those cases approved by the state or by international treaties.

Privatization Program

There are currently no privatization programs in Bolivia.

Screening of FDI

In accordance with the new investment law, investments will be monitored by the ministry related to the particular sector. For example, the Mining Ministry is in charge of overseeing all public and private mining investments. Each Ministry should assess industry compliance with the incentive objectives. The Central Bank of Bolivia is responsible for registering all foreign investments.

Competition Law

Bolivia does not have a competition law. However, Article 314 of the 2009 Constitution prohibits private monopolies. Based on this article, in 2009 the Bolivian government created an office to supervise and control private companies (http://www.autoridadempresas.gob.bo/). Among its most important goals are: regulating, promoting, and protecting free competition; trade relations between traders; implementing control mechanisms and social projects, and voluntary corporate responsibility; corporate restructuring, supervising, verifying and monitoring companies with economic activities in the country in the field of commercial registration and seeking compliance with legal and financial development of its activities; and qualifying institutional management efficiency, timeliness, transparency and social commitment to contribute to the achievement of corporate goals.

Investment Trends

At 16 percent, the investment rate as percentage of GDP in Bolivia is fairly low. The average in South America is 20 percent and reaches 22 percent on average in Colombia, Chile and Peru. There has also been a shift from private to public investment. In recent years, private investment was particularly low because of the deterioration of the business environment since the beginning of the nationalization process in 2006. From 2006 to 2014, private investment, including local and foreign investment, averaged 7.5 percent of GDP; in previous years it was above 11 percent. From 2006 to the present, public investment grew significantly, reaching an annual average of 10 percent of GDP. Prior to 2006 public investment averaged 6 percent of GDP.

Foreign Direct Investment (FDI) is highly concentrated in natural resources, especially hydrocarbons and mining, which account for nearly two-thirds of FDI. Since 2006 the net flow of FDI averaged 3 percent of GDP. Before 2006 it averaged around 8 percent of GDP.

In an effort to attract more investment, the government enacted an investment law in 2014, which says that each Ministry will provide incentives for sector-specific investment. To date, no Ministry has provided any such incentives. The law notes that dispute resolution will be codified in a separate law. The Bolivian government has said that it is currently working on this law and will enact it during 2015.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	103 of 174	transparency.org/cpi2014/results
World Bank's Doing Business Report "Ease of Doing Business"	2015	157 of 189	doingbusiness.org/rankings
Global Innovation Index	2014	111 of 143	globalinnovationindex.org/content.aspx?page=data-analysis
World Bank GNI per capita	2013	USD 2,550.00	data.worldbank.org/indicator/NY.GNP.PCAP.CD

Millennium Challenge Corporation Country Scorecard

The Millennium Challenge Corporation (MCC) Scorecard for Bolivia is mixed. Bolivia received "red" grades (i.e. not good enough for the MCC to recommend working with Bolivia) on regulatory quality, gender in the economy, access to credit, and business start-up in the economic freedom category. In terms of investing in people indicators, girls' secondary education enrollment, child health, rule of law, and control of corruption, all received red scores. The full results can be found at: https://assets.mcc.gov/scorecards/score-fy15-english-bolivia.pdf. Information the methodology of indicator calculation can be found at:

https://www.mcc.gov/pages/docs/doc/report-guide-to-the-indicators-and-the-selection-process-fy-2015.

2. Conversion and Transfer Policies

Foreign Exchange

Currency is freely convertible at Bolivian banks and exchange houses. The official exchange system is described as an incomplete crawling peg. Under this system, the exchange rate is fixed, but undergoes micro-readjustments which are not pre-announced to the public. There is a spread of ten basis points between the exchange rate for buying and selling U.S. dollars. The Peso Boliviano (Bs) has remained fixed at 6.96 Bs/USD 1 for selling and 6.86 Bs/USD 1 for buying since October 2011. The parallel rate closely tracks the official rate, suggesting the market finds the Central Bank's policy acceptable. In order to avoid distortions in the exchange rate market, the Central Bank requires all currency exchange to occur at the official rate ±1 basis point.

The banking law (#393, 2013) establishes regulations for foreign currency hedging and authorizes banks to maintain accounts in foreign currencies. A significant, but dropping, percentage of deposits are denominated in U.S. dollars (currently less than 20 percent of total deposits). Bolivian law currently allows repatriation of profits, with a 12.5 percent withholding tax. However, a provision of the 2009 Constitution (Article 351.2) requires reinvestment within Bolivia of private profits from natural resources. Until specific implementing legislation is passed, it is unclear how this provision will be applied. In addition, all bank transfers in U.S. dollars within the financial system and leaving the country must pay a Financial Transaction Tax (ITF) of .03 percent. This tax applies to foreign transactions for U.S. dollars leaving Bolivia, not to money transferred internally.

Any banking transaction above USD 10,000 (in one operation or over three consecutive days) requires a form stating the source of funds. In addition, any hard currency cash transfer from or to Bolivia equal to or greater than USD 10,000 must be registered with the customs office. Amounts between USD 50,000 and USD 500,000 require authorization by the Central Bank and quantities above USD 500,000 require authorization by the Ministry of the Economy and Public Finance. The fine for underreporting any cash transaction is equal to 30 percent of the difference between the declared amount and the quantity of money found. The reporting standard is international, but many private companies in Bolivia find the application cumbersome due to the requirement of the Bolivian government for detailed transaction breakdowns rather than allowing for blanket transaction reporting.

Administrative Resolution 398/10 approved in June 2010 forces Bolivian banks to reduce their investments and/or assets outside the country to an amount that does not exceed 50 percent of the value of their net equity.

The Central Bank charges a fee for different kinds of international transactions related to banking and trade. The current list of fees and the details can be found at http://www.bcb.gob.bo/webdocs/2014/Normativa/Resoluciones/175%202014.PDF

The Tax Reform (Law 843) is the one directly affects the transfer of all money to foreign countries. All companies are charged 25 percent tax on profits under the Tax Reform Law, but when a company sends money abroad, the presumption of the Bolivian Tax Authority is that 50 percent of all money transmitted is profit. Under this presumption, the 25 percent tax is applied to half of all money transferred abroad, whether actual or only presumed profit. In practical terms it means there is a payment of 12.5 percent as a transfer tax.

Remittance Policies

The Bolivian government has a lax remittance policy. Each remittance transaction from Bolivia to other countries has a USD 2,500 limit per transaction, but there is no limit to the number of transactions that an individual can remit. The volume of remittances sent to and from Bolivia has increased considerably in the past five years, and the central bank and banking regulator are currently analyzing whether to impose more regulations sometime in the future. Foreign investors are theoretically able to remit through a legal parallel market utilizing convertible, negotiable instruments, but practically the availability of these financial instruments is limited in Bolivia. For example, the Bolivian government mainly issues bonds in Bolivianos and the majority of corporate bonds are also issued in Bolivianos.

The official exchange rate between Bolivianos and dollars is the same as the rate on the street. The government allows account holders to maintain bank accounts in Bolivianos or dollars and make transfers freely between them. Business travelers may bring up to USD 10,000 in cash into the country. For amounts greater than USD 10,000, government permission is needed.

Bolivia is a member of the Financial Action Task Force of Latin America (GAFILAT). GAFILAT works toward developing and implementing a comprehensive global strategy to combat money laundering and terrorist financing.

Since November 2011, Bolivia officially has a fixed rate of exchange and the government does not engage in currency manipulation.

3. Expropriation and Compensation

The Bolivian Constitution allows the government to expropriate property for the public use or when the property does not fulfill a social purpose (Article 57). In the case of land, this social purpose (FES) is understood as "sustainable land use to develop productive activities, according to its best use capacity, for the benefit of society, the collective interest and its owner." In all other cases where this article has been applied, the Bolivian government has no official definition of collective interest and makes decisions on a case-by-case basis. Noncompliance with the social function of land, tax evasion, or the holding of large acreage is cause for reversion, at which point the land passes to the Bolivian people (Article 401). In cases where an expropriation is deemed a necessity of the state or for the public good, such as when building road or laying electricity lines, payment of just indemnification is required. However, in cases where there is non-compliance, the Bolivian government is not required to pay for the land because the land title reverts to the state.

The Constitution also gives workers the right to reactivate and reorganize companies in the process of bankruptcy, insolvency, or liquidation, or those closed in an unjust manner, into employee-owned cooperatives (Article 54). The mining code of 1997 (last updated in 2007) and hydrocarbons law of 2005 both outline procedures for expropriating land to develop underlying concessions.

Between 2006 and 2014, the Bolivian government nationalized companies that were previously privatized in the 1990s. The government nationalized all of hydrocarbons, transport, and sales companies (private and foreign state owned firms remain in production and services), a majority of the electricity sector, the biggest telecommunications company, a tin smelting plant, and a cement plant. To take control of these companies, the government forced private entities to sell shares to the government, but often at below market prices. Some of the affected companies have cases pending with international arbitration bodies.

There are still some former state companies that are under private control, including the railroad, and some electricity transport and distribution companies. The first company not previously owned by the government was nationalized in December of 2012. The Bolivian Government has not discriminated by country; some of the countries affected were the United States, France, the UK, Spain, Argentina, and Chile, amongst others. In numerous cases the Bolivian government has nationalized private interests in order to appease social groups protesting within Bolivia. Although the 2014 investment law does not prohibit nationalization of companies, President Morales has signaled in the press that the new law will curb future nationalizations.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

Property and contractual rights are enforced through domestic courts but the legal process is time consuming and may be subject to political influence and corruption. Bolivia’s Commercial Code (Law 14379, 1977) continues to provide general guidance for commercial activities. The Constitution has precedence over international law and treaties (Article 410), and stipulates that the state will be directly involved in resolving conflicts between employers and employees (Article 50).

Bankruptcy

In the case of bankruptcy, the average time to complete the procedures to close a business in Bolivia is 20 months. The Bolivian Commercial Code includes (Article 1654) three different categories of bankruptcy:

1. No Fault Bankruptcy – when the owner of the company is not directly responsible for its inability to pay its obligations.
2. At- Fault Bankruptcy – when the owner is guilty or liable due to the lack of due diligence to avoid harm to the company.
3. Bankruptcy due to Fraud – when the owner intentionally tries to cause harm to the company.

If a company declares bankruptcy, the company must pay employee benefits before other obligations.

In general, the application of laws related to commercial disputes and bankruptcy are inconsistently applied and charges of corruption are common. Foreign creditors often have little redress beyond Bolivian courts, and judgments are generally more favorable to local claimants than international ones. Workers have broad-ranging rights to recover pay and benefits from foreign firms in bankruptcy, and criminal actions can be taken against individuals the Bolivian government deems responsible for failure to pay in these matters.

Investment Disputes

Between 2006 and 2014, a variety of foreign companies were affected by the government's nationalization policy. In 2014, the government passed a new investment law announcing there would be no more nationalization.

Since 2006, there have been five known investment dispute cases between the government and U.S. persons. Three of the cases were settled outside of the court. One of these three cases was submitted to international arbitration but it was never heard because the parties settled outside of court. Two U.S families who owned large farms had them expropriated by the government after allegations of unfair labor practices and misuse of land. The use of the farm did not comply with the economic and social function (FES) law which states that its use must be a social benefit for Bolivians.

International Arbitration

Investment contracts between the Government of Bolivia and investors granted the right to pursue international arbitration in all sectors. Bolivia and stated that international agreements, such as the Convention on the Settlement of Investment Disputes between States and Nationals of Other States and the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards, must be honored. Current Bolivian law also mandates the recognition of foreign decisions and awards and establishes procedures for the Supreme Court's execution of decisions. However, these rights conflict with the 2009 Constitution, which states (Articles 320 and 366) that arbitration is not recognized in any case and cannot proceed under any diplomatic claim, and specifically limits foreign companies' access to international arbitration in the case of conflicts with the government. The 2009 Constitution also states that all bilateral investment treaties must be renegotiated to incorporate relevant provisions of the new Constitution. The Investment Law of 2014 states that arbitration provisions must be drafted within three months, as of this time they have not been completed.

ICSID Convention and New York Convention

In November 2007, Bolivia became the first country ever to withdraw from the International Center for the Settlement of Investment Disputes (ICSID). In August 2010, the Bolivian Minister of Legal Defense of the State said that the Bolivian government would not accept ICSID rulings in the cases brought against them by the Chilean company Quiborax and Italian company Euro Telcom. However, the Government of Bolivia agreed to pay USD 100 million to

Euro Telecom for its nationalization; this agreement was ratified by a Supreme Decree 692 on November 3, 2010. Additionally, in 2014 a British company that owned the biggest electric generation plant in Bolivia (Guaracachi) won an arbitration case against Bolivia for USD 41 million. In 2014, an Indian company won a USD 22.5 million international arbitration award in a dispute over the development of an iron ore project. The Bolivian government has appealed that award.

In another case, a Canadian mining company with significant U.S. interests failed to complete an investment required by its contract with the state-owned mining company. The foreign company asserts it could not complete the project because the state mining company did not deliver the required property rights. The foreign company entered into national arbitration (their contract does not allow for international arbitration) and in January 2011, the parties announced a settlement of USD 750,000, which the company says will be used to pay taxes, employee benefits, and pending debts. The company also retained responsibility for future liabilities.

Duration of Dispute Resolution

Since companies choose to resolve disputes with the government before going to formal international arbitration, there is no data on the length of a complete dispute resolution in international courts. The one case that did attempt to go to international arbitration took seven years before reaching agreement and receiving government payment outside of the arbitration system. Other cases have been resolved outside of arbitration in one to two years.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Bolivia is a member of the World Trade Organization (WTO) and has not registered any objections to the Trade Related Investment Measures under WTO agreements. The latest WTO Trade Policy Review for Bolivia was conducted in 2005. At that time, the WTO noted that “the trade regime has improved but greater predictability is needed.”

Investment Incentives

Article 14 of the 2014 investment law requires technology transfer from foreign companies operating in Bolivia to Bolivian workers and institutions. The law specifies that Bolivians should work in operational, administrative, and executive offices foreign companies. Also, companies investing in Bolivia should donate equipment and machinery to universities and technical schools in the same area as the investment, and conduct research activities that will find solutions that contribute to public welfare.

Article 21 of the investment law stipulates that the government can incentivize investment in certain sectors that contribute to the economic and social development of the country.

Research and Development

There are very few government financed research and development programs. Any company can participate in research if they receive the appropriate permission from the government. There is a de facto practice to reject U.S. companies and NGOs from research and development projects.

Performance Requirements

Bolivian labor law requires businesses to limit foreign employees to 15 percent of their total work force and requires that such foreign hires be part of the technical staff. These workers require a work visa that can be obtained in any Bolivian consulate, and in the case that they work for a Bolivian company, both the company and the workers should also contribute to the Bolivian Pension System (Pension Law Article 104.1)

Supreme Decree 27328 regulates national and local level government procurement, which give priority to national sourcing. If an item required is not produced in Bolivia, buying decisions are made based on price. Supreme Decree 28271 (Article 10), establishes the following preference margins for sourcing with Bolivian products:

- Except for national tenders, 10 percent preference margin for Bolivian products regardless of the origin of materials.
- For national public tenders, if the cost of Bolivian materials represents more than 50 percent of the total cost of the product, the producers receive a 10 percent preference margin over other sellers.
- In national and international public tenders, if Bolivian inputs and labor represent more than the 50 percent of the total cost of the product, the seller receives a 25 percent preference margin over other sellers. If the Bolivian inputs and labor represent between 30 percent and 50 percent of the total cost of the product, the seller receives a 15 percent preference margin over other sellers.

Under the Bolivian Criminal Code (Article 226), it is a crime to raise or lower the price of a product based on false information, interests, or actions. For those caught doing so, punishment is six months to three years in prison. It is also a crime to hoard or conceal products in order to raise prices. The Bolivian government has aggressively applied these provisions in a number of cases, applying regulations that allow them to request accounting records and audit companies' financial actions looking for evidence of speculation.

Data Storage

Bolivian legislation does not specify requirements for foreign information technology providers to turn over source code. Also the Bolivian government does not follow forced localization policies. Information technology providers are only required to provide access to surveillance with a court order.

Article 14 of the 2014 Investment Law requires companies investing in Bolivia to invest in research to improve industrial processes and the general well-being of the public.

6. Right to Private Ownership and Establishment

The Constitution recognizes the right for both foreign and domestic private entities to establish and own business enterprises. Article 52, Paragraphs 1-2 state:

I. The right to free business association is recognized and guaranteed.
II. The state guarantees the acknowledgement of the legal personality of business associations, as well as of the democratic organizational business forms, in accordance with their own by-laws.

There are several markets that have restrictions on foreign investment. For example, the Telecommunications, Technology and Communications General Law (Law 164, Article 28) stipulates that the licenses for radio broadcasts will not be given to foreign persons or entities. Further, in the case of broadcasting associations, the share of foreign investors cannot exceed 25 percent of the total investment, except in those cases approved by the state or by international treaties.

The right of private entities to freely establish, acquire, and dispose of interest in business enterprises is recognized by the Bolivian Commercial Code (Article 6.3) that states that the purchase or sale of a mercantile company or commercial establishment of shares, quotas, or equity are considered part of the commercial process.

For more information on opening a business in Bolivia, see the World Bank Doing Business report at http://www.doingbusiness.org/data/exploreeconomies/bolivia/.

7. Protection of Property Rights

Real Property

The Bolivian Constitution stipulates the right to private property as long as it serves a social function and is not against the collective/public interest (Articles 56 and 57). The Constitution specifically allows expropriation in cases of public necessity, or where property is not serving an economic/social function. Revisions that were made to the Agrarian Law (#1715, 1996) in November 2006 reflect this concept. The law was modified (#3545) to stipulate that property deemed unproductive in bi-annual reviews by the National Institute of Agrarian Reform (Instituto Nacional de Reforma Agraria, or INRA) would revert to the state; the modification placed limits on landowners' legal recourse in such cases. This modification has limited banking interest in long term agricultural investments due to uncertainty over possible future confiscation of the landowners' property. In January 2013, Congress passed a law to provide an amnesty to landowners with plots being reverted to the state due to unauthorized forest clearings. The Bolivian private sector considered this a government move to improve the conditions for the agricultural sector. Farmers are still waiting for a promised law that would grant them a seven year hiatus from INRA reviews, but at a national agriculture summit in April 2015, the Bolivian government agreed to reduce the frequency of land inspections to every five years.

The Constitution also grants formal, collective land titles to indigenous communities, in order to restore their former territories (Article 394.3), stating that public land will be granted to indigenous farmers, migrant indigenous communities, afro-Bolivians, and small farmer communities that do not possess or have insufficient land (Article 395). Under law 3545, passed in 2006 and still valid, the government will not grant public lands to non-indigenous people or agriculture companies. The Mother Earth Integral Development Law to Live Well (Mother Earth Law, or Law #300) passed in October 2012 specifies that the State control access to natural resources, particularly when foreign use is involved. In action, the law limits access to land, forest, water and other natural resources by foreigners in Bolivia. The law, though signed, is likely to be reviewed before implementing regulations are enacted.

The Office of Property Registry oversees the acquisition and disposition of land, real estate, and mortgages. Mortgages are easy to obtain. It takes at most 60 days to obtain a standard loan. However, Bolivia lacks an adequate system of title verification and challenges to land titles are common. Competing claims to land titles and the absence of a reliable dispute resolution process create risk and uncertainty in real property acquisition. Nevertheless, illegal occupation of rural private property is decreasing since the government passed law 477 to combat land seizures. While some properties are still occupied or disputed, some illegal occupants have already been tried and jailed.

Intellectual Property Rights

The Mother Earth Law recognizes the intellectual property rights (IPR) of indigenous peoples, the Afro-Bolivian community, and Bolivian migrant groups related to ancestral knowledge and biodiversity. The medicinal properties of plants and animals found in the Bolivian Amazon and other regions within Bolivia are included in these rights.

The Bolivian Intellectual Property Body SENAPI (Servicio Nacional de Propiedad Intelectual), has recently published a complete set of regulations related to IPR. This list is available on SENAPI’s webpage at: http://www.senapi.gob.bo/MarcoLegal.asp?lang=ES.

Bolivia does not have a specific industrial property law, only a 1916 industrial privileges law is currently in force. However, Bolivia belongs to the World Intellectual Property Organization (WIPO) and is a signatory to the Nice Agreement and the Paris, Berne, and Geneva Conventions on intellectual property. As a member of the Andean Community (CAN), it has pledged to abide by the intellectual property decisions of the CAN. Last year SENAPI finished a draft law on industrial property, which they expect to present to Congress before June 2015.

Bolivia has no laws protecting trade secrets. However, Bolivia respects related international conventions, including with respect to protection of foreigners. CAN Decision 486 is legally binding in Bolivia and deals with industrial property (trade secrets). The most relevant sections of Decision 486 are:

I. Each Member Country shall accord the nationals of other members of the Andean Community, the World Trade Organization, and the Paris Convention for the Protection of Industrial Property, treatment no less favorable than it accords to its own nationals with regard to the protection of intellectual property, subject to the exceptions already provided in articles 3 and 5 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and in article 2 of the Paris Convention for the Protection of Industrial Property.

Member Countries may also accord such treatment to the nationals of a third country under the terms of their respective domestic legislation.

IV. The protection granted by this Decision shall accrue to all literary, artistic and scientific works that may be reproduced or disclosed by any known or future means.

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, the organization grants patents 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. It can be cancelled if not used within three years of the date of grant.

Bolivia's copyright law (Law 1322) predates the international standards established under the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS). It also falls short of obligations under the World Intellectual Property Organization (WIPO) Copyright Treaty and the WIPO Performances and Phonograms Treaty.

Existing Bolivian copyright law protects literary, artistic and scientific works for the lifetime of the author plus 50 years. 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 publicly share works. Although the law does not explicitly grant the exclusive right to translate works, the law does prevent unauthorized adaptation, transformation, modification, and editing. The law also provides protection for software and databases.

The copyright 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 are protected to the extent provided in international conventions and treaties to which Bolivia is a party.

The 1991 Film and Video Law (#1302, 1991) also contains elements of IPR protection but its implementation is lacking. The law established a National Movie Council (CONACINE) to oversee the domestic film industry and required that all locally produced films and videos shown or distributed in Bolivia be registered with that organization. Between 2011 and 2012 CONACINE tried to reach agreements with street vendors' associations, in an effort to have them sell legal copies of movies; however this effort failed because street vendors continued to make illegal copies of the legal copy provided by the registered owners.

The 2009 Constitution provides for protection of all domestic genetic resources, and locally available microorganisms, as well as the knowledge associated with their use and exploitation. The Bolivian government plans to protect these resources through a registration system managed by the Genetic Resources Conservation National Center of the Agriculture and Forestry Innovation Center. Article 381 of the Constitution says Bolivia will establish procedures for the protection of all microorganisms and genetic resources even if they are not registered, but as of May, 2015 the government had not written the implementing regulations.

The 2012 Mother Earth Law states that the Bolivian government will take actions to avoid the commoditization of genetic resources, bio-piracy, and the participation of monopolies in the production of seeds. Nevertheless, it does not specify which actions the government will take. This law targets companies that bioengineer seeds and that would normally rely on IPR to protect their products.

Indigenous intellectual property rights are highly protected by the Bolivian legal system. Article 100 of the Constitution stipulates that the Bolivian government will protect the learning and knowledge of indigenous people through intellectual property registration. The Constitution acknowledges the right of indigenous nations and people to "the collective intellectual property of their intelligence, sciences, and knowledge, as well as the right to indigenous intellectual property's regained and appreciative value, use, promotion, and development" (Article 30). Article 304 further specifies that indigenous people can safeguard, through registration, collective intellectual property related to knowledge of genetic resources, traditional medicine, and germ plasma. There are not yet any regulations governing the implementation of these constitutional provisions.

The Constitution specifically limits IPR related to medicines in Article 41, which specifies that the right of access to medicines cannot be restricted by intellectual property or trade rights. The Bolivian intellectual property body SENAPI coordinates with the Medicines and Health Technologies Unit UNIMED (Unidad de Medicamentos y Tecnología en Salud) on the regulation of medicine patents.

In 2013, Bolivia passed a law requiring Bolivian institutions to use only open source software. Government agencies need to get special permission to acquire any branded software. However, government institutions are still using branded software, with the use of legal versions of these programs on the rise. Despite government efforts to avoid the dilemma of purchasing software copyrights, it is still possible to find that a government office owns fewer licenses than it has copies of branded software.

The Constitution (Article 41) states that the Bolivian state will guarantee access to prescription drugs and that property and commercial rights cannot restrict this right. Although this provision has not yet been written into law, it is likely to affect intellectual property rights. At present, registration of prescription drugs is regulated by Law (#1737), which establishes control over the production, importation, commercialization, quality control, selection, purchase, distribution, prescription, and sale of medicines through an obligatory sanitary registry, which is valid for five years. After five years, renewed registration of a drug can be requested from the Ministry of Health through DINAMED (the Dirección de Medicamentos y Tecnología en Salud). The registry can be canceled or suspended if the requirements and technical standards mentioned above are not fulfilled.

Resources for Rights Holders

For questions regarding Intellectual Property issues, contact:

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8. Transparency of the Regulatory System

The lack of congruency between the 2009 Constitution and the laws being implemented creates legal discrepancies between constitutional guarantees and the dated policies currently enforced. All of this creates an uncertain investment climate. Adding to the uncertainty, the political agenda can determine what laws will be issued according to the needs of the moment.

The tax code has not changed, and will probably not change in the near future. The government is also discussing a tax increase on profits, focusing on financial institutions that generate very high profits.

Environmental regulations can slow projects due to the constitutional requirement of "prior consultation" for any projects that could affect local communities. This has affected projects related to the exploitation of natural recourses, both renewable and nonrenewable, as well as public works projects. Issuance of environmental licenses has been slow and subject to corruption.

In 2010, the new pension fund was enacted; it increased the contributions that companies have to pay from 1.71 percent of payroll to 4.71 percent.

Formal bureaucratic procedures are lengthy, difficult to manage and navigate, and considered by some to be debilitating. Many firms complain that a lack of administrative infrastructure, corruption, and political motives impede their ability to perform. The one exception is when registering a new company in Bolivia. Once a company submits all documents required to the Bolivian entity charged with registration of new enterprises (FUNDEMPRESA) the process takes between 2-4 working days.

There is no established public comment process allowing social, political, and economic interests to provide advice and comment on new laws and decrees. However, the government generally -- but not always -- discusses proposed law with the relevant sector.

Most accounting regulations follow international principles, but they do not always fully conform to international standards. Only the largest private companies and a few government institutions, such as the Central Bank and the Banking Supervision Authority, have transparent and consistent accounting systems.

Article 308 of the Constitution establishes that the state recognizes, respects, and protects private initiatives that contribute to economic and social development and the strengthening of the economic independence of the country. In addition, as mentioned in the section on Right to Private Ownership and Establishment, the Constitution guarantees free enterprise and the full exercise of business activities as regulated by law.

9. Efficient Capital Markets and Portfolio Investment

Established Bolivian firms may issue short or medium-term debt in local capital markets, which act primarily as secondary markets for fixed-return securities. Bolivian capital markets have sought to expand their handling of local corporate bond issues and equity instruments. Over the last few years, several Bolivian companies and some foreign firms have been able to raise funds through local capital markets. However, the stock exchange is small and is highly concentrated in bonds and debt instruments (more than 95 percent of transactions). The amount of total transactions per year generally hovers around one-third of the GDP.

Since 2008, the financial markets have experienced high liquidity, which has led to historically low interest rates. This situation is expected to continue for the near future, despite the strains in the international financial markets. The Bolivian financial system is not well integrated with the international system and the presence of foreign banks is very low, with only one external bank amongst the top ten banks of Bolivia.

In October 2012 Bolivia returned to global credit markets for the first time in nearly a century, selling USD 500 million worth of 10-year bonds at the New York stock exchange. The sovereign bonds were offered with an interest rate of 4.875 percent and demand for the bonds well surpassed the offer, reaching USD 1.5 billion. U.S. financial companies Bank of America, Merrill Lynch, and Goldman Sachs were the lead managers of the deal. In 2013 Bolivia sold another USD 500 million at 5.95 percent for ten years. HSBC, Bank of America, and Merrill Lynch were the lead managers of the deal. According to the Ministry of Economy, the resources gained from the sales will be used to finance infrastructure projects.

Money and Banking System, Hostile Takeovers

The Bolivian banking system is small, composed of 13 banks, 3 private financial funds, and 34 savings and credit cooperatives. Of the total number of personal deposits made in Bolivia through December 2014 (USD 18.0 billion), the banking sector accounted for 80 percent. Similarly, of the total loans and credits made to private individuals (USD 14.4 billion) through December 2014, 78 percent were made by the banking sector, while private financial funds and the savings and credit cooperatives accounted for the other 22 percent.

Bolivian banks have developed the capacity to adjudicate credit risk and evaluate expected rates of return in line with international norms. The banking sector is stable and healthy with delinquency rates at less than 2 percent.

In 2013 the financial services bill was signed into law. This new law enacted major changes to the banking sector, including deposit rate floors and lending rate ceilings, mandatory lending allocations to certain sectors of the economy and an upgrade of banks' solvency requirements in line with the international Basel standards. The law also requires banks to spend more on improving consumer protection, as well as providing increased access to financing in rural parts of the country.

Credit is now allocated on government-established rates for productive activities, but foreign investors may find it difficult to qualify for loans from local banks due to the requirement that domestic loans be issued exclusively against domestic collateral. Since commercial credit is generally extended on a short-term basis, most foreign investors prefer to obtain credit abroad. Most Bolivian borrowers are small and medium-sized enterprises (SMEs).

In September 2010, the Bolivian government bought the local private bank Banco Union as part of a plan to gain control of part of the financial market. Banco Union is medium-sized, with a share of 9 percent of total national credits and 11 percent of the total deposits; its principal activity is managing public sector accounts. Bolivian government ownership of Banco Union was illegal until December 2012, when the government enacted the State Bank Law, allowing for state participation in the banking sector.

In 2007, the government created a Productive Development Bank to boost the production of small, medium-sized and family-run businesses. The bank was created to provide loans to credit institutions which meet specific development conditions and goals, for example by giving out loans to farmers, small businesses, and other development focused investors. The loans are long term and have lower interest rates than private banks can offer in order to allow for growth of investments and poverty reduction.

There is no strong evidence of cross-shareholding and stable-shareholding arrangements used by private firms to restrict foreign investment, and the 2009 Constitution forbids monopolies and supports antitrust measures. In addition, there is no evidence of hostile takeovers (other than government nationalizations).

The Financial sector is regulated by ASFI (Supervising Authority of Financial Institutions), a decentralized institution that is under the Ministry of Economy. The Central Bank of Bolivia (CBB) oversees all financial institutions, provides liquidity when necessary, and acts as lender of last resort. The CBB is the only monetary authority and is in charge of managing the payment system, international reserves, and the exchange rate.

10. Competition from State-Owned Enterprises

The Bolivian government is actively expanding the state's role in the economy. Actions include re-nationalization in key sectors, establishment of State-owned enterprises (SOEs), and passage of laws and regulations that stipulate state ownership of natural resources.

In recent years, the Bolivian government has re-nationalized, by obtaining a controlling stake, a number of private entities that were formerly public enterprises prior to the 1990s. These include Bolivia's largest tin mine, a smelting plant, the largest telecommunications company, the gas production and transport industry, hydroelectric and thermoelectric plants, and a cement company.

Rather than sweeping nationalizations, the Bolivian government has set up companies in sectors it considers vital to the national interest and social well-being, and has stated that it plans to do so in every sector it considers strategic or where there is either a monopoly or oligopoly. Areas possibly affected in the next year include the cement industry and the banking sector. Many of these public companies are less efficient than their private counterparts.

At present, the Bolivian government owns and operates more than fifty businesses including a sugar factory, an airline, a supermarket chain, a packaging plant, a cement plant, a construction company, paper and cardboard factories, and milk and Brazil nut processing factories. In 2005, income from state-owned business in Bolivia represented only a fraction of a percentage of Gross Domestic Product (GDP). As of 2014, public sector contribution to GDP (including SOEs, investments, and consumption of goods and services) has risen to nearly 41 percent of GDP.

A government-appointed Board of Directors runs each state-owned company. Each director represents a ministry, and some are informally obligated to consult with government officials for decision-making purposes. Supreme Resolution usually appoints the general manager. Private sector entities complain that public companies generate subsidized, unfair competition with the existing private sector. There is currently no law specifying preferential treatment for state-owned businesses, though industry experts anticipate a law on public enterprises that clarifies roles may be on the near horizon.

The largest SOEs are able to acquire credit from the Central Bank at very low interest rates and convenient terms. Some private companies complain that it is impossible for them to compete with this financial subsidy. Moreover, SOEs appear to benefit from easier access to licenses, supplies, materials and land; however, there is no law specifically providing SOEs with preferential treatment in this regard.

Budget constraints have not been a problem for SOEs. Government budget surpluses over the past six years, as well as financing from the Central Bank, have enabled public companies to have large budgets. According to the 2009 Constitution, all SOEs are required to publish an annual report and are subject to financial audits. Additionally, SOEs are required to present an annual testimony in front of civil society and social movements, a practice known as social control

OECD Guidelines on Corporate Governance of SOEs

Not applicable.

Sovereign Wealth Funds

In 2010 Bolivia began discussions around creating a sovereign wealth fund (SWF) unfortunately those discussions did not amount to any conclusive decisions being made. Bolivia still does not have a sovereign wealth fund.

All legally established companies are required to present auditing and financial statements to the tax office annually. This requirement is for private and public companies. Financial institutions must present financial statements quarterly.

11. Corporate Social Responsibility

Both producers and consumers in Bolivia are generally aware of corporate social responsibility, but consumer decisions are ultimately based on price and quality. Because the Bolivian

Constitution stipulates that economic activity cannot damage the collective good (Article 47), CSR activities are generally looked upon favorably by the government of Bolivia. However, during pre-electoral periods, government officials occasionally accuse companies of using CSR practices as political tools against the government and suggest that the government pioneer tighter CSR regulations.

Though Bolivia is not part of the OECD, it has participated in several Latin American Corporate Governance Roundtables since 2000. Neither the government of Bolivia nor its organizations use the OECD Guidelines for CSR. Instead, Bolivian companies and organizations are focused on trying to accomplish the UN's Millennium Development Goals, and they use the Global Reporting Initiative (GRI) methodology in order to show economic, social and environmental results. While the Bolivian government, private companies, and non-profits are focused on the UN's Millennium Development Goals, only a few private companies and NGOs focus on following the UN standard ISO 26000 guidelines and methodologies. Another methodology widely accepted in Bolivia is the one developed by the ETHOS Institute, which provides measurable indicators accepted by PLARSE (Programa Latinoamericano de Responsabilidad Social Corporativa, the Latin American Program for CSR).

Bolivia has laws that regulate aspects related to CSR practices, but the Bolivian authorities rarely enforce them. Article 8 of the Bolivian Constitution promotes a nation of "common well-being, responsibility, social justice, distribution and redistribution of the products and social assets, to live well," but even the government does not fulfill the regulations focused on accomplishing these objectives.

The 1942 General Labor Law is the basis for employment rights in Bolivia, but this law has been modified more than 2,000 times via 60 supreme decrees since 1942. As a result of these modifications, the General Labor Law has become a complex web of regulations that is difficult to enforce. An example of the lack of enforcement is the Comprehensive System for Protection of the Disabled (Law 25689) which stipulates that at least 4 percent of the total work force in public institutions, state owned enterprises, and private companies should be disabled. Neither the public nor private sectors are close to fulfilling this requirement, and most buildings lack even basic access modifications to allow for disabled workers.

In support of consumer protection rights, the Vice Ministry of Defense of User and Consumer Rights were created in 2009 (Supreme Decree 29894) under the supervision of the Ministry of Justice. This same year the Consumer Protection Law (Supreme Decree 0065) was enacted, which gave the newly created Vice Ministry the authority to request information, verify and follow up on consumer complaints. Though the Vice-ministry has yet to report on its activities, an example of its work can be seen in local airports and bus stations, where customers can make a complaint on service or other matters to a representative of the Vice-ministry and receive compensation from the transport company if deemed appropriate.

The Mother Earth Law (Law 071) approved in October of 2012 promotes CSR elements as part of its principles (Article 2), such as collective good, harmony, respect and defense of rights. The Ministry of Environment and Water is in charge of overseeing the implementation of this law, but the implementing regulations and creation of new institutions to enforce this law are still in process.

Even though Bolivia promotes the development of CSR practices in its laws, the government gives no advantage to businesses that implement these practices. Instead, businesses implement CSRs in order to gain the public support necessary to pass the prior consultation requirements or strengthen their support when mounting a legal defense against claims that they are not using land to fulfill a socially valuable purpose, as defined in the Community Land Reform laws (# 1775 and #3545).

In April 2009, the Bolivian government reorganized the supervisory agencies of the government (formerly Superintendencias) to include social groups, thus creating the Authorities of Supervision and Social Control (Supreme Decree 0071). This new authority now controls and supervises the following sectors: telecommunications and transportation, water and sanitation, forests and land, pensions, electricity, and enterprises. Each sector has an Authority of Supervision and Social Control assigned to its oversight, and each Authority has the right to audit the activities in the aforementioned sectors and the right to request the public disclosure of information, ranging from financial disclosures to investigation of management decisions.

There are some organizations working in CSR, ranging from those focusing on education and training, to clean technology promotion, to fair labor practices. Additionally, individual sectors have undertaken CSR initiatives, most notably in mining and forestry. For example, miners developed a working partnership focused on education, infrastructure, and environmental issues with local communities, and communities now exhibit a relatively higher level of awareness of CSR practices than in the past. Since 1996, the Bolivian forestry sector certified almost 2 million hectares of forest.

Additionally, a leading trade think tank, the Instituto Boliviano de Comercio Exterior (IBCE) developed a certification called the Triple Sello (triple seal) that will certify that a business that receives the stamp is free from child labor, discriminatory practices, and forced labor. The Triple Sello certification is currently coordinated with the IBNORCA (Bolivian Institute of Quality Normalization) and in 2014 the first Bolivian company, Guabira, was awarded the triple seal.

OECD Guidelines for Multinational Enterprises

The Bolivian government does not force companies to adhere to the OECD Guidelines for Multinational Enterprises.

12. Political Violence

Bolivia is prone to social unrest that includes violence. Given the country's reliance on a few key thoroughfares, conflict often disrupts transportation and distribution networks. The majority of civil disturbances are related to domestic issues, usually workers pressuring the government for concessions by marching or closing major transportation arteries. Over the past year, there has been no political violence that targeted foreigners.

While protests and blockades are frequent, they only periodically affect commerce. Less than a half-dozen conflicts in La Paz directly affected distribution of essential services or travel in and out of the city for periods greater than 24 hours during 2014. However, numerous others caused businesses to close for short periods or impeded business operations.

13. Corruption

Bolivian law stipulates criminal penalties for corruption by officials, but the government does not implement the law effectively, and officials often engage in corrupt practices with impunity. In 2014, there were numerous reports of government corruption.

According to the World Bank's 2011 worldwide governance indicators, government corruption and lack of transparency remained serious problems. According to Transparency International's 2013 Global Corruption Barometer, 86 percent of citizens believed the police were corrupt or extremely corrupt, and 76 percent labeled the country's judiciary as corrupt or extremely corrupt.

Police corruption remains a significant problem. In March 2014, U.S. authorities convicted police officer Fabricio Ormachea Aliga in Miami on two counts of extortion. Ormachea, an investigator in the police anticorruption unit, allegedly promised to suspend a pending investigation involving a Bolivian living in Miami in exchange for approximately 205,000 bolivianos (USD 30,000). There is also widespread corruption in the country's judiciary.

The Ministry of Anticorruption and Transparency and the Prosecutor's Office are both responsible for combating corruption, but most corrupt officials operate with impunity. In September 2014, former Transparency Minister Nardy Suxo reported that the Ministry was investigating 388 complaints against public servants. The Ministry has obtained 97 convictions since 2006. Cases involving allegations of corruption against the president and vice president require congressional approval before prosecutors may initiate legal proceedings, and cases against pro-government public officials are rarely pursued. Local courts have found that granting immunity for corruption charges is unconstitutional; the government ignored their rulings.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Bribery is a criminal offense in Bolivia. Bolivia signed the UN Anticorruption Convention in December 2003 and ratified it in December 2005. Bolivia is not a signatory of the OECD Convention on Combating Bribery of Foreign Public Officials.

Bolivia is part of the Organization of American States' Inter-American Convention against Corruption and the Follow-Up Mechanism for its Implementation. There is an Ombudsman appointed by Congress and charged with protecting human rights and guarding against government abuse. In his 2014 annual report, the Ombudsman cited the judicial system, the attorney general's office, and the police as the most persistent violators of human rights due to widespread inefficiencies and corruption. Public opinion reflected the Ombudsman's statements. The 2014 Transparency International corruption perception index found that Bolivian citizens believe the most corrupt institutions in Bolivia are the judiciary, political parties, public officials, and the Bolivian Police.

Resources to Report Corruption

Contact at government agency or agencies are responsible for combating corruption:
Lenny Tatiana Valdivia Bautista
Transparency Minister
Ministry of Institutional Transparency and the Fight against Corruption
Calle Capitan Ravelo, esq. Montevideo, Edificio Capitan Ravelo Piso 3 – 9, La Paz Bolivia
591-2-2115773, 591-800-10-9988
No email address available, but the Ministry does have a webpage, Facebook page, and Twitter account

Reports of corruption can also be made to Transparency International, but the organization does not have a physical presence within Bolivia.

14. Bilateral Investment Agreements

Government policy changes stemming in part from the adoption of the 2009 Constitution have raised concerns among foreign investors. Although the new Constitution has yet to be fully implemented, one of its most troubling provisions limits 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, the government of Bolivia terminated the BIT with the United States in June 2012. Existing investors in Bolivia at the time of termination continue to be protected by the U.S. BIT's provisions for 10 years. The BIT with Bolivia was 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 as a member state from the International Centre for Settlement of Investment Disputes (ICSID convention).

Bilateral Taxation Treaties

Bolivia does not have a bilateral taxation treaty with the United States.

15. OPIC and Other Investment Insurance Programs

OPIC provides financing assistance to U.S. firms through direct loans and guarantees issued by U.S. financial institutions. There are currently no OPIC projects operational in Bolivia.

The International Bank for Reconstruction and Development's (IBRD) Multilateral Investment Guarantee Agency (MIGA) has offered a complete line of investment guarantees to foreign investors in Bolivia since October 1991. MIGA has one active project in Bolivia at this time. In December 2011, it issued a guarantee of USD 10.8 million to cover an investment made by a German holding company by its Bolivian subsidiary. The coverage is for a period of up to 10 years against the risk of expropriation of the mandatory reserves held by the subsidiary in the central bank of Bolivia. Past guarantees included assurances for the financing and investment of the Santa Cruz to Brazil gas pipeline, and financial guarantees for a Peruvian bank's mandatory reserves held by the Bolivian Central Bank against expropriation.

16. Labor

Approximately two-thirds of Bolivia's population is considered "economically active." Overall, between 60 and 65 percent of workers participate in the informal economy, where no contractual employer-employee relationship exists. Relatively low education and literacy levels tend to limit labor productivity, a fact reflected in wage rates. Unskilled labor is readily available, but skilled workers are often harder to find.

The 2009 Constitution specifies that unjustified firing from jobs is forbidden and that the state will resolve conflicts between employers and employees (Articles 49.3 and 50). Bolivian labor law guarantees workers the right of association and the right to organize and bargain collectively. Most companies are unionized, and nearly all unions belong to the Confederation of Bolivian Workers (COB).

The law, including related regulations and statutory instruments, provides for the freedom of association, the right to strike, and the right to organize and bargain collectively. The law prohibits antiunion discrimination and requires reinstatement of workers fired for union activity. The law does not require government approval for strikes and allows peaceful strikers to occupy business or government offices. General and solidarity strikes are protected by the Constitution, as is the right of any working individual to join a union.

Workers may form a union in any private company of 20 or more employees, but the law requires that at least 50 percent of the workforce be in favor of forming a union. The law requires prior government authorization to establish a union and confirm its elected leadership, permits only one union per enterprise, and allows the government to dissolve unions by administrative fiat. The law also requires that members of union executive boards be Bolivian by birth. The labor code prohibits most public employees from forming unions, but some public-sector workers (including teachers, transportation workers, and health-care workers) were legally unionized and actively participated as members of the Bolivian Workers' Union without penalty.

The National Labor Court handles complaints of antiunion discrimination, but rulings generally take a year or more. In some cases, the court rules in favor of discharged workers and requires their reinstatement. Union leaders state that problems are often resolved or are no longer relevant by the time the court rules. For this reason, government remedies and penalties are often ineffective and insufficient to deter violations.

The government and under-resourced labor courts limit freedom of association. Moreover, the 20-worker threshold for forming a union proved an onerous restriction, as an estimated 72 percent of enterprises had fewer than 20 employees. Labor inspectors may attend union meetings and monitor union activities. Collective bargaining and voluntary direct negotiations between employers and workers without government participation was limited. Most collective bargaining agreements were restricted to addressing wages.

Violence during labor demonstrations continues to be a serious problem. In March 2014, two miners, Johnny Huisa Condori and Jaime Cachiaca, were shot and killed during a conflict between miners and police on the Oruro-Cochabamba highway; another 50 miners were injured. In the same incident, 43 police officers were taken hostage by miners; all were eventually released with minor injuries. Despite President Morales' 2012 executive order outlawing the use of dynamite during public protests, the practice continues.

In July 2014, Vice President Garcia Linera signed a new child and adolescent code that permits children as young as 10 to work legally. The law states that the minimum working age is 14; however, the Child and Adolescent Ombudsman's Office may permit children as young as 10 to work if the child chooses to do so voluntarily and he or she works independently or with the family. The child must also obtain permission from his or her parent(s). Children as young as 12 can work for outside employers provided the same permissions are obtained. The law states that work should not interfere with a child's right to education and should not be dangerous or unhealthy, which includes work in sugar cane and brazil nut harvest, mining, brick making, hospital cleaning, selling alcoholic beverages, and working after 10PM, among other conditions. A request to the ombudsman must be answered within 72 hours. The Ministry of Labor is responsible for authorizing work activity for adolescents over 14 years of age who work for a third-party employer. The new code establishes that the Ministry of Justice, rather than the Ministry of Labor, is responsible for enforcing child labor laws, including laws pertaining to the minimum age and maximum hours for child workers, school completion requirements, and health and safety conditions for children in the workplace.

17. Foreign Trade Zones/Free Ports/Trade Facilitation

There are nine free trade zones in Bolivia, more than half of which are in cities along the Bolivian borders. The free trade zones were created to facilitate commercial and industrial operations for national and international companies. Any transaction that takes place inside a free trade zone is exempt from tariffs and national taxes. Private companies with 40-year contracts administer the free trade zones, which are located in the cites of El Alto, Cochabamba, Santa Cruz, Oruro, Puerto Aguirre, Cobija, Guayaramerin, Yacuiba, and Desaguadero. The National Council on Free Trade Zones (CONZOF) oversees all industrial and commercial free trade zones and authorizes operations.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	**Year**	**Amount**	**Year**	**Amount**	
Host Country Gross Domestic Product (GDP) ($M USD)	2013	34,824	2013	30,6001	www.worldbank.org/en/country
Foreign Direct Investment	**Host Country Statistical source***		**USG or international statistical source**		**USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other**
U.S. FDI in partner country ($M USD, stock positions)	2013	897	2013	617	http://bea.gov/international/factsheet/factsheet.cfm?Area=201
Host country's FDI in the United States ($M USD, stock positions)	2013	N/A	2013	N/A	http://bea.gov/international/factsheet/factsheet.cfm?Area=201
Total inbound stock of FDI as % host GDP	2013	34%	2013	34%	

*Bureau of Statistics and Central Bank of Bolivia

Table 3: Sources and Destination of FDI

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations *(US Dollars, Millions)*					
Inward Direct Investment			**Outward Direct Investment**		
Total Inward	10,558	100%	Total Outward	N/A	100%
Spain	3,386	32%			
Brazil	1,134	11%			
United Kingdom	1,045	10%			
Sweden	1,040	10%			
United States	897	8%			
"0" reflects amounts rounded to +/- USD 500,000.					

Source: Bolivian Central Bank and International Monetary Fund

Table 4: Sources of Portfolio Investment

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			**Equity Securities**			**Total Debt Securities**		
All Countries	533	100%	All Countries	23	100%	All Countries	510	100%
United States	452	85%	United States	23	100%	United States	429	84%
Peru	26	5%				Peru	26	5%
Brazil	12	2%				Brazil	12	2%
Colombia	11	2%				Colombia	11	2%
Chile	11	2%				Chile	11	2%

Source: Bolivian Central Bank and International Monetary Fund

19. Contact for More Information

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