Bolivia

MARKET REVIEW

In accordance with publications issued by the Instituto Nacional de Estadisitica (www.ine.gov.bo), Bolivia's GDP grew 4.06% during the last quarter of 2005. Inflation continued to be low. The inflation rate for 2005 was 4.91%.[1]

According to the conclusions reached by the Executive Board of the International Monetary Fund (IMF) (on July 17, 2006), "... Despite wide-ranging economic reforms over the past two decades, the accomplishment of macroeconomic stability, and a major expansion of the hydrocarbons sector, Bolivia has achieved only modest gains in poverty reduction and inequality has remained high. The reform process, which encompassed privatisations and liberalisation of the exchange and trade systems, contributed to a major decline in inflation and to an increase in growth in the 1990s. However, the growth performance deteriorated during 1999–2003 in the context of rising social tensions and political instability, and the partial recovery of the last two years has been concentrated in the highly capital-intensive hydrocarbons sector. As a result, Bolivia's key social indicators have continued to lag."

The same document continues, stating that "... over the past year, Bolivia has experienced major political changes, against the background of entrenched dissatisfaction with the country's poor social indicators and weak governance. Following a protracted political crisis, the constitution was amended in June 2005 to allow early presidential and congressional elections for a new full five-year period in December 2005, together with the first direct elections for regional governors. Agreement was also reached on calling a constitutional assembly and a referendum on regional autonomy in July 2006."[2]

WTO, in a report prepared for the third Trade Policy Review of Bolivia, by the Secretariat, indicates that Bolivia "... has taken measures to modernise and simplify its trade regime. Tariffs have been lowered (the average applied MFN tariff is 8.2%) and there appear to be few non-tariff barriers. Foreign investors generally enjoy national treatment, and major strides have been made in increasing market competitiveness in key sectors such as telecommunications. The past few years have seen rapid growth in exports, boosted by a favourable international climate."[3]

Favourable international conditions generated higher prices for basic products exported by Bolivia.

The products price index (expressed in terms of US dollars) reached a level equivalent to 143.6 by the end of December 2005, which was 23.9% higher with respect to the previous year. This increase is caused basically by the general increase of the hydrocarbon and other minerals prices.[4]

Bolivia exported US$2.6bn in 2005 and, in contrast, it imported US$2.1bn. The total currency reserves amount to US$1,714bn.

The country has the second-largest reserves of natural gas in South America, but there have long been tensions over the exploitation and export of the resource. Indigenous groups say the country should not relinquish control of the reserves, which they see as Bolivia's sole remaining natural resource.

Before President Evo Morales came to power the political fallout from the issue had played a part in toppling two presidents and had also had an impact in mounting calls for regional autonomy, including in prosperous, oil-producing Santa Cruz.

In May 2006 President Morales delighted his supporters but sent shockwaves through the energy world when he signed a decree placing the energy industry under state control.

Foreign energy firms were given six months within which to sell at least 51% of their holding to the state and negotiate new contracts or leave the country.

As a measure of country risk, Fitch rates Bolivia's foreign and local currency issuer default rating B, with a negative outlook (December 18, 2005).

The banking system. Despite the current social and political conflicts, the banking system as a whole has survived. Compared to 2002, its performance was better with its main ratios improving.

The fall in the levels of deposits was less dramatic and the delinquency levels improved. Interest rates continued lowering, as they have done during the past few years.

The leasing industry. In Bolivia, the leasing industry is highly concentrated. The main player in the marketplace is Bisa Leasing, a wholly owned subsidiary of Banco Bisa.

According to the data recorded by Bolivia's Banking Superintendency (SBEF), Bisa Leasing currently is the sole leasing player in the market.

The total of the leasing industry in Bolivia can be estimated at around US$18.63m.[5]

The virtual monopoly of this company in the Bolivian leasing industry is a cause for concern, while at the same time it proves the enormous potential that may exist for new leasing ventures in the country, since the legal framework is not bad at all.

Law and regulation. *Leasing companies.* Pursuant to the Bank and Financial Entities Statute, Ley No. 1488, April 14, 1993, banks can either directly undertake leasing transactions or create a wholly owned subsidiary, a finance leasing company.

In any event, both entities are subject to the *Superintendencia de Bancos y Entidades Financieras* (Banking Supervision Regulatory Body – SBEF), and therefore their operation should comply with the same regulations as banks.

Consequently, only banks and the companies with a licence granted by SBEF may act as lessors in any leasing contract within Bolivia. At present, there is only one finance leasing company licensed in Bolivia, namely Bisa Leasing S.A.

Leasing companies must be incorporated with the same procedures which are necessary for the creation of a new bank in Bolivia. Minimum paid equity was, according to Law 1670, 1995 and Resolution 116, 1997 of the Central Bank of Bolivia, DEG550,000 (approximately US$726,000). Since Decree 2297, 2001, the minimum capital required was reduced to DEG275,000 (approximately US$363,000).

According to Bolivian regulations, whenever any bank participates in a leasing company, it must hold a share of not less than 51% of the total outstanding shares.

For independent lessors, that restriction does not exist. So, manufacturing or trading companies or groups can incorporate a lessor without that restriction, but must always file for the corresponding licence at the SBEF.

Foreign investors are allowed to hold up to 100% of a leasing company's outstanding shares. In addition, foreign investments in Bolivia may be insured, through Overseas Private Insurance Corporation and through MIGA. These two entities provide a relief to country risk, since they insure foreign investments.

Accounting. Bolivia follows the same accounting principles under IAS 17. Lessors record the lease receivables in their balance sheet and only record as income the financial portion of rentals while they amortise their investment in their principal portion.

Operations. Bolivia follows the guidelines set forth by the Bank of International Settlements, under the new Basel Accord. In this respect, the "solvency ratio" (CAP) as the quotient results in dividing the leasing company's equity by its total assets weighed by their comparative risk factors. This ratio was set forth at a minimum rate of 10%.

Taxation. Leasing contracts are subject to value-added tax (VAT) of 13% over the amount of the corresponding lease payments.

Income tax (tax levied over companies' profits) is applied at a uniform tariff of 25%. For lessees, lease rentals accrued or paid are fully deductible from taxable income (Supreme decree 26077, art. 47).

The lease contract. The lease contract is subject to the general rules for contracts and obligations as provided by the Banking and Financial Entities Law, the Commercial Code and the Civil Code. The legal definition for the leasing contract contained in the new Compilation of Banking Law differs from the definition contained by the Ottawa Convention.

Therefore, lessors are not legally protected against defences to the hell-or-high-water provision and the tripartite nature of the leasing transaction is not recognised.

The recently enacted Law for the Strengthening of the Financial Control, Law 2297, 2001, introduced some unnecessary restrictions to the leasing activity. In addition, it changed the definition that under Law 14333 better reflected the actual nature of leasing.

Cross-border leasing. According to Bolivian Tax Law, rentals payable under cross-border leases are subject to a withholding tax of 12.5% (25% Corporate Income Tax rate times a deemed net taxable profit of 50% of total rentals – Art. 51 Ley 843, 1986).

Under article 125 of the General Customs Law, equipment under cross-border leasing may be imported pursuant to the temporary import system. All import duties are payable in accordance with the regulations set forth by the Customs Authorities.

Repossessions and enforcement of agreements are currently in the process of being reformed.

Notes:

1 Source: Banco Central de Bolivia (www.bcb.gov.bo).
2 Source: International Monetary Fund (http://www.imf.org/external/np/sec/pn/2006/pn0677.htm).
3 See complete report in www.wto.org
4 Source: Banco Central de Bolivia (Annual Report 2005).
5 www.sbef.gov.bo

Sources:

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- Superintendencia de Bancos y Entidades Financiera de Bolivia. www.sbef.gov.co
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