Foreign Direct Investment Policy and Development in Bolivia under Morales

by
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Since 2006, Bolivia has made major changes to its economic policy and development strategy, especially with regard to the treatment of foreign capital. Analysis of the change in foreign direct investment policy as applied to the oil and gas industry reveals that it has produced greater state involvement in and control of oil revenues but no great strides in gas investment, production, or industrialization. This result contributes to the current debate on whether foreign direct investment policy is the best means of development for resource-rich countries.

Desde 2006, Bolivia ha implementado grandes cambios en su política económica y sus estrategias de desarrollo, especialmente con relación al trato del capital extranjero. El análisis del cambio en la política sobre la inversión extranjera directa en la industria del petróleo y el gas revela que esa nueva política ha producido una mayor participación del estado en ese sector y un mayor control de los ingresos del petróleo pero no grandes avances en la inversión, producción e industrialización de esos recursos. Este resultado contribuye grandemente al debate actual sobre si la política sobre la inversión extranjera directa es el mejor medio de desarrollo para los países ricos en recursos naturales.

Keywords: *Foreign direct investment policy, Development, Natural resources, Bolivia, Oil and gas industry*

Foreign direct investment inflows are an indicator of transnational corporation investment in an economy, and given the absence of national investment that is typical of developing economies these inflows are important. The 1980s and 1990s were characterized by an increase in foreign direct investment inflows into developing economies. In a context marked by neoliberalism, these inflows were stimulated by, among other factors, very favorable policies, since they were considered to contribute significantly to economic development. However, since the beginning of the twenty-first century there has been a proliferation of academic literature questioning the effects of foreign direct investment inflows, and this has led to a rethinking of the role of the corresponding policies (Gallagher and Chudnovsky, 2010; Lall and Narula, 2004; UNCTAD, 2003). As a result of these assessments, several governments in Latin America have substantially modified their foreign direct investment policies in the natural resources sector, in some cases nationalizing companies privatized over the previous two decades. Among these governments, that of Bolivia

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stands out both as a pioneer and for the apparent radicalism of the measures taken.

The objective of this work is to answer two questions: What have been the changes in foreign direct investment policy with regard to oil and gas since the rise to power of Evo Morales, and have these changes contributed to the advance of the Morales government's development goals? With this analysis we aim to contribute to the current debate on the role of foreign direct investment policy in development. As suggested by Rugraff, Sánchez-Ancochea, and Sumner (2009: 47–48), this requires the consideration of case studies such as we propose here as a complement to econometric analyses, which have failed to provide a universal answer. Although our results cannot be fully extrapolated to other economies, they may help to identify the scope and limits of some of the current changes in foreign direct investment policy in the extractive sectors.

Our choice of the oil and gas industry in Bolivia is justified by several factors. First, there is the importance of the extractive sectors in the "new" development strategies. The National Development Plan, formulated in 2006, is a good example. According to the plan, the extractive sectors are central as the core of structural change throughout the economy (the new productive matrix) and as revenue generators; therefore, what happens in this sector largely determines the outcome of the development strategy as a whole. As a result, the scope of our conclusions transcends the purely sectorial, because their links to a possible development strategy will be crucial. In addition, this broad scope will make it easier to derive lessons for other countries with similar economic configurations. Second, these sectors have clear limitations associated with the excessive presence of such investment. Third, at least a priori, nationalization would seem to be a radical shift toward the recovery of policy space for national governments in developing economies. Fourth, in recent years some writers (Webber, 2011) have called for closer analysis of the policies of the Movement toward Socialism (MAS), and in fact many specialists have shown a gradual distancing of the economic policy of the Bolivian government from the motivating principles of the MAS (Estermann, 2012). Our paper seeks to provide a specific analysis of changes in foreign direct investment policy in the hydrocarbons sector from the perspective of the government's development goals.

To address our objective, it is necessary to begin by delimiting the influence of foreign direct investment policy upon economic development. From here, and taking as reference the general proposal of the United Nations Conference on Trade and Development (UNCTAD, 2012), we identify the key aspects that should inform foreign direct investment policy for the oil and gas industry. In the third section we present the main features of the Bolivian National Development Plan. Finally, after describing the Bolivian pattern of development, we evaluate whether the changes in policy have allowed pursuit of the development goals outlined in the National Development Plan and then synthesize our main conclusions.

FOREIGN DIRECT INVESTMENT POLICY AND DEVELOPMENT

A review of the economic literature about the effects of foreign direct investment in the developing economies allows us to reject the automatism of this relationship (both in favor and against) advocated for decades (Moran, Graham, and Blömstrom, 2005; Rugraff, Sánchez-Ancochea, and Sumner, 2009: 29–55; UNCTAD, 2003). Since the late 1990s, a consensus has emerged regarding the contradictory and heterogeneous nature of the effects of foreign direct investment inflows (Dunning, 1994; Jenkins, 1989; Shaikh, 2009).[1] In our opinion, deterministic approaches can be rejected. As Weeks (2009) points out, they have in common that they depend on a static view of competition, with the implication that transnational corporations transfer their competitive advantages when they invest in other countries. When capitalist competition is understood dynamically, it is apparent that the effects of foreign investment and the transfer of competitive advantages depend on the (competitive) context in which the investment takes place. How this occurs in each economy will be influenced by endogenous and exogenous factors (sectorial specialization, number of local enterprises, national and international regulatory framework, and investment modality).

This approach is shared in part by the literature on "absorptive capability," which focuses on endogenous factors. This literature holds that the effects of foreign direct investment depend fundamentally on the capability of host economies to enhance (or slow) the transfer of transnational corporations' competitive advantage (Lall and Narula, 2004). In any case, the attractiveness of an economy—particularly a developing one—may lie precisely in its lack of "development" (for example, the limited protection of labor rights and the environment). Thus, at any given time, the development goals of a government may not coincide with the objectives of transnational corporations, this divergence becoming crucial when it affects key elements of a development strategy. This may be the case with some developing economies (including that of Bolivia) seeking to transform their primary-export model by industrializing their natural resources while the goal of the transnational corporations remains fundamentally extractive.

Three factors that affect the impacts of foreign direct investment on host economies are the strategies of transnational corporations, the structural economic configuration of the host economy, and foreign direct investment policy. These factors are not independent of each other: the transnational corporations' strategies are conditioned by the economy, by the recipient sector, and by the political and institutional frameworks, and the design of the latter may be linked to the objectives and strategies of foreign capital. To determine the influence of these variables we must take as a starting point the economic configuration of the developing economy. Despite the increasing diversity of these economies, certain common traits persist, and these traits will act in many cases as an initial (structural) obstacle that determines the types of foreign direct investment inflows and their effects. Disarticulation or productive dualism, for example, hinder technology transfer and the development of links with local firms. This means that the inflow of foreign direct investment can help to strengthen the production model and external integration rather than transforming it. This risk is much greater if, as in the case of Bolivia, the foreign direct investment inflows are essentially in the extractive sectors, in which the generation of backward and forward linkages is more complicated.

From the point of view of developing economies and bearing in mind these structural obstacles, policy turns out to be a key variable in influencing the impacts of foreign direct investment (see Rugraff, Sánchez-Ancochea, and Sumner, 2009: 2–4; UNCTAD, 2012). Clearly, this policy is not the only determinant of these impacts, but it is the one that governments can control and therefore conditions the other two. This notion is critical because it allows us to show the importance of foreign direct investment policy while recognizing its limits. Certain measures can generate unexpected effects depending on the structural constraints of economies or the strategies of transnational corporations.

The relevance of policy as a determinant of the effects of foreign direct investment has gained importance in the literature since the end of the 1990s in a context increasingly marked by the rejection of neoliberalism in many developing countries and the attempt to recover autonomy in the design of development strategies. In this context, a number of governments have also implemented changes in foreign direct investment policy. Following the methodology of the UNCTAD, we can state that since 2000 there has been an increase in the number of regulatory changes less favorable to foreign direct investment, although they remain a minority. Thus, while in 2000 6 out of every 100 changes were less favorable to foreign direct investment, by 2010 this figure was 32, the turnaround being especially remarkable after 2003. The less favorable investment measures affect a wide variety of issues (UNCTAD, 2012: 75–92), but the majority of changes have occurred in the extractive sector and (not incidentally) especially in African and Latin American countries. The type of change varies from one country to another, but we can highlight the following: higher taxes and royalties, renegotiation of contracts with foreign operators, and nationalization of private companies. All of these have involved reversing the trend that dominated during the 1990s.

According to the UNCTAD (2012: 79), three factors have led to less favorable regulation of these activities: the high prices of commodities, greater state interventionism, and dissatisfaction with the performance of foreign companies. Furthermore, the extractive sectors have become a key element of the new economic strategies adopted by some developing countries motivated by rises in commodities prices and by unsuccessful attempts to imitate the Asian industrialization model. Thus, although (from a global perspective) more favorable measures remain the majority, the questioning of such measures has aroused interest in identifying the foreign direct investment policies most favorable to development.

We believe that foreign direct investment policy should depend on the articulation of three variables: the objectives of development policy, the demands and objectives of the transnational corporations, and the locational advantage of the host country. The first of these variables highlights the mistake of attempting to standardize foreign direct investment policy. No single concept of development is possible (Escobar, 2005; Payne and Phillips, 2010; Rist, 2002), and so there can be no single foreign direct investment policy favorable to development. In any case, there must be coordination between foreign direct investment policy and development policy so that they do not invalidate one another (Ríos and O'Donovan, 2006). This coordination and functionality will be especially important in sectors considered strategic for development policy such as the oil and gas industry in Bolivia.

Experience shows that functionality is more likely if there are similarities between the policy objectives of the country and the interests and needs of the transnational corporations. This condition occurs most often in investments between developed economies because of the similarity of their manufacturing bases, their sectorial complementarities, and the existence of large domestic markets. In the case of foreign direct investment inflows to developing economies, given the structural obstacles mentioned earlier, the challenge is finding investment policies that contribute to overcoming them. This requires that these policies be designed in terms of the core principles identified by the UNCTAD (2012: 98–164), which should allow the choice of objectives specific to the given sector and country, given that the potential contribution of foreign direct investment will not be the same, for example, in the telecommunications sector as in the oil and gas industry. In the latter, each country identifies its goals in terms of the type of contract that regulates the exploitation of natural resources by a foreign company, which determines its relationship (if any) with state-owned enterprise, and the conditions of the sharing of oil revenue between private companies and the state.

It is difficult to establish a best practice that fits all countries. The type of contract (concession, production sharing, or service) is not as important as its specific content, which may vary even within the same contract type (Likosky, 2009). What is relevant is that each contract contain the mechanisms necessary to guarantee that sector performance follows the channels that have been established in the development strategy. This will require that contracts cover investment requirements, a rate of exploitation that ensures adequate replenishment of reserves at the rate consumed, environmental policy, and mechanisms for stimulating backward and forward linkages, thus enhancing value-added activities.

Second, from a fiscal perspective, foreign direct investment policy should ensure oil revenue sharing between the state and transnational corporations, guaranteeing the rights and needs of the country while making activity viable for the transnational corporations. In any case, although the distribution of oil revenues is a key factor, its role in a development strategy should be limited to discourage rent seeking. The rise in commodities prices may increase the bargaining power of some states, and in the 1990s this created extremely favorable tax conditions for transnational corporations. However, from a fiscal point of view, it is necessary not only to balance the distribution of oil revenues between states and transnational corporations but also to ensure that the use of oil revenues is consistent with the state's development goals. Some countries, among them Bolivia, have focused on the first of these issues, but without concurrent progress in the second there is a risk of exacerbating rent seeking.

CHANGES IN POLICY FOR THE OIL AND GAS INDUSTRY

THE MAS DEVELOPMENT PATTERN

In the field of development policy, the new proposals generated in recent years have been largely a result of varying assessments of neoliberalism. All these views (the World Bank, the Barcelona Development Agenda, the Porto Alegre Manifesto, postdevelopment) have one thing in common—they go beyond neoliberalism (Williamson, 2003; Yusuf, 2009). Especially in Latin America, responses to neoliberalism have consolidated around the convergence of social movements with a heterodox academic tradition long marginalized in the debate on economic policy. Some elements of these responses include the following: the claim of basic needs as the axis of economic policy, the overcoming of a Western notion of development that excludes indigenous populations, the claim of nature as a subject of development rather than a mere production input, and the recovery of national control over natural resources (Escobar, 2005). This scenario has shaped proposals such as those of Rafael Correa in Ecuador, Evo Morales in Bolivia, and (with some radical peculiarities) Hugo Chávez in Venezuela. Despite this commonality, the MAS victory and the policies subsequently implemented are a response to features of the Bolivian situation that differ from those of other countries in the region. Among these is the gas war, the social mobilization against plans by the transnational corporations to export Bolivian gas to the United States and Mexico that caused the fall of the Sánchez de Lozada government in October 2003 and the victory of the MAS in December 2005. Therefore gas nationalization and the changes in foreign direct investment policy are important for the National Development Plan not only in an economic sense but also in a political one.

In addition, the MAS, as a political instrument, has always been characterized by its strong indigenous-peasant identity and the heterogeneity of the social movements that it brings together. However, the influence of these two features on the definition and implementation of a Bolivian development strategy remains controversial, particularly because the indigenous-peasant identity that has been a clear determinant of electoral victories is being challenged by conflicts between the government and various indigenous organizations. Although an analysis of these conflicts is beyond the objectives of this paper, it is worth pointing out that indigenous people and peasants have always distanced themselves from the traditional left parties, to the point that "socialism" is conceived more as a recovery of the reciprocal relations still in force in the indigenous communities than as a reference to any tradition with Marxist or social democratic roots (Stefanoni, 2005: 32). This explains why the government did not pursue a total break from the transnational corporations but attempted to modify its regulatory framework. This intention was summarized in Evo Morales's famous phrase "We want partners, not bosses." The heterogeneity of the social movements and interests that the MAS brings together is such that, according to some writers, we are unlikely to find in it any commonality of interests beyond the overcoming of colonialism, the traditional relegation of indigenous peoples to second-class citizenship (Rossel, 2009: 26). This heterogeneity has also hindered the development of a more coherent and radical developmental strategy.

The National Development Plan's own background reflects these circumstances. The fall of Sánchez de Lozada allowed for the establishment of spaces for negotiation between the different social sectors and the state under President Carlos Mesa Gisbert. This period was also the prelude to the Constituent

Assembly, a period in which the country sought redress and this was reflected in the character of the new constitution (Gonsálvez and Dulón, 2010). An alternative view of development was identified that included acknowledgment of the link between social and cultural issues, participation as the fundamental instrument in the definition of processes and activities, and the objective of a Bolivia that would be both productive (overcoming the primary-export model) and united in solidarity (eradicating poverty). The victory of the MAS meant the rise to power of the emerging social movements that drove that view. Thus one of the first measures taken by Evo Morales was his presentation on June 16, 2006, of the Plan Nacional de Desarrollo "Bolivia Digna, Soberana, Productiva y Democrática," the predecessor of the National Development Plan adopted on September 12, 2007.[2]

Therefore, the MAS development strategy was reflected in the National Development Plan. Among its objectives, two were critical: "to contribute to the country's transformation, dismantle the development model derived from colonialism and neoliberalism, and change the primary-export development pattern" and "to promote . . . the construction of a pattern of diversified and integrated development" (Article 5). The core of the MAS development strategy emanates from these two objectives, responding to a development pattern characterized by the building of a stronger, more autonomous, diversified and integrated production model requiring a new productive matrix and a less dependent economy.[3]

The strategy for productive transformation seeks to configure a new productive matrix in the Bolivian economy in which three groups of sectors articulate:

1. Strategic sectors: surplus-generating hydrocarbons, mining, electrical power, and environmental resources. These sectors are capital-intensive, and the state must participate through vigorous public companies in producing, controlling, and distributing the surplus. The performance of private capital must be restricted by state regulation.

2. Sectors that generate employment and income: agriculture, manufacturing, tourism, and housing. These are labor-intensive activities that contribute to balanced development and the social sector by creating a dense and cohesive productive fabric.

3. Transversal sectors: infrastructure (transport and telecommunications) and support for production services (financial and technological). These sectors must be promoted by the state.

The strategy for creating a less dependent economy is based on an analysis of trade liberalization policies and investment, given that it was the profound opening previously experienced in Bolivia that had consolidated its dependent position in the world economy. With regard to foreign investment, the National Development Plan establishes that policy in this area "is not focused on the development of a productive matrix based on the processing and export of goods with higher value added, focusing on . . . nonrenewable natural resources . . . with the participation of international corporations" (Article 5.3.2). From this diagnosis, the National Development Plan proposes to replace the primary-export pattern with a more diversified one that generates value added, restores the importance of the domestic market, and diversifies foreign markets.

Furthermore, it calls for a new treatment of foreign investment that is "equitable" vis-à-vis domestic private capital and public investment.

In sum, the new pattern of Bolivian development seeks an international economic relaunch based on participation in different ways in the various markets and an industrialization strategy based on natural resources (such as that of Norway, Australia, or New Zealand) as opposed to alternatives such as the Asian model, with manufacturing to evolve from the technologically simple to the more complex (Molero and Paz, 2012). In these strategies, the state is regarded as the "promoter and protagonist of national development," implying its participation in the production and trade of the strategic sectors; encouragement of the activity of the other productive sectors (generators of income and employment), promoting improved productivity, expanding the domestic market, and engineering a better position in the international market; and the establishment of a new regulatory legal framework for foreign investment to boost technology transfer, employment, and preference in the use of local raw materials and services.

The pattern of development advanced by the MAS assigns a central role to the state and to hydrocarbons, and it advocates crowding the transnational corporations out of the center of economic activity in the sector. It also seeks to overcome the export orientation (unprocessed goods) and to prioritize the domestic supply of increasingly elaborate products. However, the role of oil as a strategic industry retains elements of continuity with the traditional primary-export model. First, overcoming the primary-export model will require the industrialization of the hydrocarbon industry itself against other, more traditional methods of industrialization from manufacturing activities. Second, characterizing the sector as a generator of surplus means strengthening its extractive nature, since the key objective (obtaining surplus) predominates and may conflict with the objectives of the energy sector: efficiency, energy diversification, management of sustainable environmental impacts, and universal supply.

CHANGES IN FOREIGN DIRECT INVESTMENT POLICY UNDER MORALES

The hydrocarbons policy in force in Bolivia from 1996 to 2005[4] included a set of policies to attract foreign investment supported by the capitalization[5] with private contributions of many of the business units of the national oil company, Yacimientos Petrolíferos Fiscales Bolivianos (YPFB), limiting its powers to oversight and contract administration, the establishment of a contractual model that was typically concessionary in the phases of exploration and exploitation, giving private enterprise full responsibility and risk, and, finally, tax incentives from a reduction of levies. Thus hydrocarbons policy incorporated explicit measures to encourage inflows of foreign investment as a central element. The inclusion of transnational corporations became a priority given that YPFB was reduced to administrative tasks, without local business facilities; only the transnationals could manage the complex activities of the sector.

To compare the current period with what went before, we will have to answer three questions: (1) Are there specific and precise commitments for the transnational corporations? (2) Have the changes in taxation increased the state-controlled surplus? (3) Has the relationship between domestic enterprises and transnational corporations changed? In other words, has the state assumed a greater role in productive activities?[6]

Contracts and commitments. According to the 1996 Hydrocarbons Law, exploration for and exploitation of oil and gas in Bolivia took place only through risk-sharing contracts between private companies and YPFB. The contract included the right to explore, exploit, and market the oil produced except for the amount needed to satisfy YPFB's gas export obligations (mainly to Brazil). The companies also agreed to minimum investment commitments amounting to US$2.2 billion over the period 1997–2003 (Campodónico, 2004). Investments in exploration and development in that period amounted to US$2.7 billion (Molero, Paz, and Ramírez-Cendrero, 2011). In 2006 the nature of the contracts changed substantially, and the requirements imposed on transnational corporations changed to a degree. There are currently two types of contract: migration and service.

The migration contracts[7] were signed in October 2006 by the foreign companies present in Bolivia at the time in acceptance of the new conditions arising from the nationalization decree. Most of them (36 of the 43) involved exploitation of fields already discovered by the companies themselves in areas where they were already operating. Under these contracts the companies agreed to sell all their hydrocarbon production to YPFB. The service contracts are for exploration and exploitation of fields reserved to YPFB under joint ventures, and they are still little developed. In 2012 there were 56 areas reserved for YPFB, and for 4 of these there are contracts between YPFB and the Bolivian company Gas to Liquid International. Twelve areas are being explored by Petroandina, a joint venture of YPFB and the Venezuelan national oil company Petróleos de Venezuela SA.

The companies with migration contracts were only required to be operating in the country at the time. Those with service contracts were required to be either (1) covered by energy cooperation agreements like the one between Bolivia and Venezuela, (2) party to a study agreement acceptable to YPFB, or (3) the winner of an international tender. When exploration was successful, a joint venture was formed between the company and YPFB, and it became responsible for the operation and development of the field and assumed the obligations and rights of the contract. The service contracts lack key aspects with regard to local content and technology transfer, and the National Hydrocarbons Agency and the Ministry of Hydrocarbons and Energy have little authority to verify compliance with investment commitments. Whereas under a migration contract the transnational corporation maintains effective control of the activity in the pits, the joint venture allows YPFB to participate in the operations and develop its productive and technological capacities. The development of these capacities is one of the major obstacles that YPFB must overcome if it is to become an autonomous operator capable of increased production for the domestic market and the industrialization of natural resources, both of which are objectives of the MAS development strategy.

Taxation and state-controlled surplus. The transnational corporations present in Bolivia now operate within a fiscally more demanding framework that has altered the distribution of oil revenues in favor of the Bolivian state. The 1996

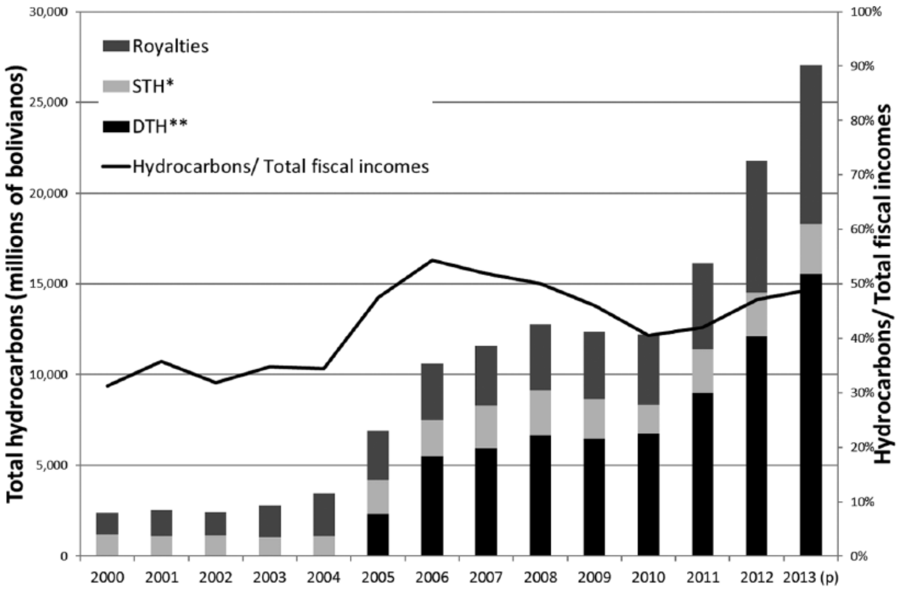

Figure 1. Bolivian fiscal incomes of the hydrocarbons sector, 2000–2013 (based on UDAPE statistics and data from the Ministry of Economics and Finance, 2013).* special tax on hydrocarbons; ** direct tax on hydrocarbons.

law established that transnational corporations would pay 18 percent of the value of production in royalties, in addition to the tax on company profits. Under the current rules the state retains 50 percent of the value of production through two instruments, a direct tax and royalties. The direct tax is applied in the first stage of marketing and amounts to 32 percent of the value of production.[8] This means that, regardless of costs, the state levies an initial 50 percent of the value of oil in addition to the general tax on companies, which remains in place.

These changes in hydrocarbons fiscal regulation, together with the increase in production and in oil prices, have increased the government's take of oil and gas revenues and made it more dependent on those revenues. In 2013, almost 50 percent of the tax revenue came from the hydrocarbon sector, and 57.5 percent of tax revenues in this sector came from this tax (Figure 1).

However, this achievement of the development plan's objectives must be qualified in two ways. First, in the absence of comprehensive tax reform, oil and gas incomes have become a significantly larger share of total tax revenues, generating greater dependence on hydrocarbon production and international prices. Moreover, the use of oil revenues (see Table 1) is marked by the decentralization of the state during the neoliberal period, favoring a large share for oil-producing departments and municipalities. The government of Evo Morales has tried to correct for the marginal participation of nonproducing departments but at the expense of central government revenues, which are already characterized by a small share. Also, much of the new direct tax revenue has gone toward social policies

To be less dependent on oil revenues, Bolivia requires a more demanding tax system, and detailed criteria for the distribution and use of any oil revenues

TABLE 1
Distribution of Government Take in the Oil and Gas Sector

	%
Royalties	18
Producer regional departments	11
National Treasury	6
National compensatory royalties	1
Direct tax on hydrocarbons	32
Regional departments	3.2
Municipalities	9.8
Universities	1.8
Indigenous fund	0.5
National development fund	0.6
Renta Dignidad	8.7
National Treasury	7.4

Source: Chavez (2013: 7).

controlled by the state need to be established. In particular, the distribution of oil revenues to the departments and to the Treasury is currently regulated by several decrees. All of the regulations concerning the distribution and use of oil revenues could facilitate greater orientation toward protection of the most vulnerable social groups, as in the case of the Renta Dignidad (a monthly payment for those above 60 years of age), but no instrument that might guarantee a balance between expenses and savings has yet been developed. Furthermore, the fragmented distribution of oil revenues hinders centralized use for large or ambitious projects (Ramírez-Cendrero, 2014).

The state and the transnational corporations. Just as the 2005 Act set new contracts for transnational corporations and changed the tax system, it also provided for the participation of YPFB in all hydrocarbons activities. Indeed, it called for the expansion of YPFB, refinancing its operations and awarding it majority ownership of the oil companies that had been privatized. The nationalization decree was explicit in its intention to "nationalize the country's hydrocarbon resources; whereas the State recovers the ownership, possession, and total and absolute control of these resources" (Article 1). Specifically, YPFB was proclaimed an entity that "takes over marketing, defining the conditions, volumes, and prices both for the domestic market and for export and industrialization" (Article 2); also, there was to be a "nationalization of the stock necessary for YPFB to control at least 50 percent plus 1 of the companies Chaco SA, Andina SA, Transredes, Petrobras Bolivia Refinación, and Compañía Logística de Hidrocarburos de Bolivia SA" (Article 7). In sum, "the State takes the control and the direction of the production, transportation, refining, storage, distribution, marketing, and industrialization of hydrocarbons in the country" (Article 5) and "recovers its full participation in the whole oil production chain" (Article 6). The 1996 Act had excluded YPFB from exploration, production, refining, distribution, and commercialization of hydrocarbons, reserving those activities to private companies, domestic or foreign, that signed the corresponding contracts or acceded to administrative concessions. The private companies had performed all the activities of the sector while the state played only a supervisory role. Thus until 2006 transnational corporations had access to a sector in which they operated with little oversight, only weak commitments to other investors, and limited taxation. Since then the fiscal requirements of transnational corporations have increased substantially while the Bolivian state, through YPFB, not only supervises but participates in all hydrocarbons activities. This is most clearly reflected in the near-monopoly of YPFB downstream. Meanwhile, however, the investor requirements of transnational corporations remain limited.

The foreign direct investment policy created in connection with the nationalization has also meant some changes in the functioning of the sector. First, transnational corporations operating in the sector must present plans to develop the fields, deliver all production to YPFB, and enter into joint ventures with YPFB. In this case, there are no strict commitments regarding the amounts invested. Second, the tax requirements have increased significantly, thus reducing the share of the transnational corporations in oil revenues to the benefit of YPFB. Finally, the role of the Bolivian state is greater, as it now participates in the upstream and virtually monopolizes the downstream by acting as the sole marketer. At the same time, YPFB certifies production and conducts supervision and control. The transnational corporations have reduced their participation in areas where YPFB operates and cannot operate in the downstream, but they continue to dominate exploitation and have effective control of extraction (despite the obligation to provide all production to YPFB). This fact in particular indicates one of the greatest difficulties faced by the state in increasing its role in strategic sectors as required by the National Development Plan. To achieve the plan's goals, the exploration activities launched in fields currently under exploration must be conducted by joint ventures between YPFB and the transnational corporations.

FOREIGN DIRECT INVESTMENT POLICY AND DEVELOPMENT OBJECTIVES

We noted at the beginning of our analysis that a foreign direct investment policy favorable to development must be consistent with development strategies. The basic principle is the recognition of the sovereign right of each country to establish the conditions under which foreign firms operate. Thus, our analysis has highlighted that the MAS development pattern seeks profound changes in the economic configuration of Bolivia, reflected in two strategies: productive transformation, which seeks a diversified, integrated, and sustainable productive model, and the creation of a less dependent economy that abandons the primary-export model. In these strategies, the Bolivian state is attributed the dual role of promoter and protagonist of national development, and this role involves controlling the production and marketing of strategic sectors including hydrocarbons.

With regard to whether the changes in foreign direct investment policy in the sector are consistent with development strategies and the role assigned by the National Development Plan to the Bolivian state, we can affirm the following:

1. The transnational corporation with a contract has no specific investment commitments beyond those around development projects in the fields involved. This affects both the amount invested and the activities conducted. Since 2006, exploration activities have been relegated even as the production rate has grown. This imbalance between exploration and exploitation has motivated the new orientation of the contracts signed since 2011. With the new contracts, the beneficiary companies must undertake exploration that—if successful—leads to the establishment of joint ventures with YPFB. This is important because it has to do with ensuring production and replenishing the reserves. Without exploration, the rate of exploitation of the fields cannot be maintained. This is why since 2010 YPFB has been granted greater prominence in investment activity through a change in the modality of the contracts. The YPFB Investment Plan of 2012–2016 nevertheless allots only US$1.3 billion to exploration as opposed to US$2.9 billion for the development and exploitation of existing fields (YPFB Logistics, 2012). This approach raises questions about the sector's ability to maintain its strategic course.

In addition, the latest government measures regarding the activity of transnational corporations moves that goal even farther. Supreme Presidential Decree 1202 (April 2012) provides a "unique incentive applicable to oil production" to "promote exploration and reduce the import of derivatives." This decree attaches to the transnational corporation a traditional demand but without requiring further exploration in return. Until the issuance of this decree, oil companies delivered their production to refineries at a price of US$27.11 per barrel of liquid hydrocarbon. That price, net of royalties, taxes, and transportation costs, allowed firms to obtain US$10.29 per barrel, a figure that guaranteed a profit. The new decree guarantees a price of US$30 per barrel. In this context, a better option for promoting exploration and increasing the volume of oil produced would have been to create incentives for exploration in new areas. In reality, the government measure involves accepting the requirement that the transnational corporations obtain within the country the same returns they would receive selling oil on the international market.

2. The effective control of upstream operations remains in the hands of the transnational corporations. The contracts of 2006 did not change that situation, and the recent changes of 2011 are intended to give YPFB effective control of operations through the formation of joint ventures. Without such control, YPFB encounters enormous difficulty in performing its supervisory role in addition to its functions as an operator upstream and its near-monopoly downstream. Several years after the signing of contracts for 2006 that included plans for field development, the state has been unable to certify whether that development has been carried out. This justifies the new forms of contracts that involve the formation of joint ventures through which YPFB may be directly involved in all operations.

3. The state's share in the oil revenue has increased very significantly, with a minimum take of 50 percent. Certain calculations (Carvajal, 2012) estimate that state participation in oil revenues in the period 2006–2011 reached 70.7

percent but with large swings from year to year, resulting in US$12.4 billion in total revenues. This is consistent with the development plan's notion of the industry as a surplus generator, and oil revenue has become a complex mechanism involving multiple entities and recipients (universities, the national police, the army, assistance funds to social sectors).

However, despite these ample resources, the sector is failing in another of its strategic functions—the transfer of resources to industrialization.

4. A key aspect of the productive transformation strategy and an objective reiterated by the Bolivian government is the industrialization of gas, but it remains locked in place. At the same time, gas export commitments to Brazil and Argentina are an obstacle to industrialization, directing raw material that should be transformed internally toward those external markets. While the state decides the destination of oil and gas production, it has so far dealt with them as traditional primary exports, contrary to the provisions of the National Development Plan and to the pattern of development proclaimed by the Bolivian government.

5. There are no instruments for boosting production linkages between hydrocarbons activity and other industries.

CONCLUSIONS

The changes in Bolivian foreign direct investment policy have had contradictory results for the hydrocarbons sector. On the one hand, the changes have not allowed an ensured level of investment, the promotion of exploration to permit the replenishing of reserves that are being depleted, a guarantee of YPFB's effective participation in the control of operations, or the generation of production linkages. On the other hand, while they have allowed promotion of the formation of incipient joint ventures, significant increases in the control of oil revenues by the state, and ensuring that the state will determine the destination of the whole of production, no progress has been made in gas industrialization. We conclude with some thoughts about foreign direct investment policy and its importance to development vis-à-vis the Bolivian experience in the hope of answering our key research question: whether nationalization and foreign direct investment policy are favorable for development.

First, as we have noted, foreign direct investment policy on hydrocarbons in Bolivia is not yet fully consistent with the country's development strategy, failing to provide sufficient mechanisms for objectives such as increased investment. In addition, this policy, although very important, is not the only factor that weighs on the performance of the sector. Indeed, despite changes to the functioning of the hydrocarbon industry, investments remain ultimately dependent upon the global strategies of transnational corporations, affected by more than just regulatory changes (as shown by the fact that in Bolivia transnational corporation investments declined after 1999).

The Bolivian experience also indicates that a defining feature of the country's economic configuration, the limited diversification of production, may act as a structural obstacle to industrialization. The requirements of political legitimacy, together with the administrative and fiscal decentralization inherited from neoliberal reform, have generated uses for gas incomes that are widely dispersed and generally short-term. This may help to explain why the results of changes to foreign direct investment policy have been limited.

Ultimately, although some significant changes to foreign direct investment policies have been applied in the sector, not enough progress has been made in the consolidation of the National Development Plan's two central strategies of productive transformation and change in Bolivia's position in the world economy. On the contrary, the sector in recent years seems to be moving toward the consolidation of the traditional extractive pattern, although with alterations to the proportion of oil revenue sharing between the state and the transnational corporations due to higher tax rates and the revival of a YPFB that acts both as operator and as auditor. The changes in the types of contract enacted since 2011 could contribute to progress toward the goals set out in the National Development Plan, but assessment of that progress will require a longer time perspective. In any case, also necessary is greater coherence between foreign direct investment policy in the hydrocarbons sector and other areas of policy (industrial, energy, and fiscal) to reduce the dependence of the Bolivian economy upon the extractive industries.

NOTES

1. In fact, even writers close to a Marxist approach, traditionally the strongest critics of foreign direct investment and transnational corporations, argue that the exploitation of workers or the extraction of surplus by foreign capital may be accompanied by the development of the productive forces through technology transfer or contribution to gross fixed capital formation (Shaikh, 2009: 85–96). Elsewhere, writers who have traditionally defended the contributions of foreign direct investment to development now recognize that they may not be positive unless a transfer of competitive advantage to the host economy is favored by policies and institutions (Dunning, 1994).

2. During 2006 and 2007, numerous workshops and meetings were held with the participation of academics, indigenous leaders, farmers, and businessmen in which important aspects of the plan were discussed and modified (Déniz, de León, and Palazuelos, 2011).

3. According to the plan, "changing the primary export pattern is, therefore, a necessary condition for overturning inequality and the exclusion of the indigenous population, urban and rural, and to eradicate poverty" (p. 6).

4. The current oil law (Act 3058), which took effect in 2005, established the powers of YPFB and introduced a direct tax on hydrocarbons and new types of contracts.

5. Capitalization was a unique method of privatization.

6. The majority of the data used in this section has been obtained from the Ministry of Economics and Finance (2013) and YPFB (2012).

7. In 2006, 44 migration contracts were signed, but one was returned (by Petrobras) in 2008.

8. Additionally, a special contribution by YPFB of 32 percent was established for so-called big fields for the first six months, in which case the total charge amounted to 82 percent.

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