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Featured Q&A With Our Board of Advisors

Q Bolivian President Evo Morales recently proposed that Bolivia, Venezuela, and Nicaragua pull out of the Washington-based International Centre for Settlement of Investment Disputes (ICSID), the World Bank affiliate for investor-state arbitration, to safeguard national sovereignty from pressures by multinational companies. Why is President Morales raising this issue now? Will any or all of the three countries withdraw from ICSID? At what benefit and/or cost?

A Guest Comment: **Gustavo Guzman:** "On May 2, Bolivia formally announced its decision to leave the ICSID. The decision does not imply an exit from the World Bank institution, and is part of a national policy to promote and implement democratic and sovereign procedures. ICSID practices have raised serious concerns about transparency and constitutionality. For example, the tribunal deliberates behind closed doors, rarely allowing public audiences, and can involve the bank as judge and jury, due to the bank's shareholding in private companies. The ICSID convention also violates Bolivia's national Constitution, which states that businesses operating within Bolivia must be subject to Bolivian law. As such, ICSID undermines Bolivia's commitment to the equitable and just settlement of international disputes. All procedures and rules for withdrawing from the ICSID will be followed, and

Bolivia will adopt and guarantee an alternative form of international arbitration. In pursuing more democratic mechanisms, the climate for international investment will improve markedly. On October 28, all 12 major gas companies operating in Bolivia chose to renegotiate and sign 44 contracts with the Bolivian state, opting to continue working in Bolivia under new regulations. These included more sustainable revenue shares for Bolivia and the exclusion of the ICSID in favor of alternative arbitrating bodies. This renegotiation shows that alternatives to the ICSID are both practicable and beneficial for the state and investors, and Bolivia continues to welcome international investment."

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PHOTO OF THE DAY



Pope Benedict XVI, who arrived in Brazil on Wednesday, issued strong words against Roman Catholic politicians in Latin America who support the legalization of abortion. See [story](#) on page 2.

Photo: Agencia Brasil.

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NEWS BRIEFS

Calderon's Approval Rating Rises 10 Points to 68 Percent

Mexican President Felipe Calderon's approval rating has risen 10 points to 68 percent, according to a [poll](#) published Wednesday by local newspaper *El Universal*. The new figure compared to 58 percent approval in the newspaper's previous poll conducted at the end of January, just a month after Calderon took office. However, only 17 percent of Mexicans polled in the most recent survey gave the president "strong" support, with the remaining supporters giving him "soft" approval, according to *El Universal*.

Uribe Reprimands VP for Remark on US-Colombia Relations

Colombian President Alvaro Uribe on Wednesday issued a stern reprimand to Vice President Francisco Santos, ordering Santos to correct his statement the day before that the country would "re-evaluate" its relationship with the United States if the US Congress doesn't approve a pending bilateral free trade deal, Bloomberg News reported, citing a local radio report. Uribe also told Santos to apologize to Colombia's Congress for saying 40 legislators would be jailed for their suspected ties to illegal paramilitary groups.

Unibanco Posts 581 Million-Real First-Quarter Profit

Brazil's **Unibanco** said Wednesday that its first-quarter profit rose to 581 million reais (\$US 287.2 million), 11 percent higher than in the same period last year. In an [earnings release](#), Unibanco said total loans to individuals were up 5.1 percent to 18.3 billion reais. The Sao Paulo-based Unibanco had total assets of 115 billion reais as of March 31. It is the fourth-largest private sector bank in the Brazil.

Economic News

Negroponete: White House Supports Extended Trade Benefits for Ecuador

US Deputy Secretary of State John Negroponete on Tuesday said the Bush administration supports an extension of US trade preferences for Ecuador that expire next month, the Associated Press reported. Negroponete, who met with President Rafael Correa in Quito as part of a trip to the region, said the preferences under the US Andean Trade Promotion and Drug Eradication Act (ATPDEA) will "hopefully be extended," by the US Congress. "We understand perfectly the benefits the ATPDEA brings," Negroponete said. "We want the extension." In his meeting with Negroponete, Correa called for an extension of the benefits. Ecuadorean Foreign Minister Maria Espinosa said

Foreign Minister Maria Espinosa said Ecuador could be ready to hold talks on a "mutually beneficial" trade agreement with the US, but said her government is not interested in a free trade agreement.

Wednesday that if the ATPDEA benefits are extended for two years, Ecuador would be ready to hold talks on a "mutually beneficial" trade agreement with the US, but said her government is not interested in a free trade agreement, according to a [press release](#) posted on the presidential Web site. Ecuador's neighbors Peru and Colombia have negotiated free trade agreements with the US and are awaiting a vote on the trade deals by the Democrat-controlled US Congress. Last year, the US suspended free trade talks with Ecuador after the Andean nation's government canceled the contract of **Occidental Petroleum**, accusing the Los Angeles, CA-based firm of illegally transferring an oil block to another company. Occidental has filed an arbitration claim against Ecuador, seeking \$1 billion in damages and the return of its assets. Last week, Espinosa said her government has no plans to extend a 14 year-old investment treaty with the US, stating that "this treaty has caused our country a lot of problems."



Correa (right) met with Negroponete (far left) in Quito on Wednesday.

Photo: Carondelet.

Political News

Pope Criticizes Support for Abortion by Catholic Politicians in Region

Pope Benedict XVI on Wednesday issued strong words against Roman Catholic politicians in Latin America who support the legalization of abortion. On an air-

plane to Brazil, where he began a five-day visit, Benedict told a reporter he agrees that lawmakers in Mexico City who recently approved abortion during the first 12 weeks of pregnancy could rightfully be excommunicated, the Associated Press reported. Vatican spokesman Federico Lombardi later clarified that the pope's statement did not constitute a new policy nor did he plan to have anyone excommunicated—a rare process—but added that politicians who legalize abortion should not receive the sacrament of holy communion. "Legislative action in favor of abortion is incompatible with participation in the Eucharist ... Politicians exclude themselves from communion," Lombardi said, according to the AP. Mexico City's legislature voted on April 24 to legalize abortion during the first three months of pregnancy, a move that was expected to increase tensions with the Catholic Church and lead to a court fight. Abortion rights supporters said they hoped the vote would be the start

of a new trend across Mexico and other parts of Latin America, which is home to more than one-half of the world's Roman Catholics. Giving his first papal address in Latin America at Sao Paulo's Guarulhos airport, Benedict avoided further mention of politicians' support for abortion, according to the AP. Abortion is illegal in Brazil in most cases, but President Luiz Inacio Lula da Silva earlier this week said that it is a "public health" issue, the AP reported. Benedict will meet with Lula today and concludes his trip on Sunday by convening the decennial Latin American Bishops Conference.

Chavez Accuses US of "Protecting International Terrorism"

A day after a US court freed Cuban exile and alleged terrorist Luis Posada Carriles, President Hugo Chavez on Wednesday accused Washington of "protecting international terrorism" and said Venezuela would not abandon plans to seek Posada Carriles' extradition, Bloomberg News reported. "He's a murderer and a terrorist and now enjoys full freedom in the United States," Chavez was quoted as telling reporters. "The US government is protecting international terrorism." On Tuesday, a US judge dismissed immigration fraud charges against Posada Carriles, allowing the 79 year-old to go free two years after he was arrested by authorities in Miami. US State Department spokesman Sean McCormack said Wednesday Justice Department officials are reviewing the court ruling and "deciding what their options are." McCormack said the Department of Homeland Security has final say on whether Posada Carriles will be deported. Posada Carriles escaped from prison in Venezuela in 1985 after he was indicted for murder in the 1976 bombing of a Cuban airliner, in which 73 people were killed. He is also accused of orchestrating a series of hotel bombings in Havana in the late 1990s. The US has said it will not deport Posada Carriles to Cuba or Venezuela, expressing concern about whether he would receive a free trial in those countries. The Cuban and Venezuelan governments say Washington's failure to extradite Posada Carriles is a sign of hypocrisy by the Bush

Featured Q&A

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A **Guest Comment: Ivan Rebolledo:** "Without a doubt, President Morales is raising this issue due to the heightened level of discontent with international financial institutions (IFIs) in the Andean region and their perceived negative role over the past years by leaders of the new left. Very recently, President Rafael Correa of Ecuador declared the World Bank country representative *persona non grata*. Venezuelan President Hugo Chavez soon after made declarations indicating that his government was studying a similar option. Bolivia, on the other hand, has had a rather positive relation with the World Bank over the past few years. During the last presidential campaign and soon after, World Bank representatives traveled to Bolivia to work closely with the Morales campaign

in the elaboration of 'sectoral white papers' that have served as the basis of the ongoing relationship. In addition, the Bank forgave a considerable amount of

“Morales now makes these statements of pullout from the ICSID to 'join the bandwagon' of discontent and criticism of IFIs and their related institutions.”

— Ivan Rebolledo

Bolivia's debt. Morales now makes these statements of pullout from the ICSID to 'join the bandwagon' of discontent and criticism of IFIs and their related institu-

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administration in the war on terror. US Congressman William Delahunt, a Massachusetts Democrat, called on the White House to label Carriles a "terrorist" under the USA Patriot Act, which would allow the government to hold him indefinitely as an alien, Bloomberg News reported. "The world will conclude that this administration has a double standard when it comes to fighting terrorism unless President Bush takes swift action to detain Posada," Delahunt was quoted as saying in a statement.

Company News

Televisa's Cable TV Unit Given Nod to Offer Fixed-Line Service

Mexican broadcaster **Televisa** announced Wednesday that the government awarded its cable unit, **Cablevision**, a concession to operate fixed-line telephone services. In a press release, Televisa said Cablevision expects to launch the service in the third quarter of this year. "It is the first time a Mexican television company has been authorized to offer fixed-line telephone

service, according to Reuters, and follows the approval by the government in October of rules on "convergence" allowing fixed-line telephone companies, mobile operators, and cable television companies to enter each other's market. Under the government's "Convergence Agreement," prices consumers pay for voice, Internet, and video services are expected to fall as a result of increased competition, although analysts say that more needs to be done to bring greater competition to Mexico's telecom market [Editor's note: see related Q&A in the October 13, 2006 [issue](#) of the weekly *Latin America Telecom Advisor*]. Cablevision has coverage in the Mexico City area, with more than half a million subscribers, and Televisa is looking to invest in other cable television operators in the country to expand its reach. Televisa, the world's biggest Spanish-language broadcaster, will be competing in the fixed-line telephone sector against **Telefonos de Mexico** (Telmex), which dominates the market. In February, Telmex launched a platform that offers television via the Internet as it seeks to expand into the market of cable television companies.

Featured Q&A*Continued from page 3*

tions. It is rather unlikely that Bolivia will withdraw from the ICSID, especially due to the fact that in the past it ruled rather favorably in relation to Bolivia's woes with Bechtel (water wars in Cochabamba) and other European companies."

A Guest Comment: Jonathan C. Hamilton: "Recent developments may test the widely accepted view that reliable dispute resolution mechanisms are central to attracting foreign investment. Latin American countries spent years building a legal framework for arbitration by modernizing national laws and ratifying treaties providing for investor-state arbitration. Colombia, Panama, and Peru are now pressing for ratification of US free trade agreements that include latest-generation investment protections. Yet Bolivia and other disaffected states appear to be taking steps to dismantle pieces of the framework for investor-state arbitration. As a policy matter, these steps follow a wave of ICSID cases against Latin states in recent years, including 60 of the 110 ICSID cases now pending. These steps also arise in the political and policy context of Venezuela's move to pull out of the World Bank and bolster its role as a regional power; the Bolivian announcement was made in Venezuela. As a legal matter, Bolivia's denouncement of the ICSID Convention, whatever its effect, would not be effective for six months. Moreover, Bolivia may seek to revise certain of its 18 bilateral investment treaties (BITs). The 2001 Bolivia-US BIT, for instance, provides access to UNCITRAL arbitration (not only ICSID arbitration). It can be terminated 10 years after entry into force, with one-year advance notice; and certain protections remain in force for a decade thereafter, even if enforcement issues arise. Ecuador aims to terminate its 1997 BIT with the US; but that BIT has arbitration and termination provisions similar to the Bolivia BIT. In short, the dismantling of investment protections is more quickly announced than accomplished."

A Guest Comment: Donald Planty: "When investing overseas, especially in developing countries, most companies look for confidence-building measures from host governments. Local legislation protecting foreign investment and membership in organizations like ICSID are important criteria for many companies when making investment decisions. Morales' proposal, if adopted by the three countries, would be one more factor discouraging foreign investment in those nations. Potential investors look for reassurances, not negative signals such as this one. This proposal has no 'up side,' only a 'down side.' If one assumes that these economies need job-creating investment, it is difficult to understand the ICSID proposal on practical grounds. Given the other countries mentioned by Morales, however, it is clear that this is a political proposal more than an economic or financial decision. Outdated notions such as protection of 'sovereignty' need to be set aside, and Latin America needs to do everything it can to welcome and encourage foreign investment in order to grow faster. It is way past time for the Latin Americans to 'grow up' on this issue. One need only glance across the Pacific to Asia to see how countries that have welcomed foreign investment have prospered."

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