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Articles in journals: Paulo Gorjão, "Japan's Foreign Policy and East Timor, 1975–2002" (*Asian Survey*, Vol. 42, No. 5, September/October 2002), pp. 754-771.
Articles in newspapers: Paulo Gorjão, "UN needs coherent strategy to exit from East Timor" (*Jakarta Post*, 19 May 2004), p. 25.
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Left behind: institutional implications of internalizing Chavismo

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Sometime in 2007 or 2008, Venezuelan President Hugo Chávez's appeal in Latin America peaked, but the effects of his influence will be felt for years to come. Primarily this is because Chávez finagled the election of like-minded allies in several countries, who, once in office, dramatically consolidated power in their hands; barring coup or cardiac crisis they will not be leaving office anytime soon. Nowhere is this more evident than in Bolivia and Ecuador, where the elections of Evo Morales in 2005 and Rafael Correa in 2007 respectively gave Chávez a base of stalwarts.

In recent years scholars have taken notice of Chávez's clout, chronicling the manner in which his influence spread and pointing out the pitfalls of his conception of "Bolivarian socialism". Mainly these analyses focus on short-term effects: the replacement of technocrats with political cronies; underproduction in the oil and gas industries due to an inept nationalization scheme; the anti-liberal nature of "participatory democracy" in the domestic sphere; the list goes on. Moreover, most of the professional attention paid to Chávez's influence in Latin America concerns menacing aspects of Venezuela's foreign policy; shady relations with China, Iran and Russia; strained diplomatic ties with the United States; and the looming threat of war between Venezuela and Colombia.

As a result, the image we have of Bolivia and Ecuador comes through the lens of Chávez. Why not tilt the looking glass to view Chávez through developments in Bolivia and Ecuador? This perspective infuses what follows.

Specifically, this article argues that the long-term effects of falling into Chávez's sphere of influence are likely to be worse than is suggested by short-term forecasts, which generally focus on the economic backlashes of populism and concentration of power in the hands of the President. A harsh long-term setback is likely because the countries that have followed Chávez's rhetoric with policy, chiefly Bolivia and Ecuador, have taken concrete steps to institutionally de-link themselves from the global economic order. In so doing, they have put themselves on a path of structural isolation that will defy a quick mend. Policy analysis of international business arbitration and banking regulation, two cables that help hew countries to the global economic order, inform this hypothesis.

This essay begins by painting the rise of Morales and Correa on the canvas of Chávez's foreign relations. It then turns to case studies of de-linkage. The latter half of the article concerns itself with gauging the implications of policy decisions undertaken by Chávez allies before drawing several conclusions about the long-term impact of policy choices for Bolivia and Ecuador.

Building an alliance structure

Hugo Chávez gained adherents in Latin America by inveighing against the United States and capitalism, while lavishing Venezuela's oil revenue on promising allies. Free or heavily subsidized oil was doled out to Caribbean nations via a Venezuelan program known as Petrocaribe, hundreds of Venezuelan *misiones* were funded across Latin America to provide free healthcare to the poor, and "participatory democracy" movements in the region received rhetorical, and in all likelihood financial, backing from Chávez. By 2008, Chávez had committed an estimated US$43 billion to foreign aid across Latin America – some estimates placed the sum at US$50 billion.[1] Much of this was heaped on other Andean nations where Chávez-inspired candidates were gaining traction in the middle part of the last decade.

This aid scheme has been given some unwieldy names, from "electioneering" to "social power diplomacy", but regardless of the phrasing these terms hit on a central point: Venezuelan aid seeks the germination of political cronies. And according to Javier Corrales, among others, it is corrosive. He writes: "Venezuelan aid is billed as investment in social services, but in fact it consists mostly of unaccountable financing of campaigns, unelected social movements, business deals, and even political patronage by state officials. In this era in which state elections are fiercely competitive almost everywhere in Latin America, Venezuelan-type aid is irresistible".[2]

Critical to the level of support Chávez enjoyed in Latin America was the creation of an institutional regime that could preempt existing networks. This came in the form of the Bolivarian Alliance for the Americas (ALBA). Explicitly devised as an alternative to the US-backed Free Trade Area of the Americas, Chávez claimed the group would operate on the basis of "cooperative advantage", not competitive advantage. In truth, this meant that Venezuela would run negative trade terms with the other ALBA members, but given the massive trade surplus Venezuela ran with the rest of the world thanks to oil exports it was a cost that Chávez appeared all too happy to bear. As more states sought ALBA membership, Chávez moved to institutionalize the regime further, announcing plans for adjudication of trade disputes, a development bank, a monetary union, and a host of other institutional-replacements. Notes a recent article from *Third World Quarterly*: "In ALBA we find a social, economic and political alliance – an integration project – capable of radically transforming international legal relations".[3]

Chávez's international strategy culminated in the 2005 election of Evo Morales in Bolivia, and of Rafael Correa in Ecuador in 2007. Upon taking office, Morales and Correa each set out to refashion their country's political systems along the lines of Chávez's Venezuela, nationalizing the oil and gas sectors and enacting new constitutions that bestowed greater power to the Office of the President.

Chávez's patronage has affected virtually all aspects of Bolivia and Ecuador's international relations. Important to this process is reducing the role of foreign business and established international institutions on Bolivia and Ecuador. In that light, this article undertakes a study of foreign business practices through the lens of the International Center for the Settlement of Investment Disputes (ICSID), and banking regulation. These examples provide the benefit that the impacts of policies taken in regard to these topics are still relevant and will surely remain so for several years.

International business arbitration

Bolivia and Ecuador pursue anti-Americanism by turning their backs on Western regulatory and oversight bodies. This commenced in 2007 when Bolivia became the first country to ever withdraw from the ICSID, a World Bank convention signed on to by 155 countries for the settlement of contract disputes between foreign corporations and governments. A study published by the Institute for Economic Law and Martin Luther University Law School cited the move as a first step intended to: "redesign the landscape of the increasingly established and in recent years widely used mechanisms for the settlement of investment disputes between states and private investors".[4]

It is not clear whether Morales intended to spark a broader trend, as the Institute for Economic Law suggests. Instead, the administration claimed that governments "never win" cases against corporations. However in the year prior El Salvador and Venezuela, among other nations, received favorable ICSID decisions.[5] Even so, Morales' decision to withdraw Bolivia from ICSID does reflect a common rationale cited in academic literature for shirking institutionalization: the legal and institutional regimes are wrongly intended.[6] Distaste with the explicit purpose of ICSID can greatly explain why Morales withdrew Bolivia from the convention, but as pointed out later, this explanation does not accurately explain Ecuadorian or Venezuelan policy.

Shortly after Morales denounced ICSID, Correa began to also turn away from the convention. Under Article 25(4) of the convention, Ecuador submitted notice to the World Bank that it would no longer consent to ICSID jurisdiction on claims regarding the country's natural resources. However Ecuador did not wholly renounce ICSID, leaving it in a precarious position toward foreign investment. A preliminary analysis made by Skadden, Arps, Slate, Meager & Flom, a major international law firm, claimed that while the Article 25(4) notice would surely cut into foreign oil companies' profits, the move did not actually preclude Ecuador from substantial lawsuits from foreign companies: many bilateral investment treaties signed by Ecuador and still in force provide for alternative outlets for dispute resolution.[7]

Then, on July 6th 2009, Ecuador submitted a formal denunciation of its membership in ICSID to the World Bank. Publicly, President Correa declared that Ecuador intended to withdraw from the ICSID "atrocity" in order to liberate itself from "colonialism". After a necessary waiting period of six months, Ecuador became the second country in the world to withdraw from ICSID.[8]

Compared to Bolivia's actions, Ecuador's behavior indicates a more nuanced and gradual approach to ICSID withdrawal. Correa started by repudiating ICSID authority on claims in the energy sector, but not in other sectors. Nearly two years later Correa sued for complete withdrawal from ICSID, which occurred in 2010.

International regulation of banking practices

More common than outright repudiation is willful non-compliance.[9] Bolivia has historically lacked strong measures to prevent use of its banks for money laundering, but this weakness sunk to new lows in recent years as a motley new group of investors, mainly from China, Russia, and Iran, expanded their presence in Bolivia. In December 2008, Bolivia was kicked out of the Egmont Group, an anti-money laundering consortium made up of quasi-private banks, making it and Ecuador the only two countries in the Americas not to have membership.[10] The informal collection of international agencies that seeks to end money laundering stated the suspension came because the Morales government did not criminalize the financing of terrorism.[11]

In a similar vein, Ecuador has proven lax in its commitment to block terrorist financing. Every year since Correa's election, the Financial Action Task Force (FATF) has reported Ecuador to be in non-compliance with over half of its criteria for anti-money laundering. Although this still warrants an overall grade of "partly compliant", placing Ecuador in a mezzanine class with dozens of other countries, Ecuador is considered noncompliant on all nine of FATF's recommendations related to terrorist financing – this is noteworthy when it comes to Ecuador's recent relations with Iran.[12] (By implication, this means Bolivia and Ecuador are also in violation of several other international conventions to which they are signatories.)

For Ecuador, the decline into non-compliance is particularly stark, and worrying. A decade ago Ecuador was lauded for "positive steps to counter money laundering", including a spate of laws defining and criminalizing money laundering, and the creation of a financial watchdog group.[13] But Ecuador's 2008 Constitution - Correa's first policy objective - wiped the slate clean on previous anti-money laundering provisions, leaving the country lacking for even basic money laundering and counterfeiting protections.[14]

Little surprise then that in 2010 *The Economist* dubbed it "a new capital of financial crime".[15]

The source of Ecuador's waning banking oversight stems to some degree from Correa's growing ties to Iran. Shortly after Colombia's FARC raid into Ecuadorian territory on March 1st 2008, Correa publicly espoused closer ties with Iran. "Iran can supply us" with arms and credit, Correa said, because "We have a very serious problem on the northern border with Colombia, an irresponsible government that does not take care of its border".[16] Russia stepped in to sell Ecuador the weapons instead, but bilateral trade between Ecuador and Iran burgeoned – from a total of US$27 thousand in 2006 to US$126 million in 2009.[17] In conjunction with this development, in 2008 the *Banco Internacional de Desarrollo* (BID), an independent subsidiary of the Export Development Bank of Iran, made plans to open a branch in Quito in order to finance Iran's growing exports to Ecuador. Yet by the time BID opened for business in Ecuador in 2009, it was under sanction by the US Treasury for financing Iran's nuclear program.

Six months after the BID opened in Quito in February 2010, the FATF reported that Ecuador was not "constructively engaged" and had "not committed" to international standards on money crimes. As a result, the FATF put Ecuador on a "black list" of other non-compliers – Angola, Ethiopia, Iran, North Korea, and Turkmenistan.[18] Occupants of this bottom rung are widely recognized to tacitly or actively allow use of their financial system for terrorist financing or illicit weapons programs.

President Correa responded to the black listing in a fit of pique: "What arrogance! And why? Because we have relations with Iran. That's it!"[19] Correa then refused to undertake any measures to comply with FATF regulations. Ecuador's private bank association, incidentally, reached the same conclusion as Correa, but appeared less puzzled as to why. It noted the relationship of Ecuador's Central Bank to Iran, as well as the fact that several Iranian financial institutions were operating in the country with no regulatory oversight, as probable reason for the country's FATF downgrade.[20]

Shortly thereafter, President of Ecuador's Central Bank Diego Borja flew to Washington, DC to meet with US Treasury officials in order to ensure that Ecuador did not "run out" of its official currency: the US dollar. With the dollar as Ecuador's official currency, the US is more directly exposed than it would normally be to forgery and money laundering in a developing country; Ecuador's economy, on the other hand, would be ruined without reliable access to greenbacks. Dollarization compels Ecuador's compliance on a financial matter of which Washington takes serious interest. Four months after Ecuador's downgrade, on the basis of renewed commitments to crackdown on terrorism financing and fight money laundering, the FATF removed Ecuador from its blacklist.

Assessing the costs

So what is the cost to Bolivia and Ecuador for shunning the previously discussed conventions? Calculating cost is an exercise that should lend itself to economic analysis, but in the case of cost related to institutional decisions, an insightful analysis requires years of data and a careful ability to hold dependent variables constant when testing a hypothesis. Given the currency of the data (since 2006) and the exceptional condition of the global economy over the period in question (abnormally rapid growth regionally in 2006-2007 and severe contraction in 2009), any precise quantitative judgment at this date would be dubious at best.

On the surface, Bolivia and Ecuador seemingly shouldered little cost from the actions that Morales and Correa took to de-link from the international trade schema. Prior to the drop in oil prices in 2008, the move away from international institutions by Bolivia and Ecuador and toward institutions devised by Chávez coincided with a safety net extended to Morales and Correa, as Chávez repeatedly stepped in to take up the slack when policies aimed at bringing industry under state control threatened economic dislocation. As Correa drew closer to Venezuela and Iran, an increase in Iranian investment helped stem the tide of withdrawn investment from other countries. Chávez provided technical assistance to help Bolivia complete nationalization of its gas industry as production lagged. On another occasion, when Colombia backed away from a soya bean contract, Chávez agreed to be buyer of last resort even though the commodity is scantly consumed in Venezuela. These, however, are insignificant in the broad sweep of Bolivia's development, and Venezuela's ability to backstop adverse economic shocks depends largely on a sustained high oil price.

One industry that should buoy Bolivia's economy is lithium. Bolivia is home to over half of the world's recoverable lithium, and given the surging demand for its use in hybrid cars, Bolivia stands to gain handsomely. A 2010 *New Yorker* article on lithium in Bolivia gave a mildly sympathetic portrayal of Morales and his vision of nationalization in Bolivia.[21] But a secondary theme in the article warrants mention: having nationalized lithium recovery, the government is hardly mining any of the stuff, and normally officious foreign companies are staying away because of the poor business environment. Bolivia's problems with a 2009 report by Baker & McKenzie, a consultancy, suggest ICSID is a major reason why foreign companies are not willing to brave a junior partnership with the government to recover lithium.[22]

Meanwhile, the window for Bolivia to cash in is narrowing, as recovery from alternative sites, and advancing research on ion battery recycling, meet demand for lithium. Business projections now discount Bolivia almost entirely: says a spokeswoman for GM Global Energy Systems, "Two countries – Argentina and Chile – could supply the whole world with cheap lithium past 2060".

Conclusions

It is easy to view these developments through either one of the diametrically opposed monocles of Western Liberalism or Structural Marxism. Adopting such an ideological lens necessarily produces self-fulfilling assessment. Without wading too deep in the ideological briar patch, the following conclusion can still be drawn: Bolivia and Ecuador are path dependent. That is, the policy options facing Bolivia and Ecuador are closing in over time, freedom to make policy is becoming constrained, and the likelihood of international isolation is assured in the medium-to long-term. All this results from the shirking of international institutions for regional institutions devised and supported by Venezuela. The cost of Bolivia and Ecuador's path dependence will accrete in the long run. Three themes evinced by the foregoing analysis underline this conclusion.

First, anti-Americanism is a tool used by Chávez to persuade allies to enact policies that fray the institutional links to the global economic order. Morales and Correa have gone beyond rhetorical solidarity with anti-Americanism, they have internalized it. The full implication of this was masked by the high growth in the region prior to the global recession, but cracks are becoming more easily apparent as Venezuela is no longer in the same position it was once to be patronage and investor of last resort.

Chávez not only instigated these moves, he went so far to claim at the Fifth ALBA Summit (2007) that Venezuela planned to also withdraw from ICSID. Yet Venezuela remains a member of the convention, in good standing. In fact, Venezuela has a generally impressive record of favorable rulings under ICSID arbitration. Most recently, in the summer of 2010 Venezuela received a favorable ruling that limited payout in a dispute with Exxon.

In more general terms, Chávez has been a false prophet to Morales and Correa. Chávez rants against Yankee imperialism, but the fact remains that Venezuela's gas exports to the US went up over much of Chávez's presidency, only declining over the past three years (which may be more a reflection of Venezuela's declining production overall rather than a conscious policy choice). Evidence suggests that Chávez did not seek the decline: as oil prices swooned in 2009, the *New York Times* reported that Chávez had begun "quietly courting Western oil companies once again".[23] Lured by the siren song of anti-Americanism rhetoric and free-flowing Venezuelan money from oil revenue, Evo Morales and Rafael Correa have become disciples of a false prophet.

Second, the effect of this path dependence will be retarded growth for years to come. Institutional change bleeds out slower than political changes, but it is also harder to staunch. Countries in general lose out on foreign investment that can only be reestablished by demonstrating a political commitment to a fair business climate. Then a country must wrestle with trying to catch up to investment because a technology and infrastructure gap grew in the interim. This is an insight from international political economy scholarship. From a slightly different political science perspective, a vast body of research insists that reneging on international conventions carries significant costs for a state. To challenge my own conclusion, in the case of Bolivia and Ecuador it will be difficult to render effective judgment on the precise degree of distress borne by institutional de-linkage because these measures were either pursued simultaneously with nationalization (Bolivia) or came shortly after the initiation of major nationalization project (Ecuador). This could mean that brusque forms of nationalization might breed growing disaffection among states that perceive there is little benefit from institutionalized trade channels.

Third, a lower level of economic integration makes swifter action against institutional commitments easier. Bolivia, prior to Morales' election, had a faulty oversight system for banks and exported little outside of natural gas. This makes noncompliance with international banking regulations simply a continuation of the norm for Morales; with regard to ICSID, Bolivia had only been a party to one case prior to the repudiation announcement. How different is formal integration for a country that is very poor and exports relatively little from formal separation? In this circumstance the promise of Venezuelan and Iranian aid – which accounted for more than 20% of Bolivia's GDP in 2007 – might seem a worthwhile trade-off.

But Correa adopted a more gradual approach to institutional de-linkage than Morales. Correa first restricted ICSID jurisdiction to the energy sector while leaving the conventions application in place for other sectors of the economy. In the two years Correa took to decide to repudiate ICSID completely Correa had seen his country maligned for its relations with Iran and massive investment by Chávez in Ecuador's nationalized energy industry, which made Venezuela the largest minority partner in Petroecuador. Of course Correa probably did not foresee the FARC raid on March 1st 2008 that Colombia launched into Ecuadorian territory, souring his relations with the West broadly. In this light, Correa's moves appear to be less about zealotry and more about adopting Ecuador's economy toward to world events.

Unfortunately, this analysis forecasts a suboptimal development for Bolivia and Ecuador. In 2006, former Foreign Minister of Mexico and a leading scholar on Latin American politics Jorge Castañeda cut a distinction between Latin America's "two lefts" – one subjectively termed the "right left," the other the "wrong left". Of course, as students of the region are well aware, Hugo Chávez was leader of the "wrong left"; he and his acolytes were said to be populist, nationalist, anti-American, and staunchly opposed to capitalist enterprise. Now though Chávez seems to have spawned another leftist force, this one exclusively comprised of Bolivia and Ecuador – the left behind.

(Endnotes)

1 Corrales cites Venezuelan "commitments" as US$43 billion, based on figures complied by Gustavo Coronel. See Javier Corrales, "Using Social Power to Balance Soft Power: Venezuela's Foreign Policy" (*Washington Quarterly*, Vol. 32, No. 4, October 2009), p. 99.

2 Ibid, p. 101.

3 Mohsen Al Attar and Rosalie Miller, "Towards an Emancipatory International Law: The Bolivarian Reconstruction" (*Third World Quarterly*, Vol. 31, No. 3, April 2010), pp. 347-363.

4 Christian Tietje, Karsten Nowrot and Clemens Wackernagel, "Once and Forever? The Legal Effects of Denunciation of ICSID" (Martin Luther University Halle-Wittenberg, March 2008).

5 "Bolivia Withdraws from ICSID" (*Latin Lawyer*, 22 May 2007).

6 See, for instance, Margaret Levy, *Consent, Dissent, and Patriotism* (Cambridge: Cambridge University Press, 1997); Beth A. Simmons, "The Legalization of International Monetary Affairs", in Judith L. Goldstein, Miles Khaler, Robert O. Keohane and Anne-Marie Slaughter (eds.), *Legalization and World Politics* (Cambridge, MIT Press, 2001), pp. 189-218.

7 "Ecuador Attempts to Withdraw Consent to ICSID Jurisdiction for Natural Resource Disputes" (*Latin American Law & Business Report*, Vol. 16, No.1, 31 January 2008).

8 "ICSID in Crisis: Straight-jacket or investment protection?" (Bretton Woods Project, 10 July 2009). See also Fernando Cabrera Diaz "Ecuador continues exit from ICSID" (*Investment Treaty News*, 8 June 2009).

9 One might make the argument that what I term willful non-compliance is, in fact, a form of "strategic non-cooperation". For more on this see Judith Kelley, "Strategic Non-cooperation as Soft Balancing: Why Iraq was not Just About Iraq" (*International Politics*, Vol. 42, No. 2, 2005), pp. 153-173. This is unlikely though, because Bolivia and Ecuador clearly do not appear to be jockeying for better negotiating terms with the United States.

10 For a list, see the Egmont Group's website. For more on this, see also the International Bar Association's Anti-Money Laundering Forum.

11 Country Reports: Western Hemisphere Overview" (Country Reports on Terrorism, Office of the Coordinator for Counterterrorism, US Department of State, 30 April 2008).

12 "Anti-Money Laundering" (*Financial Standards Forum*, August 2008).

13 For a more detailed discussion of Ecuador's crackdown on money laundering in the 1990s, see James R. Richards, *Transnational Criminal Organizations, Cybercrime, and Money Laundering.* (Boca Raton: CRC Press, 1999), pp. 275-276.

14 "The Andean Laundry: Worries that organized crime is tightening its grip" (*The Economist*, 25 March 2010), p. 42.

15 Ibid.

16 "Ecuador plans to buy arms from Iran" (*Press TV*, 14 December 2008).

17 "Annual Values" (Direction of Trade Statistics, IMF, September 2010).

18 Andrew Cawthorne, "Ecuador says Iran ties landed it on laundering list" (*Reuters*, 20 February 2010).

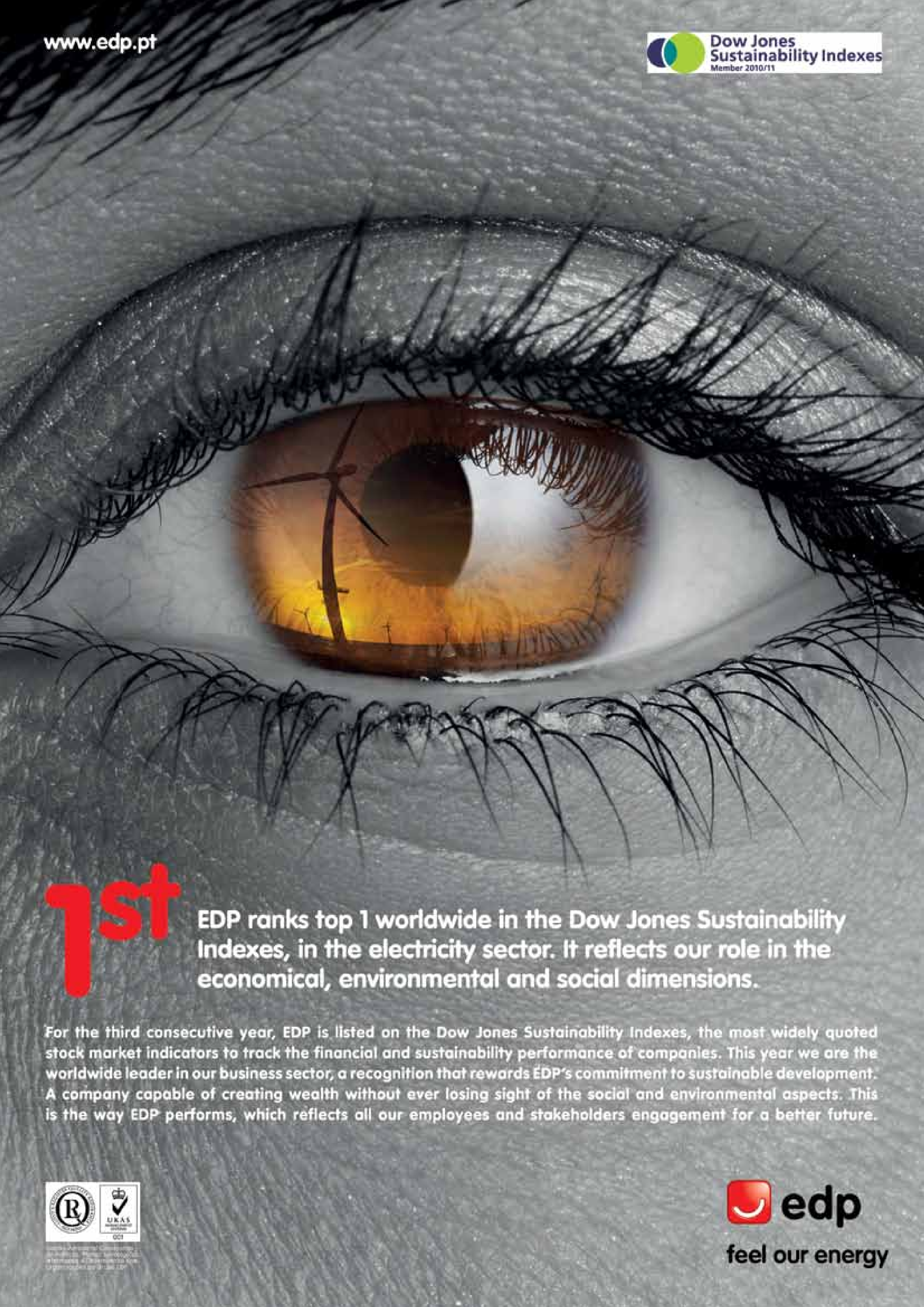
19 Ibid.

20 Ibid.

21 Lawrence Wright, "Lithium Dreams: Can Bolivia become the Saudi Arabia of the electric-car era?" (*The New Yorker*, 22 March 2010).

22 "The Global Oil and Gas Report" (Baker and McKenzie, February 2009), pp. 17-24.

23 Simon Romero, "Chávez reopens oil bids to West as prices plunge" (*New York Times*, 15 January 2009).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