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FEATURED Q&A

Will Colombia Keep Up Its Pro-Business Reputation?

Colombia's liquidation of electricity utility Electricaribe, a unit of Gas Natural, headed by CEO Rafael Villaseca Marco, is not due to unfair government interventionism, Joel Ross says below, disputing the company's claim. // File Photo: Gas Natural.

Q **Spanish utility Gas Natural in mid-March said it is suing the Colombian government after it seized one of its companies, electricity provider Electrificadora del Caribe, known as Electricaribe. Colombian authorities announced they were liquidating Electricaribe, despite objections from Gas Natural, arguing that the company's inadequate distribution network, which provides electricity to Colombia's Caribbean coast, was responsible for frequent blackouts. Gas Natural has accused Colombia of "expropriation." What is behind the dispute, and why could the parties not come to an agreement before going to arbitration? Will the case, which Gas Natural is bringing to the United Nations Commission on International Trade Law, dissuade other international energy companies from investing in Colombia? What will it take to bring Colombia's electrical grid up to higher standards?**

A **Leopoldo Olavarria, partner and head of energy for Latin America, and Nicolas Arboleda, senior associate, at Norton Rose Fulbright Colombia S.A.S.:** "Colombian authorities have argued that the dispute arose mainly due to: 1) the lack of expansion/optimization of the distribution network by Electricaribe, and 2) the deteriorating financial situation of Electricaribe that would, in any case, derive in Electricaribe's liquidation. The parties in dispute could not, according to Colombian authorities, settle the dispute, because Electricaribe's financial condition was poor, and the company's financial projections did not seem to evidence that its financial condition would improve in the short to medium term. Hence, the authorities decided to seize the assets and order the liquidation of Electricaribe. A claim of this size,

Continued on page 3

TOP NEWS

OIL & GAS

Mexico's Reserves Gone in 9 Years Without New Finds

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Page 2

RENEWABLES

EIB Considers $150M Loan for Peru Renewables

The European Investment Bank as of Monday is appraising a $150 million loan to support Enel Green Power in developing 330 megawatts of renewable energy projects in Peru.

Page 2

OIL & GAS

Venezuela's Court Grants Maduro Power Over Oil

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Page 2

Maduro // File Photo: Venezuelan Government.

OIL & GAS SECTOR NEWS

Venezuela's Supreme Court Grants Maduro Power Over PDVSA

Venezuelan President Nicolás Maduro now has increased jurisdiction over state-run oil company PDVSA that will allow him to cut oil deals on behalf of the company without approval from the National Assembly, Reuters reported Sunday. Though the Supreme Court on Saturday backed off its decision to take over the opposition-led National Assembly, it left in place new powers for Maduro over the country's oil wealth. Maduro now has the authority to sell stakes in Venezuela's oil fields, which contain some of the world's largest proven reserves, and launch new joint ventures with foreign firms, all without needing to seek approval from the National Assembly. The decision could initiate a long-term legal battle over the constitutional requirement that the assembly approve all PDVSA contracts of "national public interest" with foreign companies, which may ultimately drive investors away and undermine the Venezuelan government's primary source of income, opposition lawmakers and industry experts say. PDVSA is already struggling amid low oil prices, a cash-flow crisis due to lagging output and operational problems that have impeded the company's ability to serve its customers worldwide. The Supreme Court's decision faces opposition not only from legislators, but also from Venezuela's attorney general—a longtime government ally—who has called the move to bypass the National Assembly unconstitutional. Opposition leaders have vowed to challenge the validity of oil deals that have not received legislative approval. "This is desperation for dollars," said opposition lawmaker Elias Matta, the vice president of the congressional energy and oil commission. "Let it be clear that any company created under this scheme will be null—totally null."

> "This is desperation for dollars."
>
> — Elias Matta

Mexican Oil Reserves Depleted in 9 Years Without New Finds

Mexico's oil reserves are depleting so quickly that the country could completely run out of oil reserves within nine years if it does not have any new discoveries, Bloomberg News reported March 31. The commissioner of the National Hydrocarbons Commission, or CNH, Hector Acosta, said state-run oil company Pemex has been experiencing record-low drilling activity over the last three years, driving the cause of the decline in proven oil reserves. Last year, Pemex drilled only 21 wells, down from an average of 31 wells per year since 2010. The CNH said proven reserves fell by 10.6 percent to 9.16 billion barrels last year, down from 10.24 billion barrels the previous year. Mexico's proven oil reserves have dwindled by 34 percent since 2013. "The production figures and indicators that we are observing, tell us that there are flaws in the drilling activities being carried out by Pemex," Acosta said. "If there isn't drilling, it is going to be difficult to incorporate new finds." The adjunct director of reserves, César Alejandro Mar, said the lower rate of production could be attributed to less investment and the aging of fields. According to a results release, Pemex reported producing 2.154 million barrels per day of oil last year, down 5 percent year-over-year, oilprice.com reported. However, steadier oil prices and new projects that started after Mexico's 2013

> "If there isn't drilling, it is going to be difficult to incorporate new finds."
>
> — Hector Acosta

NEWS BRIEFS

ExxonMobil Expresses Interest in Brazil Pre-Salt: Petrobras CEO

The head of Brazilian state oil company Petrobras on Tuesday confirmed reports that Texas-based ExxonMobil has expressed interest in the exploration of deep-water oil fields off the Brazilian coast, Reuters reported. "Considering movements towards a strategic partnership, we have nothing concrete with Exxon, but they have certainly expressed strong interest in the Brazilian pre-salt exploration," CEO Pedro Parente told reporters. Exxon is one of the few major oil companies still with no presence in the exploration of the "pre-salt" areas offshore.

ExxonMobil Announces Discovery at Stabroek Block Offshore Guyana

ExxonMobil discovered more than 82 feet of high-quality, oil-bearing sandstone reservoirs in the Snoek well on the Stabroek block offshore Guyana, the company announced on March 30. The well is located on the southern portion of the block, approximately five miles southeast of the Liza-1 discovery. Following the completion of the Snoek well, the Stena Carron drillship moved to the Liza area to drill the Liza-4 well. [Editor's note: See related **Q&A** in the Feb. 24 edition of the Latin America Energy Advisor.]

EIB Appraising $150M Loan to Enel for Renewables in Peru

The European Investment Bank as of Monday is appraising a $150 million loan to support Italian energy company Enel Green Power as it develops 330 megawatts of renewable energy projects in Peru, Renewables Now reported Tuesday. The loan would help finance the development, construction and operation of a wind farm, a solar photovoltaic park and a hydropower plant in Peru.

energy reform are expected to offset the declines after 2020, according to the International Energy Agency.

Argentina Hikes Gas Prices in Bid to Cut Deficit and Subsidies

The Argentine government on March 31 said it is raising gas prices by an average of 24 percent for consumers and companies starting April 1, Reuters reported. Energy Minister Juan José Aranguren said the prices will increase by between 19 and 34 percent for homes and by as much as 46 percent for companies. The move is the government's latest as it works to cut subsidies in the energy sector that carried over from former President Cristina Fernández de Kirchner's administration. The government said the price hike will also help control spending and reduce the high fiscal deficit. President Mauricio Macri's administration expects the deficit to fall from 4.2 percent to 3.2 percent next year and to 2.2 percent by 2019. The government held a public hearing on the price hike on March 10. The Supreme Court had blocked a previous attempt at a gas price hike in August, arguing that Macri's administration had not held the required hearing prior to the announcement of an increase.

> **Gas prices are expected to increase by 19 to 34 percent for consumers.**

Brazil's Oil Exports Set to Increase This Year

Brazil is expected to increase its oil exports this year, amid an increase in production due to investments and higher demand for its lighter crude, especially from China and India, Reuters reported March 31. Oil production is expected to increase to 210,000 barrels per day this year, making it the second-biggest producer among non-OPEC member states after the United States. In the first two months of this year, oil exports have increased by 65 percent year-over-year to 1.46 million bpd, according to government data. It's estimated that exports will reach nearly 1 million bpd, up from 798,000 bpd last year, according to Wood Mackenzie. Petrobras alone exported 420,000 bpd last year and could reach as much as 450,000 bpd this year, according to Guilherme França, the executive manager for marketing and trading at Petrobras. He said that if the company meets its targets, it could be on track to export as much as 750,000 bpd by 2020.

RENEWABLES NEWS

Argentina Extends Deadline for Stalled Renewables Projects

Argentina has extended the deadline for firms to sign power purchase agreements, or PPAs, for stalled renewable energy projects that are part of the government's Genren program, Your Renewable News reported Thursday. The move marks the third time the deadline has been extended to sign the contracts. Argentine

FEATURED Q&A / Continued from page 1

with important media coverage, certainly generated noise for certain investors. In our view, however, this case should not necessarily dissuade educated investors, because Electricaribe's case is, in a way, unique. Electricaribe was aware that a seizure of its assets was possible, due to alleged repeated failures to meet regulatory standards and conditions required of all electric power transmission and distribution companies in Colombia (e.g., a reliable and efficient expansion of the network). Colombia requires significant investments to bring its grid to higher standards. These investments should come from both the government and private sector. The objective of enhancing the grid will benefit from a government-sector, long-term view of growth in the electric power market to foresee what measures may be required in the future. This would be preferable to short-term reactions to shortages or emergencies, which occasionally do not provide suitable permanent solutions. Enhancing the grid would, for example, benefit new renewable energy generation projects, which currently face difficulties in accessing the grid."

> **"It appears that the reasons for Electricaribe's liquidation are not due to unfair government interventionism, as the company claims."**
> — Joel Ross

A **Joel Ross, Americas analyst at risk analysis firm Verisk Maplecroft:** "Colombia has one of the most pro-business governments in Latin America. As well as providing good investor protections, there have been no expropriations over the past five years. In fact, company property rights are at greater risk from judicial decisions in defense of community rights than they are from changes in government policy. Accordingly, the country performs considerably better than Peru, Argentina, Brazil and Ecuador in Verisk Maplecroft's Respect for Property Rights Index. In this instance, it appears that the reasons for Electricaribe's liquidation are not due to unfair government interventionism, as the company claims. Allegations that the government was not paying subsidies on behalf of poor households do not fully account for the Spanish-owned company's woes. The company failed to upgrade electricity infrastructure, despite tens of millions of dollars of public investment. The company's failure to invest has led to

Continued on page 6

Energy Minister Juan José Aranguren said last week that the new deadline has been extended from the end of March to May 15. In 2010, the government awarded PPAs to renewable energy projects, including wind, solar and mini hydro projects, under the Genren program with a total installed capacity of almost 1,000 megawatts. The companies selected to participate in the program were to enter into a PPA with state-run energy company Enarsa for 15 years. Only 10 percent of the projects have been implemented, however, and the rest have been stalled, due to a lack of financing.

ADVISOR Q&A

What Are the White House's Plans for Changing NAFTA?

Q **A draft proposal circulated in late March by the U.S. trade representative's office to some members of Congress suggested that the Trump administration is considering mainly modest changes to the North American Free Trade Agreement, or NAFTA. The White House quickly backed away from the draft, however, saying it was not a statement of administration policy. What parts of NAFTA are most likely to undergo changes? How likely is it that the United States, Mexico and Canada would all benefit from a renegotiation, rather than some countries emerging as winners and others as losers? Which industries in the three countries are likely to benefit from a renegotiation, and which may suffer?**

A **Julissa Reynoso, partner, and Michael Fernandez, associate at Chadbourne & Parke, LLP:** "The draft NAFTA proposal circulated by the U.S. trade representative's office gave the clearest look yet as to how the Trump administration hopes to change NAFTA. Specifically, the draft highlighted that changes to NAFTA in the form of increased protections of digital trade and commerce, tougher intellectual property enforcement and new requirements that state-owned companies operate in a commercial fashion may be likely. Further, NAFTA's arbitration-oriented investor-state resolution mechanism may be modified, and all three NAFTA countries may be permitted to impose additional 'snap-back' tariffs, should imports overwhelm their domestic markets. Absent a deepening of existing trade relations, which is unlikely, given the Trump administration's protectionist bent, all three of the NAFTA countries will not equally benefit from the treaty's renegotiation. Should President Trump seek to impose barriers vis-à-vis Mexico, it is instead likely that both the United States and Mexico, to differing degrees, will emerge as losers. In the event of higher tariffs, U.S. and Mexican industries that rely on cross-border manufacturing—such as the auto industry—are likeliest to lose out. Similarly, U.S. agricultural interests may also be harmed if Mexico follows through on its threat to seek a new source for its corn imports, while Mexican producers might suffer if more U.S.-subsidized goods enter its market. While a NAFTA renegotiation may harm many industries, not everyone will lose. Intellectual property rights holders, for example, are likely to stand to benefit, should NAFTA end up adopting some of the TPP-like provisions included in the administration's draft."

> **"All three of the NAFTA countries will not equally benefit from the treaty's renegotiation."**
>
> **— Julissa Reynoso and Michael Fernandez**

EDITOR'S NOTE: More commentary on this topic appeared in Wednesday's issue of the daily Latin America Advisor.

ECONOMIC NEWS

Unions Stage 24-Hour Strike in Argentina

Argentine labor unions held a 24-hour strike Thursday, shuttering schools, banks, factories airports, public transportation and some government offices in the South American country, Bloomberg News reported. Unions staged the first general strike since President Mauricio Macri took office in order to protest the government's austerity measures that have meant lower levels of consumption and higher prices for public services. Workers are also pushing for higher wages amid the country's high rates of inflation. "The government's policies haven't led to the results people were hoping for," Juan Carlos Schmidt, the leader of the country's General Workers Confederation, told The Wall Street Journal. Argentine officials estimated that the 24-hour strike would cost the country nearly $1 billion in lost output amid closed factories and halted deliveries of products. Instead of going to work, many demonstrators blocked roads in and around Buenos Aires, sparking clashes with police officers. Authorities attempted to remove protesters from a major highway leading to the capital, sparking confrontations that led to some injuries, local media reported. Despite the protests, the government said that Macri's policies are starting to lead to a turnaround in the country's economy. "It's very hard to understand the strike. Employment is rising, wages are recovering and the economy is beginning to grow," Economy Minister Nicolás Dujovne told The Wall Street Journal. However, Macri's opponents blasted the president's policies. "This general strike shows people's unrest," said

NEWS BRIEFS

Colombian Officials to Probe Mocoa Mudslide

Colombian officials on Wednesday announced they will launch an investigation to determine whether authorities could have prevented more than 300 deaths that resulted from flooding and mudslides in the Putumayo town of Mocoa last Friday, Semana reported. Searchers are still looking for more than 300 other victims who are still missing in the disaster.

Venezuelan Legislature Seeks Removal of Justices

Venezuela's opposition-controlled National Assembly on Wednesday began the process of removing pro-government justices on the constitutional branch of the Supreme Court, the Miami Herald reported. Lawmakers gathered before dawn to avoid a National Guard blockade, which had prevented them from entering the building the day before. Legislators also approved declarations demanding the release of all political prisoners and urging Venezuelan armed forces to "listen to the people's demands for democracy." Both pro- and anti-government street rallies took place in Caracas on Thursday.

Chinese Auto Maker Considers Mexico Sites for New Factory

A Chinese automaker is considering building a $500 million auto plant in two Mexican states, Reuters reported Wednesday, citing company officials who wished to remain anonymous. Great Wall Motor Co., which produces sport utility vehicles and light trucks, is interested in building a plant in Nuevo León in northern Mexico or the central state of San Luis Potosí. In February, China's JAC Motors and distributor Chori Company unveiled plans with a firm part-owned by Mexican businessman Carlos Slim to invest more than $200 million in a car plant in the central state of Hidalgo, Reuters reported.

Alberto Fernández, who served as cabinet chief under late President Néstor Kirchner. "There's a feeling that the path that we are taking will lead us to a precipice, and people feel defrauded." Argentina's economy contracted 2.3 percent last year following the government's currency devaluation, which led to a spike in inflation. The country's economy is showing signs of growth, the government has said. In last year's fourth quarter, the economy grew 0.5 percent from the previous quarter, and analysts are expecting 3 percent economic growth this year. [Editor's note: See **Q&A** on Argentina's economy in Monday's daily Latin America Advisor.]

POLITICAL NEWS

Ecuador's Electoral Council Declares Moreno President

Ecuador's National Electoral Council said Tuesday that the results of the country's April 2 presidential vote are "irreversible" and confirmed ruling party candidate Lenín Moreno as the next president of the Andean nation, El Universo reported. Moreno defeated conservative candidate Guillermo Lasso with 51.2 percent to 48.8 percent of the vote. Juan Pablo Pozo, the president of the electoral council, said the opposition party can still oppose the tally but would need to provide real evidence of wrongdoing in order to challenge the results. Lasso, who has said Moreno's presidency would be illegitimate, said Tuesday on Twitter that he would present evidence of fraud in Guayaquil, where he is from, The Wall Street Journal reported. Lasso has until April 12 to challenge the results, the electoral council said. [Editor's note: See related **Q&A** in Tuesday's daily Latin America Advisor.]

Protesters, Police Clash in Venezuela

Protesters clashed with police officers Thursday in Caracas in the country's largest anti-government demonstration in months, Reuters reported. The demonstration, which drew as many as 100,000 people in the Venezuelan capital was called after the Supreme Court last week effectively dissolved the country's legislature but then reversed the move following widespread condemnation surrounding fears that the country was lurching toward a dictatorship. Thousands of demonstrators blocked a highway in Caracas, demanding President Nicolás Maduro's ouster and chanting "No more dictatorship!" Protesters hurled rocks and gasoline bombs at security officials who responded with tear gas. The crowds were dispersed by midafternoon, and the opposition called another protest for Saturday.

DHS Secretary Does Not Support Full Wall on Mexico Border

U.S. Homeland Security Secretary John Kelly told members of Congress Wednesday that he doesn't plan to build a wall stretching the entire length of the U.S. border with Mexico, The New York Times reported. Kelly, who met this week in Washington with Mexican Foreign Minister Luis Videgaray, said he would instead focus on building additional fencing where it was most feasible. Specifically, he cited a 75-mile swath of borderlands in Arizona, part of the Tohono O'odham Nation Indian reservation, as an example of where additional fencing would be unlikely. "Not going to build a wall where it doesn't make sense," he told lawmakers. Kelly's remarks run contrary to one of President Donald Trump's key campaign promises, to build "a great wall" along the entire 2,000-mile border with Mexico. Kelly also told Congress that the Trump administration deserved credit for a drop in illegal border crossings. The number of people arrested crossing the Mexico border into the United States has fallen to the lowest level in 17 years, with fewer than 17,000 arrests of undocumented migrants in March, the least since 2000, according to U.S. Customs and Border Protection data. [Editor's note: See related **Q&A** in March 29 edition of the daily Latin America Advisor.]

FEATURED Q&A / Continued from page 3

inefficiencies and increased costs. Therefore, its financial problems are mostly its own doing. Providing utility services in the poor and deprived Caribbean is a challenge for companies. Some have succeeded, like water company Triple A (AAA) in Barranquilla, and others have failed, such as water company Hidropacifico in Buenaventura. Electricaribe falls into the latter category. The claim by Electricaribe that its seizure and subsequent liquidation by the government was an 'expropriation' is therefore unlikely to dissuade foreign investors from going into Colombia. The upgrades needed for infrastructure provide a major business opportunity that, together with the robust regulatory framework and the post-conflict landscape, will maintain the country firmly on Latin America's investors' map."

A **John Padilla, managing director, and Maria Claudia Diaz, senior consultant, at IPD Latin America:** "Colombian authorities may have had their reasons to liquidate the company, including a long history of poor service and failure to invest a required $370 million on grid improvement. But Electricaribe is also owed more than $1.3 billion from end users who simply haven't paid. The culture of non-payment stems not just from its large portion of poor customers, but also public institutions, including local government buildings, hospitals and schools. An electric distribution company, Electricaribe serves seven Caribbean states in northeastern Colombia. Although many believed the government needed to intervene at some level, the decision to go directly to liquidation was largely political. Upcoming elections and President Juan Manuel Santos' obsession with trying to keep all factions happy played a significant role. Liquidation is the government's right over a public utility, but the details as to why and how it made that move will matter. That information should emerge in the United Nations tribunal. Equally important is who will take over the troubled utility and how service will be maintained. Ultimately, whether liquidation was justified or not, the decision does not send a good signal to the market. It is just one of many recent, troubling government choices that have also affected the exploration and production and mining sectors. The decision to yank oil company Hupecol's environmental permit from its Serranía block stands as an example. Colombia has long been considered to have strong rule of law. But the Electricaribe decision will not encourage investors. While the country may have certain strong arguments in this case, it has begun to build a discouraging track record."

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