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FEATURED Q&A

Will New Reforms Boost Brazil's Mining Sector?



Brazil's government is planning changes to the mining industry in hopes of strengthening the sector. The country's Candiota coal mine is pictured above. // File Photo: State of Rio Grande do Sul.

Q Brazil's government is planning to boost mining royalties and establish a new regulator for the industry in an effort to revitalize the sector. The changes will reportedly increase the stake that foreign companies can have in mining projects in Brazil. Will the changes succeed in bolstering the country's mining industry? How important is the mining sector for Brazil's economy? Will the decree see broad support in Congress?

A Leni Berliner, president of Energy Farms International: "While mining appears to contribute less than one-half of one percent of Brazil's GDP, this allocation by economists is misleading, as construction and manufacturing contribute 5 percent and 11 percent of GDP, respectively, and their primary inputs are mined. Brazil's mineral endowment is more diverse than that of its neighbors, as geologically it is more akin to western Africa than to the western side of the Andes. While secular prices for precious and industrial minerals trend downward, Brazil could benefit from upward trends in demand and prices for specialty minerals such as lithium, tantalum and rare earths by proving additional reserves and/or processing its neighbors' production into metal. Typically, there are four parts to an internationally competitive mining industry: proven reserves, processing, rail transport and training. More foreign investment in exploration and development would help, and in a country with local uptake of output, updated processing capacity for industrial minerals is also welcome. It is crucial to maintain cadres of specially trained professionals at secondary and tertiary educational lev-

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TODAY'S NEWS

POLITICAL

Ecuadorean President Strips VP of Authority

Ecuadorean President Lenin Moreno stripped all powers from his vice president, Jorge Glas, over corruption allegations related to the scandal involving construction conglomerate Odebrecht.

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ECONOMIC

Brazilian Gov't Eyes Pension Reform by October

The government is expecting Congress to approve the pension reform by October and a tax reform by the end of the year, said Finance Minister Henrique Meirelles.

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POLITICAL

Venezuela's Ledezma Released to House Arrest

Venezuelan intelligence agents released opposition leader Antonio Ledezma from prison and placed him on house arrest. Ledezma and fellow opposition leader Leopoldo López had been seized earlier this week.

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Ledezma // File Photo: City of Caracas.

POLITICAL NEWS

Venezuela's Ledezma Released to House Arrest

Venezuelan opposition leader Antonio Ledezma, the elected mayor of Caracas, was released from prison and placed back on house arrest, his wife tweeted early this morning, Reuters reported. "Several minutes ago, Antonio was unexpectedly returned by the Sebin [intelligence agency] to our home," wrote Mitzy Capriles de Ledezma. "We thank the people of Venezuela and the international community for their concern and solidarity." Venezuelan intelligence agents early Tuesday had seized Ledezma and fellow opposition leader Leopoldo López from their homes in overnight raids. It was unclear whether López, who spent three years in prison before being placed on house arrest in early July, would also be released from prison. Ledezma and López were imprisoned following Sunday's vote in Venezuela, pushed by President Nicolás Maduro, to select members of a "constituent assembly" that will be tasked with rewriting Venezuela's Constitution and that will have the power to overrule all other government institutions, including the courts and the opposition-controlled National Assembly. Maduro has said the powerful new body and a new Constitution are needed to solve the country's political and economic

crises, while his opponents see the move as a power grab. Governments around the world have also characterized Maduro's actions as an assault on basic freedoms in the country. The first meeting of the 545 delegates of the constitutional assembly, who were selected from a list of some 6,000 candidates handpicked by the government, is expected to be held today in the legislative palace in Caracas, the Associated Press reported. "The only way they'll get us out of here is by killing us," said opposition member Freddy Guevara, the National Assembly's vice president. "They will never have the seat that the people of Venezuela gave us." Sunday's election of the constituent assembly has come under increasing scrutiny as the chief executive officer of voting technology company Smartmatic, which recorded the balloting, said the vote had been tampered with. Maduro and Venezuela's National Electoral Council have dismissed the CEO's statements. The U.S. State Department on Thursday called the constituent assembly illegitimate and said the election was rigged in an effort to further entrench "the Maduro dictatorship," the AP reported. "The United States will not recognize the National Constituent Assembly," said State Department spokeswoman Health Nauert. In a demonstration of defiance, Venezuelan Attorney General Luisa Ortega Díaz, who has become a vocal critic of Maduro's government, filed papers seeking a court order to block the constituent assembly's installation. The motion was filed with a lower court in an apparent attempt to circumvent the government-allied

NEWS BRIEFS

Chilean Congress Votes to Lift Abortion Ban in Some Cases

Chilean legislators late Wednesday approved a measure that authorizes abortion under limited circumstances, The New York Times reported. The legislation will go into effect if Chile's Constitutional Tribunal approves it in the coming days. Chile is one of the few countries in which abortion has remained illegal in all cases. The new law permits the termination of a pregnancy if it endangers the life of the mother, the fetus is unviable or the pregnancy has resulted from rape.

Colombia Cancels Railway Contract Over Contract Violations

Colombia has canceled a contract with Ferrocarril del Pacífico (FDP) to renovate a railroad to the Pacific Coast, and issued a \$32.8 million fine to the company over contract violations, the government said Thursday, Reuters reported. FDP had failed to comply with regulations for a sale of the contract to repair and operate a 309 mile-long railway that would connect the Buenaventura port on the Pacific with Cali and other cities, according to Colombia's national infrastructure agency.

Brazil's Government Expects Pension Reform Approval by October

Brazil's government is expecting the country's Congress to approve a pension reform plan by October and a tax reform plan by the end of the year, Finance Minister Henrique Meirelles told reporters Thursday in São Paulo, Reuters reported. Since May, congressional talks on a possible pension reform have been paralyzed as lawmakers weighed whether to put Temer on trial amid graft allegations. The lower house voted Wednesday to spare him from a trial.

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els, and Brazil's rail can always use a boost. Having a new regulator should help refresh everything, from the management of the mining cadaster, to the promotion of mining education, to tax reform. Royalty payments should be defined as a percentage of global average production costs, not market price, and for the commodity in question, exploration should be made tax-efficient, as it is in Canada, and companies should be able to capitalize on development expenditures. Closure bonds should be required of all new mining operations."



Leonardo P. Lamego, partner and head of the Mining and Environmental Law department at Azevedo Sette Advogados:

"The mining industry is very relevant in Brazil and represents approximately 5 percent of the country's industrial GDP and 10 percent of exports, and generates more than 200,000 direct jobs as well as approximately 2.5 million indirect jobs. The Brazilian government enacted three provisional measures on July 26 that compose a package the government calls the 'Revitalization Program for the

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Supreme Court, but it was almost certain to be denied. Opposition leaders have called for a mass demonstration in Caracas against the new constituent assembly. [Editor's note: See related [Q&A](#) in Thursday's Advisor.]

Ecuador's Moreno Strips VP of Authority

Ecuadorean President Lenín Moreno on Thursday signed a decree that revoked all power from Vice President Jorge Glas over corruption allegations that had emerged in connection with the Odebrecht corruption scandal, the Associated Press reported. Moreno said Thursday he would be revoking all tasks Glas had been assigned, including overseeing a production council and earthquake reconstruction. The measure came after an audio recording recently surfaced in which an executive at the Brazilian construction conglomerate Odebrecht and an Ecuadorean official discuss alleged requests for bribes from Glas in exchange for public works contracts awarded during former President Rafael Correa's administration. Glas has denied wrongdoing, citing a lack of evidence, and accused Moreno of betraying Correa's trust and legacy.

BUSINESS NEWS

PDVSA Raises Crude Sales to Rosneft, Cuts Sales to Citgo

Venezuelan state-run oil company PDVSA has lowered sales of crude to its U.S. refining unit Citgo, while increasing sales to Russian state oil company Rosneft, according to PDVSA documents, sources from the company and its joint ventures, Reuters reported Thursday. The change in supply levels is part of a plan signed in May to catch up on past-due deliveries. "The agreement is linked to the debt refinancing. The idea is to catch up by reducing the number of pending cargoes [to repay debt]," a PDVSA source told the news service. Oil output in

THE DIALOGUE CONTINUES

Is Venezuela Becoming a Dictatorship?

Q The 545 delegates of Venezuela's powerful "constituent assembly," which will have the ability not only to rewrite the country's Constitution, but also to overrule other government institutions, began receiving their credentials on Wednesday. The opposition and several foreign governments widely denounced Sunday's vote to elect the body, which President Nicolás Maduro says is needed to solve the country's political and economic crises, but opponents see as an effort by Maduro to increase his power. Has Venezuela become a dictatorship that is sliding into civil war, as some analysts have asserted? What will result from U.S. sanctions against Maduro? What should be the response from international actors such as the OAS and the United Nations? What will the constituent assembly use its power to do? What can be done to stabilize the country and its economy?

A Ben Raderstorf, program associate in the Peter D. Bell Rule of Law program at the Inter-American Dialogue: "It would be hard to miss the ominous signs in the tea leaves of the constituyente. For years, Venezuela has teetered on the brink of dictatorship, but was held back by lip service to Hugo Chávez's much-flaunted 1999 Constitution. Now the government has given itself the arbitrary power to sweep it away without replacement—eliminating any semblance of democracy or rule of law in Venezuela. The

Venezuela has fallen since 2012, falling sharply this year amid low investment and payment delays to suppliers. Nearly all PDVSA customers have received lower volumes of crude as a result of the decreased output, including the United States. In May, PDVSA signed a plan with Rosneft to catch up on delayed cargoes. In June, Venezuelan Oil Minister Nelson Martínez said Rosneft would receive approximately 70,000 barrels per day as payment for a \$1.5

billion-bolívar question is: 'will they be so bold? Or is this just a bargaining chip going into potential negotiations?' At the moment, the worst case seems likely. The overnight re-arrest of opposition leaders Leopoldo López and Antonio Ledezma implies an impending crackdown, and it is likely that in the coming weeks the legislature will be dissolved and the dissident-chavista attorney general will be fired. If that happens, Venezuela is at risk of a dangerous downward spiral. Both Maduro and the opposition will face pressure to radicalize. Having committed full-tilt to repression, the government may become increasingly erratic and tyrannical in a desperate bid to avoid collapse (which could bring potential prosecution for human rights abuses, drug trafficking, corruption and other crimes). Conversely, some in the opposition may feel pushed to abandon peaceful demonstrations in favor of more aggressive confrontation. Meanwhile, the United States is left with few good policy options. Unilateral sanctions against Venezuelan oil would only deepen the chaos and suffering, which leaves only the uninspiring strategy of targeted sanctions and building a multilateral coalition to pressure Maduro—and waiting for the breaking point."

EDITOR'S NOTE: The comment above is a continuation of the [Q&A](#) published in Thursday's issue of the Advisor.

billion loan that Russia gave PDVSA in 2016. Days later, Russia released a negotiation of bilateral loans with Venezuela in which Russia agreed to cut its projected state revenue by nearly \$1 billion in order to account for the expectation that Venezuela would not make its loan repayments on time. [Editor's note: See [Q&A](#) on the effects of possible U.S. sanctions on Venezuela's oil industry in the July 21 issue of the weekly Energy Advisor.]

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Brazilian Mineral Industry.' The main modifications the government has made so far are: 1) the National Department of Mineral Production shall be replaced by the Brazilian National Mining Agency, which will have greater administrative and financial autonomy; 2) modifications are being made to the criteria under which the royalties are due and calculated; 3) some relevant modifications

“**The mining industry is very relevant in Brazil and represents approximately 5 percent of the country's industrial GDP and 10 percent of exports...**”

— Leonardo P. Lamego

were made on the mining code regarding procedures and obligations for the mining companies; 4) the maximum value for fines applicable in cases of infractions of the mining code were raised from approximately 3,000 reais to a new limit of 60 million reais; and 5) a new inspection and oversight tax was created. The modifications on the royalties and taxes regulatory framework will represent an increase on the expenses incurred by the mining titleholders, which do not constitute a stimulation measure for the mining industry. Nevertheless, the modifications prescribed under the scope of the provisional measures potentially mitigate the legal uncertainty that was haunting the Brazilian mining sector since 2011, when many speculations regarding possible changes to the mining regulatory framework started to circulate among the sector players. Moreover, the adoption of the agency model (successfully adopted in other sectors, such as health insurance, energy and telecommunications) hopefully will allow the national mining agency to become more

effective, transparent and make processes more expedient. Furthermore, the provisional measures do not contain stipulations that may negatively affect vested rights regarding mining rights. The analysis of the provisional measures by Congress must occur within 60 days of their publication and will either become law or be rejected. Because the modifications were discussed with the sector and they are aligned with the main stakeholders in the government, it is likely that Congress will approve them.”

A Carlos Vilhena, partner and head of the mining and government relations practices at Pinheiro Neto Advogados in

Brasília: “Except for the border area, there is no restriction on foreign investment in mining in Brazil. So the newly introduced legislation does not deal with this matter. The increase in royalties was not viewed as a positive move, and will actually not help attract investment. This is not the right time to discuss an increase in costs for the mining industry in Brazil or anywhere else. The creation of a new regulator is the correct way to go, as long as the new agency is given the right financial and human resources and is independent from political influence. Changes to the mining code were generally well received, although the government could have been more ambitious, especially by introducing provisions that would foster the financing of exploration, development and mining projects. Mining represents 3 percent of Brazil's GDP. The government wants to double this figure. Let's hope these and other measures help in that direction. It's hard to say how supportive Congress will be at this early stage, but the expectation is that the debate will be concentrated around the increase in the royalties.”

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