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FEATURED Q&A

Will Peru Be Able to Boost Investment in its Energy Sector?



Peru's energy and mines minister, Francisco Ísmodes, has proposed several new measures for the country's hydrocarbons sector. // File Photo: Peruvian Government.

Q Peruvian Energy and Mines Minister Francisco Ísmodes last month announced plans for a new hydrocarbons law that allows oil concession contracts signed between the state and private companies to extend for 40 years instead of 30. It's the latest of several proposals by Ísmodes to change Peru's hydrocarbons regulation, with the aim of boosting investment in the sector to help it reach its production potential. Last month, Peru's energy and mines ministry brought a bill to Congress that seeks to reduce red tape and implement more competitive royalties based on commodity prices and production volume, among other provisions. Would the draft laws attract more investment to Peru's under-tapped hydrocarbons sector? How important have hydrocarbons become for the Peruvian economy, and will that importance significantly increase in the decade ahead? What other changes to hydrocarbons regulation should be made to boost Peru's competitiveness? Do the proposed changes face opposition from local community groups or other major hurdles?

A Andrew Miller, advocacy director at Amazon Watch: "Peru's new hydrocarbons law is problematic from climate, environmental and indigenous rights perspectives. Globally, climate change is an existential threat to human survival, and all measures that promote fossil fuel development and postpone a transition to 100 percent renewable energy ignore that reality. Peruvian environmental experts, including former officials with the Environment Ministry, have raised a series of strong concerns about the proposed changes, which include offering the Energy and Mines Ministry veto power over oil

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Argentina's Fernández Indicted on Graft Charges

Former Argentine President Cristina Fernández de Kirchner was indicted on charges that her government accepted bribes from construction companies seeking public works contracts.

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BTG Pactual May Retain Stake in Petrobras Africa

The Brazilian investment bank reportedly may retain the stake in order to avoid booking a loss.

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POLITICAL

Guatemalan President Defies Order for CICIG Chief's Return

Guatemalan President Jimmy Morales' government defied an order from the country's constitutional court that allowed the return of Iván Velásquez, the head of the country's U.N.-backed anti-corruption commission.

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Morales // File Photo: Guatemalan Government.

POLITICAL NEWS

Argentina's Fernández Indicted on Graft Charges

An Argentine federal judge on Monday indicted former Argentine President Cristina Fernández de Kirchner and sought her arrest on charges that she allegedly controlled a corruption scheme, according to a statement by Argentina's official judicial news agency. Fernández is accused of receiving bribes from business leaders in exchange for public work contracts



Fernández // File Photo: Argentine Government.

during her presidency. Judge Claudio Bonadio, who is leading the investigation into the so-called "notebooks" corruption scandal, ordered Fernández be taken into custody and for authorities to seize roughly \$100 million from her, the Associated Press reported. Bonadio alleged that Fernández has committed several crimes, including "being the boss of an illegal association" and accepting bribes between 2003 and 2015 during her own and her late husband Néstor Kirchner's administrations, La Nación reported. Fernández is currently a senator, which grants her immunity from arrest. She could be stripped of that immunity only by a vote of two-thirds of the country's senators. Fernández's office told the AP it had no immediate comment, but the former president has denied wrongdoing in the past. Fernández has previously said Bonadio is working with President Mauricio Macri's administration to persecute opposition leaders. On Monday, the judge also indicted more than 40 former business leaders and former government officials for alleged involvement in the corruption scheme,

La Nación reported. [Editor's Note: See related Q&A in the Aug. 13 issue of the Advisor.]

Guatemala's Morales Defies Order to Allow CICIG Chief's Return

Guatemalan President Jimmy Morales on Monday defied a ruling by Guatemala's constitutional court that allowed the head of a United Nations anti-corruption commission to re-enter the country, the Associated Press reported. Administration officials claimed the court's ruling, issued Sunday, does not mention commission head Iván Velásquez by name, referring only to the "commissioner," arguing that means they only have to allow someone in to head the commission, known as CICIG, but not Velásquez. Several human rights organizations on Monday filed complaints accusing the government of violating the court's decision, according to the report. Morales, who has been under investigation by CICIG for alleged corruption, announced in late August that he was shutting down the commission ahead of schedule, a move his opponents decried as a

“Unfortunately, CICIG in its current manifestation has strayed far from this mandate by such actions as lobbying the national Congress...”

— Donald J. Planty

blatant effort to protect himself and his family from investigators. However, critics of CICIG say the unit has gone beyond its mandate to dismantle illegal security groups and to reform Guatemala's rule-of-law institutions, assuming a role that trumps Guatemalan sovereignty on questions over impunity. "Unfortunately, CICIG in its current manifestation has strayed far from this mandate by such actions as lobbying

NEWS BRIEFS

Peru's Opposition Blasts Vizcarra's Plan for No-Confidence Vote

Peruvian opposition lawmakers on Monday said President Martín Vizcarra's call to hold a vote of confidence over four of his proposed anti-corruption bills is unconstitutional, Reuters reported. If the opposition-controlled Congress delivers a vote of no confidence in his cabinet, Vizcarra would have to replace all of his ministers. But since Congress already dismissed one cabinet earlier this year, the constitution would allow the president to dissolve Congress and call for new legislative elections. Vizcarra's anti-corruption measures include new rules for selecting prosecutors and judges.

Mexican Authorities Find 124 Migrants Being Transported in Trucks

Mexico's National Immigration Institute on Monday said that agents had found trucks carrying 124 Central American migrants who were being transported in unhealthy conditions in Oaxaca State, the Associated Press reported. The trucks carried 60 minors, 15 of which were unaccompanied, and 64 adults. The migrants said traffickers did not allow them to eat or drink for several days.

Honduras' High Court Delays Trial of Defendants in Rights Activist's Murder

Honduras' supreme court on Monday indefinitely postponed the start of a trial of eight men accused in connection with the 2016 murder of indigenous and environmental rights activist Berta Cáceres until several filings related to the case are resolved, according to judiciary spokesman Melvin Duarte, the Associated Press reported. Cáceres' family petitioned the case be moved to another court on Monday, saying the court where the trial was to be held would not be impartial, the AP reported.

the national Congress on constitutional reform measures, holding accused persons in detention for long periods without trial and politicizing the independent National Electoral Tribunal, one of the few Guatemalan institutions that works well," Donald J. Planty, a former U.S. ambassador to Guatemala, told the Advisor.

BUSINESS NEWS

Brazil's BTG Pactual May Retain Stake in Petrobras Africa

Brazilian investment bank BTG Pactual may keep its stake in Petrobras Oil and Gas BV, or Petrobras Africa, rather than selling it as planned in order to avoid having to book a loss, Reuters reported Friday, citing an unnamed source with knowledge of the matter. Earlier this year, oil trader Vitol had entered talks with a consortium it was leading to acquire the company in a bid estimated to be as high as \$2.5 billion, Reuters reported in June. Brazilian state oil company Petrobras owns half of PetroAfrica, as the company is known. BTG Pactual has a 40 percent stake, and Helios Investment Partners has a 10 percent stake. If the Vitol-led consortium had bought PetroAfrica at the price it had proposed, BTG would be forced to book a loss because it had paid \$1.5 billion for the 50 percent stake, which it acquired in 2013, the source told Reuters on condition of anonymity because of the private nature of the talks. BTG had previously decided to sell its stake, but it now believes that PetroAfrica will begin generating a stable cash flow. The company is participating in two deepwater oil exploration blocks off the coast of Nigeria. If Vitol raised its bid for the company, BTG would still consider selling, the source told the wire service. BTG, Vitol and PetroAfrica declined to immediately comment. Valor Econômico also reported Friday that BTG was planning to retain its stake in PetroAfrica, but added that the investment bank had not made a final decision on the matter.

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regulations currently under the jurisdiction of the Environment Ministry, only requiring environmental impact statements as opposed to studies for seismic exploration, and cutting funding for state entities such as the Office for Environmental Evaluation and Inspections that document and sanction oil pollution. Whether or not grassroots groups are able to express opposition to the proposed law, indigenous communities will continue to wage sophisticated legal battles and other campaigns against individual oil projects, especially in the Amazon. Peruvian courts have upheld a decision to suspend all oil and gas operations in Block 116 until a proper consultation with Wampis and Awajún communities is carried out. In Block 64, the company GeoPark is facing fierce opposition by Achuar and Wampis communities, including a legal claim to annul the concession itself for lack of consultation. Weakening environmental and social regulations with the hopes of boosting investment is likely to spur greater community opposition and raise the ultimate financial, legal and reputational costs for international oil companies."

A **Jose L. Valera, partner at Mayer Brown LLP in Houston:** "Peru is currently producing crude oil at the lowest level in decades, and far below domestic consumption requirements. Natural gas production and transportation infrastructure are not meeting domestic demand, either. Since Peru does not have infrastructure to import natural gas, the alternative continues being the use of inefficient or dirtier fuels for power generation, heating and cooking. The production of hydrocarbons is a relatively small percentage of Peru's economic output, but the availability of hydrocarbons at competitive prices is very important to Peru's economy, as in any other country. No country is close to generating all power and moving all its vehicles with only renewable energy. Since Peru still needs hydrocarbons, it must

as well produce the resources it has. One item that has consistently stood in the way of adequate hydrocarbons exploration and production (and the building of downstream infrastructure) is conflicts with local communities. Foresight, homework and reasonableness have been lacking from all sides, including, especially, from the government. Fortunately, this may start changing, with the government understanding the magnitude and urgent work that it must do in order to develop the country's vast natural resources in a way that is the least damaging to the environment and least disturbing of local communities. To me, this is the key point of the new law. The extension of the contract term is also positive, although one could question why have a predetermined term at all (in the United States, leases remain in effect for so long as hydrocarbons are produced in commercial quantities). This is what maximizes investment. Introducing flexibility to the royalties is also positive. We have witnessed the investment contraction and risk aversion that occur when prices dip. Royalties should adjust to the economic reality confronting the development of specific projects."

A **Eleodoro Mayorga Alba, oil and gas consultant and former minister of energy and mines in Peru:** "Peru is suffering the consequences of having delayed adjustments to its normative and contracting model to incentivize investment in exploration and production, which other countries opportunistically did. Its key institutions—Perupetro and Petroperú—are weak, there is growing social conflict and a lack of decision-making to relaunch the Gasoducto Sur Peruano project. Oil imports total almost \$5 billion. Peru produces almost 50,000 barrels of crude per day (bpd), plus some 90,000 bpd of LNG on top of gas from Camisea. It has a growing consumption of 250,000 bpd of derivative products. Despite having significant potential in 18 sedimentary basins, without

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exploration, the reserves have fallen to 435 million barrels of petroleum, 1.3 billion barrels of LNG and 16.1 trillion cubic feet of natural gas. In 2017, not one exploratory well was drilled. If this situation is not resolved, the gas and petroleum resources that Peru holds, as energy transition progresses, will remain in the subsoil without helping the country's development. In the last four years, political instability and disputes between

“**Petroperú's new president should continue to push rehabilitation projects for pipelines and a new refinery in Talara...**”

— Eleodoro Mayorga Alba

Congress and the executive power have resulted in three different presidents and five ministers in the energy sector, in an accelerated flight of professionals away from the public sector and in persistently incoherent environmental and social policies. The new government could reverse the situation. Minister Ísmodes' announcement of the new law was well received. There is a consensus on adjusting contract lengths and royalties and on giving administrative autonomy to Perupetro, which the company requires to negotiate new contracts, especially for deep offshore exploration. At the same time, Petroperú's new president should continue to push rehabilitation projects for pipelines and a new refinery in Talara so investments in crude exploration in the Selva Norte region yield better results. Reactivating a new gas pipeline project is crucial. With the new mining projects, demand for electricity is bound to grow at a higher rate than GDP. The Gasoducto Sur Peruano project will make it possible to avoid greater diesel imports to

generate that electricity and spark interest in investment in the Camisea and Madre de Dios gas basins.”

A **Luis Fernández Pérez, country manager of Gas Energy Latin America in Peru:** “There is no doubt that the changes incorporated by the Organic Law of Hydrocarbons will incentivize an increase in production of the fields that are currently in operation. Even Perupetro, the country's petroleum investment promotion agency, set a goal of 100,000 barrels per day (bpd) in five years, just off these initial changes. However, the hydrocarbon sector's problem goes deeper. There is an ideological opposition to the development of the sector, with disinformation campaigns that fuel the population's opposition, not just from indigenous communities, but also from farmers and fishermen, among others. Moreover, even within the government, there is a lack of agreement between the Energy and Mines Ministry and the Environment Ministry on a clear way to develop the industry while respecting the environment. I think the small effect the petroleum industry has on Peru's overall economy makes it less of a priority when it comes to making the political decision to strongly support the sector's development, all while strictly caring for the environment. These last two subjects—the social and environmental—are issues that the government must work on in order to attract firms' investments in all the under-explored areas in Peru. The new law is a good first step, but even when we have the best law, and even if royalties were zero, the 'Oil Majors' will not come if the state does not guarantee that their discoveries can be monetized within reasonable timeframes and if the state does not work to improve the living conditions of the communities that live near the oil fields, who need to directly feel the benefits of developing the industry.”

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