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Featured Q&A With Our Board of Advisors

Q US oil giant ExxonMobil has filed for international arbitration after failing to reach an agreement with the Venezuelan government on compensation for the takeover in June of the company's 41.7 percent stake in the Cerro Negro heavy oil project. How do you think the dispute will play out? What are the prospects for settlement before an eventual arbitration ruling? Will ConocoPhillips, which is still in talks with the Venezuelan government regarding compensation for takeover of its stake in the Petrozuata heavy oil project, reach a deal with the government?

A Guest Comment: Jose Valera: "I would think that the prospects are high that there will be a settlement between ExxonMobil and Venezuela before an arbitration award. The arbitration has been submitted before the International Centre for Settlement of Investment Disputes (ICSID), which is a public international organization created under a treaty, the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States. One hundred and fifty-six countries have signed the Convention, and 144 have ratified it. Venezuela has ratified the Convention and is bound to abide by an eventual award against it. What is key is that all countries party to the Convention, whether or not parties to the dispute, are required to recognize awards rendered pursuant to the Convention as binding and to

enforce the monetary obligations imposed by an award. Such awards are not subject to any appeal or to any other remedy except those which, like the remedy of annulment, are provided for in the Convention itself. Venezuela has substantial commercial and financial assets in countries party to the Convention (e.g., the US, Germany, the UK) that could be attached in the execution of an arbitration award. Although never free from difficulties and subject to various legal and procedural issues that may be applicable in the country of enforcement, this exposure presents a powerful incentive for Venezuela to settle.

Continued on page 4

PHOTO OF THE DAY



Argentine First Lady and presidential candidate Cristina Fernandez de Kirchner on Thursday praised the economic and political models of Bolivia, Chile, and Ecuador. See [story](#) on page 2.

Photo: www.cristina.com.ar.

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NEWS BRIEFS

Hurricane Ivo Heads Toward Mexico's Pacific Coast

Hurricane Ivo headed Thursday toward Mexico's Pacific coast on a path that could take it near Baja California's resorts over the weekend, the US National Hurricane Center said, according to the Associated Press. The Hurricane Center said Ivo, which had sustained winds of about 70 mph, was likely to weaken into a tropical storm before making landfall Sunday. But it warned that any prediction of what its intensity would be over the weekend was "highly uncertain."

Taiwan Pledges Greater Investment in Nicaragua

Taiwan pledged Thursday to boost investment in Nicaragua in a bid to boost support from the Central American country's Sandinista government for Taiwan's return to a seat at the United Nations, Bloomberg News reported. Taiwan said it would increase imports of farm products and seafood to an estimated \$12 million in 2007 from \$8.6 million last year. Nicaraguan exports to Taiwan rose 66 percent in the first six months of 2007 compared with last year, according to Bloomberg News.

Units of Brazil's EBX to Raise Up to \$2.3 Billion for New Projects

Two units of Brazilian holding company EBX plan to raise up to \$2.3 billion combined to build new port complexes and thermal-electric power stations, Bloomberg News reported on Thursday. **MPX Mineracao e Energia** is looking to go public and raise about \$1.5 billion to build 10 power stations in Brazil and one in Chile, while **LLX Logistica**, a port operator, will sell up to \$800 million in shares to build two ports in Brazil and one in Chile.

Breaking News: Chile to Extradite Fujimori to Peru

Chile's Supreme Court has ruled in favor of extraditing former Peruvian President Alberto Fujimori to Peru to face charges of corruption and human rights abuses, Chilean daily *El Mercurio* reported this morning.

The Court's top judge, Alberto Chaigneau, said it was now in the executive branch's hands to comply with the ruling, which came after a two-week, tension-filled delay. According to Peruvian daily Peru21, Fujimori, who fled Peru in 2000 amid a corruption scandal involving his spy chief, Vladimiro Montesinos, could be sent to Peru within 48 hours.

The return to Peru of Fujimori, who lived in exile in Japan until traveling last year to Chile, where he was immediately taken into custody by authorities, could create serious political problems for Peruvian President Alan Garcia, analysts told the *Advisor* this week.

Fujimori's supporters helped Garcia win last year's presidential election and are one of his APRA party's closest allies in Congress, according to the analysts. [Editor's note: see related Q&A in the September 20, 2007 issue of the *Advisor*.]

Political News**Bolivian Political Parties Agree to Restart Assembly, Seek Consensus**

Bolivia's political parties will restart an assembly tasked with rewriting the South American country's Constitution, Vice President Alvaro Garcia Linera said Thursday, according to Reuters. After several hours of talks, Bolivia's political parties, including the governing MAS and the main opposition party, Podemos, agreed to create a "Special Committee for Dialogue and Consensus" where they will negotiate some of the thorniest issues facing



Lazarte

Photo: ABI.

ing the assembly, such as greater autonomy for Bolivia's wealthier, eastern provinces, presidential term limits, land reform, and rights for Bolivia's mostly poor Indian majority. The agreement does not include a plan to address—outside of existing mechanisms—an opposition demand the country's capital be moved from La Paz in western Bolivia to the central city of Sucre, an omission which some assembly delegates said would prolong conflict. "The issue of the capital has been the reason why the

assembly has been [at] a standstill since August 15. Not to discuss this matter would keep the problem going," Edwin Velazquez, a delegate from the MNR party, was quoted as telling local radio, according to Reuters. Violent demonstrations in August in Sucre, where the assembly meets, by protesters demanding the transfer of the capital from La Paz prevented the assembly from meeting, finally forcing Assembly President Silvia Lazarte to call a month-long recess on September 7. [Editor's note: see related Q&A in the September 13, 2007 issue of the *Advisor*.]

Argentina's Fernandez de Kirchner Praises Bolivia, Chile, and Ecuador

Argentine First Lady and presidential candidate Cristina Fernandez de Kirchner welcomed Ecuadorean President Rafael Correa on her campaign trail Thursday, praising the economic and political models of his country, as well as those of Bolivia and Chile. In a [speech](#), Fernandez talked about the diversity of greater Buenos Aires, which is now host to many Latin American immigrants. She criticized those who "tried to abandon [Argentina] and say that we were no longer part of this world but part of the first world." Ecuadorean President Rafael Correa, who earlier in the day signed several bilateral agreements with Fernandez's husband,

Argentine President Nestor Kirchner, was sitting on the stage during her speech at a sewage treatment plant in the city of Merlo, in the province of Buenos Aires. Fernandez praised Correa, Bolivian President Evo Morales, and Chilean President Michelle Bachelet for their attitudes, leadership style, and for working closely with the people. Argentina's first lady leads the polls ahead of the country's October 28 presidential election. In other campaign news, Argentine electoral judges said Thursday they plan to invite foreign experts to observe the election, but will probably not invite the Organization of American States to conduct an observation mission, *La Nacion* reported.

Economic News

Chavez Surprised by Opposition in Brazil to Gas Pipeline Network

Venezuelan President Hugo Chavez expressed surprise Thursday that there was opposition in Brazil to his initiative to build a South American natural gas pipeline network, Reuters reported. "We are very surprised there are people here that oppose [the pipeline]," Chavez was quoted as saying in the northern Brazil city of Manaus before a meeting with Brazilian President Luiz Inacio Lula da Silva. He said that, without the 5,000-mile pipeline transporting natural gas from Venezuela to Brazil and neighboring countries, the "lights will go out" in South America because the world is entering an energy crisis. Chavez blamed the delays on Brazil's state-owned oil and gas company **Petrobras**, which had asked Venezuela to have its gas reserves certified before it would join the project. "Petrobras has many opinions I sometimes don't understand," Chavez told reporters. The Venezuelan leader also urged Brazil's Congress to approve his country's entry into the Mercosur trade bloc, stating "only the United States will benefit if Venezuela does not enter Mercosur." Brazilian lawmakers have delayed a vote on Venezuela's entry into the trade bloc ever since Chavez accused them of being puppets of Washington for criticizing his closure of an opposition TV channel in May.

Capitol Hill Watch

A Weekly Look at US Congressional Activity on Latin America

House Ways and Means Committee to Take up US-Peru FTA Next Week

The House Ways and Means Committee will take up informal consideration, or "mark-up," of the proposed US-Peru free trade agreement next Wednesday, September 25, Committee Chairman Charles Rangel (D-NY) said this week. In a press release, Rangel said the free trade pact with Peru "represents a new direction for American trade policy" and noted that the agreement included provisions to promote labor rights, protection of the environment, and the expansion of access to life-saving medicines. "Trade policy should be an issue where, on every agreement, there should be an 'American stamp' indicating that it represents the values we hold so dear," Rangel stated. "We have an opportunity to do this with consideration of the US-Peru FTA." Congress is expected to approve the free trade deal with Peru by mid-October. Prospects for passage of US trade deals with two other Latin American countries—Panama and Colombia—face are less certain. Many Democrats have said Colombia must show more progress in reducing violence against trade union members and ending links between the government and illegal, right-wing paramilitary groups before Congress will vote on the free trade agreement. With respect to the US-Panama FTA, some lawmakers have expressed concern about the election last month of Pedro Miguel Gonzalez, who has been indicted in the US for killing a US soldier 15 years ago, to head the country's National Assembly. Senator Max Baucus (D-MT), chairman of the Senate Finance Committee, last week called the election of Gonzalez "a serious impediment" to passage of the US-Panama trade deal.

Weller Expected to Announce Today That He Will Not Seek Re-election

Rep. Jerry Weller (R-IL), under scrutiny in recent weeks for allegedly failing to disclose a number of land deals he made in Nicaragua and other alleged misdeeds, is expected to announce today that he will not seek re-election next year, according to several news reports. Weller was expected to announce the decision in mid-October, but moved up the announcement amid a barrage of negative publicity, including the release Tuesday of an annual report by a Washington, DC ethics watchdog listing Weller as one of the 22 most corrupt members of Congress. In the report, Citizens for Responsibility and Ethics in Washington, or CREW, said Weller failed "to disclose the purchase and sale of several pieces of ocean view property in Nicaragua during the past five years," including while he pushed for passage in 2005 of the Central America Free Trade Agreement, which gave legal protections to buyers of the properties he sold. CREW also said Weller used his position as a member of the House Ways and Means Committee to sell some of the properties, a violation of House ethics rules. CREW also alleged the Illinois Republican took campaign contributions from Puerto Rican interests in apparent exchange for supporting legislation that benefited Puerto Rico, as well as from from a telecom executive, Jeffrey Prosser, in apparent exchange for helping Prosser in his legal battle with the government of Belize. The watchdog also criticized Weller for failing to disclose assets and liabilities belonging to his wife of nearly three years, Zury Rios Sosa, a Guatemalan politician and daughter of former dictator Efraim Rios Montt.



Weller

Photo: Office of Rep. Weller.

Featured Q&A*Continued from page 1*

Venezuela has settled the compensation due upon the recent electric and telecom expropriations. It has also settled most of the oil expropriations. ExxonMobil is pursuing its right to be compensated fairly, on the basis of the market value of its property at the time it was taken. Venezuela would be well advised to settle on any reasonable amount being sought."

A Guest Comment: Mélida Hodgson: "This will be a hard-fought battle, given that potentially \$7 billion is at stake.

While many in the investment community seem preoccupied with how ExxonMobil will be able to collect on an arbitral award, there are substantive hurdles to clear before that would be possible. Even though it has been involved in compensation negotiations, now that the threat of litigation has been realized Venezuela will likely raise certain jurisdictional objections to ExxonMobil's claims, and it should not be a foregone conclusion that those will be resolved in ExxonMobil's favor under the Netherlands-Venezuela Bilateral Investment Treaty (reports indicate that since there is no United States-Venezuela treaty, the claim has been brought through a Dutch subsidiary of ExxonMobil) or the original authorization contract. Once the jurisdictional issues start to unfold, there may indeed be impetus for settlement. But at this juncture it is hard to see why either side would back down until there is some indication that one side has an advantage over the other in the arbitration. There is nothing to indicate that ExxonMobil's timing in filing for arbitration is driven by anything other than a self-imposed deadline. The fact that ExxonMobil has decided to litigate may improve ConocoPhillips' chances of settling with Venezuela. This is because, setting aside differences in the substance of ConocoPhillips' claims and taking into account potential claims from Chinese investors, Venezuela may seek to 'divide and conquer.'"

A Guest Comment: Nelson Altamirano: "There are economic and political conditions for ExxonMobil and the government of Venezuela to stand still in their positions and postpone an agreement. ExxonMobil's step is not only consistent with its behavior since its hard public opposition to royalty increments in 2004, but also consistent with its long-term business perspective that goes beyond political cycles. I think they decided to enter the Orinoco belt more than 10 years ago because it was a strategic long-term investment to position the firm there for the next 60 or so years. They will come back under other Venezuelan political conditions, and the arbitration is consistent with their global strategy. Note that this will not harm the firm or shareholders because of crude oil prices around \$80 per barrel and the firm's recent record net income for first half of 2007. Note also that the arbitration against Chavez and the difficulty in accessing Venezuela's oil fields is a political argument that can be used to influence the American Congress to relax, for instance, federal drilling restrictions. In this sense, I wouldn't be surprised if ConocoPhillips wants to join forces with ExxonMobil and also go for international arbitration against Venezuela. Given that ConocoPhillips is the largest private firm there, a move like this would show how big the benefit in the US could be. As for Chavez's stubborn attitude, high oil prices reinforce not only his government's economic stability, but also its political support. President Chavez has the perfect opportunity to show he is fighting against the largest international oil company in the world."

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