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FEATURED Q&A

Will Odebrecht's Expulsion Discourage Investment in Ecuador?

Q Ecuador's President Rafael Correa expelled Brazilian construction firm Odebrecht last month, blaming it for faulty construction of the San Francisco hydroelectric dam. Will the Odebrecht expulsion stifle private sector interest in upcoming energy projects in Ecuador? What were the factors driving Correa's decision against Odebrecht? Does the move put a chill in Brazil-Ecuador relations, and how should Brazil react?

A **Guest Comment: Leonardo E. Stanley:** "The conflict between the Ecuadorean government and Odebrecht centers on the San Francisco hydroelectric project, inaugurated mid-2007. By the beginning of this year a series of structural faults were detected, which necessitated various repair works. As a result, the Ecuadorean government fined Odebrecht, at the same time revoking the company's contract. The conflict has continued to grow over the past few days, appearing on the agenda of the meeting between Correa and Lula in Manaus [on September 30]. It now appears that Odebrecht will reconcile by paying the proposed fine and carrying out repairs. It is important to note that the company maintains other projects in the country, and nothing indicates that Odebrecht's interest in the Ecuadorean market has declined. This is not the first problem that Correa has faced with foreign investors, and it won't be the last. But neither is it the first

conflict involving Brazilian investors in the region. Up to the present, the disputes have ended up being settled in the political-diplomatic sphere. This is the method that Brazil has preferred to maintain; it declined to participate in a dispute resolution system where private companies can demand sovereign states directly. This won't be the last conflict [of this type] for Brazil, since foreign direct investment of Brazilian origin is becoming every day more prominent. As such, we will see the Brazilian government intervening frequently between

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Exiled Former Guatemalan President Returns Home

Exiled former Guatemalan president Alfonso Portillo was extradited from Mexico on Tuesday to face corruption charges. Portillo, who is accused of transferring millions out of government coffers, said he had faith in the country's current institutions. See story on page 2.

File Photo: Guatemalan Government.

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NEWS BRIEFS

Venezuela Expects "Very Robust" GDP Expansion Despite Crisis

Venezuelan officials are predicting economic growth of about 6 percent this year despite a global economic slump and falling oil price, the Associated Press reported. Planning Minister Haiman El Troudi said Tuesday Venezuela expects "very robust" GDP expansion even as a financial crisis hits the United States, its top trading partner. Gross domestic product should finish the year close to 6 percent, Troudi said. Venezuela grew by 8.8 percent last year.

Mexico Budget Numbers to Be Revised, Finance Official Says

Mexican Deputy Finance Minister Jose Antonio Meade said Tuesday the government will change its forecasts for economic growth, inflation, oil prices and other figures that it uses to set its 2009 budget, which was submitted to Congress last month, Reuters reported. The ministry will also adjust interest rate targets in order to take into account the global credit crisis. Meade said the changes would be unveiled by October 20, but gave no other details. The fall in remittances flows to Mexico and a drop in oil prices and production will likely pinch government coffers.

CTC Shareholders Reject Buyout Move from Telefonica

Shareholders in Chilean phone company CTC on Tuesday rejected a takeover bid by Spain's Telefonica worth nearly a billion dollars, AFP reported. Telefonica controls 44.9 percent of CTC and wanted to take full ownership. Chilean pension plans, which hold 21 percent of CTC, blocked the deal, which got 55.69 percent of the vote and required 75 percent approval.

Economic News

Brazil's President Calls for Global Crackdown on Financial Speculators

Brazilian President Luiz Inacio Lula da Silva urged the world's central banks on Tuesday to coordinate efforts to crack down on financial speculators, who he blamed for the credit crisis battering the global economy, wire services reported. "Central banks must act to regulate the international financial system," Lula told reporters in remarks on the southern coast of Rio de Janeiro state. "They need to make a decision to curb financial speculation. What other explanation is there for oil at \$150 a barrel other than speculation?" he added. On Tuesday Brazil canceled a local bond sale for the first time in seven months, a sign the global credit crisis is beginning to squeeze the finances of Latin American countries, Bloomberg News reported. The real currency sank as much as 5.8 percent Tuesday, to a two-year low of 2.3125 per dollar. The real has weakened by 14 percent over the past week while spreads for Brazilian banks and corporate bonds have widened as much as 83 basis points, JP Morgan said in a research note today. Brazil's Minister of Planning, Paulo Bernardo, on Tuesday told members of the Joint Committee on Budget that the government does not intend, at this time, to revise the forecasts for GDP and inflation, upon which the country's proposed budget for 2009 has been based, Agencia Brasil reported. Bernardo said lawmakers would need to make cuts in spending to address the global economic downturn, but said social spending and economic growth incentives should remain in place.

Political News

Thousands Protest Corruption in Wake of Peru Oil Contract Scandal

Thousands of protesters in cities across Peru took to the streets Tuesday to express their dissatisfaction with corruption in President Alan Garcia's government, reported Reuters. The protests were

planned before news broke Sunday of a scandal involving government officials who allegedly accepted bribes from a Norwegian oil company. Former presidential candidate Ollanta Humala yesterday labeled the scandal a "crisis of government" and called for the resignation of Garcia's entire cabinet, reported local daily *El Comercio*. **Discover Petroleum**,



Alan Garcia addresses villagers Monday about the corruption scandal.

Photo: Peruvian Government.

the Norwegian company that allegedly paid bribes for preferential treatment in energy auctions, denied any wrongdoing yesterday, saying in a Web site statement that they were "the ones that had been deceived." Energy Minister Juan Valdivia and the President of state oil company **Petroperu**, Cesar Gutierrez, resigned over the scandal, although both denied any direct involvement. At least one Petroperu company director has been fired.

Exiled Former Guatemalan President Returns Home to Face Charges

Exiled former Guatemalan president Alfonso Portillo was extradited from Mexico on Tuesday, Guatemala's government announced. Arriving at about 10:00 am from Mexico City, where he had been living in exile since 2004, Portillo stated in court that "I come here to face justice. I have faith because there is no government to pressure the judiciary. I come confident in my people and in institutions, that's why I decided to come unexpectedly," according to a posting on the government's Web site. A Guatemalan judge later released Portillo on bail of \$130,000 and ordered him to stay in the country, AFP

reported. Guatemalan authorities have accused Portillo of transferring an unauthorized \$15.8 million from the Defense Ministry's budget, of which 4.6 million disappeared. Portillo fled to Mexico at the end of his four-year presidential term in 2004, after he lost legislative immunity from prosecution. Current President Alvaro Colom began a three day visit to Taiwan Tuesday, and was not in the country when Portillo returned.

Mexican Drug Cartels Tied Directly to FARC, Colombian Official Says

A Colombian official said Tuesday that Mexico's drug cartels are buying cocaine directly from Colombia's FARC rebel group, the Associated Press reported. Speaking at a conference on crime in Mexico City, Sergio Jaramillo, Colombia's deputy defense minister, said that the FARC's finance chief has been functioning as the main contact with the Mexican gangs that buy drugs from the rebels, according to the report. "We are particularly worried about the strengthening connections between Mexican cartels and the FARC," Jaramillo said. "The Mexican



Mexican President Felipe Calderon opened the OAS's conference on public security Tuesday in Mexico City.

Photo: Mexican Government.

cartels are buying directly from the FARC." The Andean region has been roiled by accusations between governments over FARC ties. Ecuador and Colombia severed diplomatic relations in March over a Colombian cross-border raid on FARC encampments in Ecuador's territory. Venezuela has also been accused by Colombia of having ties to FARC commanders. Yesterday's remarks by Jaramillo were delivered during an OAS conference on public security which was opened by Mexican President Felipe Calderon, who

Featured Q&A

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investors and 'friendly governments,' something that could end up hurting its geopolitical interests in the region. This type of situation could lead Brazil to rethink its strategy regarding the currently prevailing bilateral system."

A Guest Comment: Gustavo Romero: "I think this decision represents bad news for foreign investment in Ecuador, not only because it meant a unilateral termination by the Ecuadorean government of some contracts duly signed with Odebrecht, but also because it seems to be a decision taken for political purposes rather than technical criteria. Even Brazilian President Lula has said that he would like to talk with President Correa about this issue in the wake of [the September 28] referendum in Ecuador. I also believe that this issue could influence foreign investors around the world before making an investment in Ecuador, not only because the government has proceeded to terminate unilaterally the contract for the construction of the San Francisco hydroelectric dam, but also because it ended other important projects that were being constructed by Odebrecht in different parts of this country such as the Carrizal-Chone and Baba Multiproposito projects among others, with investments of millions of dollars. It is also important to mention

has been fighting a bloody battle against drug gangs that has claimed more than 3,000 lives across Mexico, included politicians, alleged gang members and innocent civilians.

Company News

Walmex Posts First Drop in Quarterly Net Profit in Five Years

Wal-Mart de Mexico on Tuesday said its third-quarter profit fell 2 percent. Net income at Mexico's largest retailer fell to 3.27 billion pesos (\$US 273 million) in the third quarter, down from 3.34 billion

that all termination decrees issued by President Correa against Odebrecht involved the confiscation of goods and the militarization of installations. Therefore, it is highly possible that Odebrecht is now preparing the respective international claims against Ecuador for confiscation and expropriation, or any kind of such measures if no agreement is promptly reached. Taking this into account, it is clear that these political decisions only create a confused envi-

“Who would like to invest in a country with this juridical environment?”

— Gustavo Romero

ronment for foreign investment in Ecuador without clear rules and juridical security. Who would like to invest in a country with this juridical environment? We hope that after President Correa's visit with Lula, the Ecuadorean government can demonstrate clear signals that its intention is to encourage foreign investment in Ecuador—which is very important for our development—and not create a climate of uncertainty, which could lead us to an economic crisis without precedents in our country,

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pesos in the same period a year ago, the company **reported** on its Web site. Despite sales that rose 10 percent during the third quarter, to 57.7 billion pesos (\$US 4.7 billion), growing economic uncertainty caused the company to cut prices, which hurt net income results. The third quarter result is Walmex's first decline in quarterly net profit in five years. A company executive told Reuters earlier in the week that Walmex will continue to expand in Mexico, despite a slowdown in remittances and the US economic problems. Walmex shares have lost 22 percent of their value so far this year compared with a 29 percent dive of Mexico's overall market, Reuters reported Tuesday.

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especially if oil prices keep decreasing and the government continues to increase public expenses, putting at risk the US dollar as our currency."

A Guest Comment: Jose Valera: "It appears that the construction contract was ambiguous and did not clearly provide for an allocation of risks upon the occurrence of certain events. Serious cracks appeared in one of the turbines barely a year after the commencement of commercial operations of the plant. The government alleges faulty construction and Odebrecht alleges *force majeure*. Negotiations broke down over a compensation and repairs arrangement that the government was demanding. Then President Correa sent the military to take over the plant, seized the property of Odebrecht, and expelled Odebrecht from the country. Regardless of the merits in the contract dispute, the actions taken by the government are worrisome. Normally you would expect that a dispute of this nature is resolved in accordance with the dispute resolution provisions in the contract. But that was not the course of action that the government took. Instead, the president assumed the role of judge and jury and promptly decided that Ecuador was right and Odebrecht was wrong, and that Odebrecht needed to be punished immediately by also losing other unrelated contracts and property in the country. Even if one wants to explain these actions as part of the president's politicking leading up to the September 28 constitutional referendum, the facts demonstrate a total disregard for due process and an alarming lack of legal security. I would anticipate that the Odebrecht expulsion will indeed further stifle private sector interest in upcoming energy projects in Ecuador."

A Guest Comment: Jeremy Martin: "Ecuador's investment climate had been significantly stifled long before the aggressive move by the Correa government against Odebrecht. While the Odebrecht story hews nicely to the conventional wis-

dom of a resource nationalist government, the country's investment outlook had declined before Correa took office—the infamous case against ChevronTexaco and the Oxy eviction both occurred during previous governments—but Rafael Correa has done nothing to improve matters. The recent actions, coupled with the broad-ranging presidential powers the new Constitution will afford, will increase skepticism on the part of potential investors. In particular, the language in the new Constitution pertaining to the oil industry has left many analysts wary. Additionally, several US business groups wrote to US congressional leaders last week urging Congress not to renew Ecuador's trade preferences through the Andean Trade Promotion and Drug Eradication Act (ATPDEA) when it expires at the end of the year. For international observers, the move against a Brazilian firm—some Odebrecht executives sought refuge at the Brazilian embassy in Quito—adds an interesting intra-regional wrinkle to the pattern of Latin American resource nationalism. Bolivia's dealings with Petrobras and Venezuela's nationalization of Cemex are other recent examples that prove a Latin American address no longer provides the protection of rhetorical solidarity. Finally, investor confidence will be further shaken if, as some now charge, the complaints against Odebrecht are a smokescreen protecting the interests and corruption efforts of other companies."

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