LATIN AMERICA ADVISOR

ENERGY ADVISOR

A WEEKLY PUBLICATION OF THE DIALOGUE

www.thedialogue.org

March 8, 2019

FEATURED Q&A

Who Is Winning the Battle for Control of Citgo and PDVSA?

Venezuela's National Assembly, led by interim president Juan Guaidó, has appointed new boards for state oil company PDVSA and U.S.-based Citgo. // File Photo: Venezuelan Government.

Q **Venezuelan opposition leader Juan Guaidó in February announced the appointment of new boards for state oil company PDVSA and for Citgo, the firm's U.S.-based refiner, amid efforts to push President Nicolás Maduro out of power. What are the consequences of having two PDVSA and Citgo boards, one named by Maduro and the other by Guaidó? How will the companies be able to conduct business amid the legal uncertainty over governance? How will the parallel structure affect PDVSA's relations with creditors?**

A **Carlos A. Rossi, president and owner of EnergyNomics in Caracas and professor of petroleum economics:** "Having two PDVSA and Citgo boards affects each company differently. PDVSA can try to ignore Juan Guaidó's appointments but not its consequences. They can try to find new markets for its oil in the few friendly nations that it still has, such as Russia–who can buy its oil and re-sell it to its customers—or China, India and Turkey, who can purchase it for consumption. The latter option carries a heavy price for PDVSA, as these nations will demand deep discounts to a desperate seller and to compensate for the sanctions that the United States and others may impose on them. As for Citgo, it has cut ties with PDVSA to avoid the impact of sanctions and to keep systems operating. They have other providers, namely Canada. Citgo is in the opposite camp of PDVSA. They will respect the mandates from Washington and ignore Caracas. Citgo has no legal uncertainty—they will abide by U.S. law—but it will hurt its bottom line for a short period of time. Its creditors will likely understand, and most will probably roll over their debt for an extended period. There

Continued on page 3

TOP NEWS

OIL & GAS

S&P Cuts Credit Rating for Mexico State Oil Firm

Ratings agency Standard & Poor's slashed Mexican state oil company Pemex's credit rating and downgraded its outlook to negative amid concerns over the company's massive debt.

Page 2

RENEWABLES

Colombia Awards 1.39 GW of Wind, Solar Projects

The Colombian government awarded contracts for wind and solar projects as part of the Reliability Charge tender, just days after a disappointing renewable energy auction.

Page 2

OIL & GAS

Brazil's Petrobras Registers Positive Results for 2018

Brazilian state oil company Petrobras, which Roberto Castello Branco has headed since January, registered a net income of nearly 26 billion reais last year, the first positive result in four years, officials said.

Page 3

Castello Branco // File Photo: Brazilian Government.

REWNEWABLES NEWS

Colombia Awards Wind, Solar Projects After Failed Auction

XM Compañía Expertos en Mercados, a subsidiary of Colombian state transmission company ISA, has contracted 1.39 gigawatts of solar and wind capacity in the Reliability Charge auction held last Friday, days after a disappointing long-term renewable energy tender, PV Magazine reported. The contracts were awarded to two photovoltaic projects operated separately by Chile's Emgesa and Enel Green Power Colombia, XM said in a statement. Most of the 70 power generation projects that won contracts were hydroelectric and thermoelectric. Five were wind power projects. The closing price of the auction was $14.1/megawatt-hour, Colombian energy regulator CREG said in a statement. This value is 11 percent lower than the reliability charge resulting from the last auction, which is the one currently in effect—$17.01/megawatt-hour, the regulator added. The Colombian government introduced the Reliability Charge auctions in 2006 with the aim of ensuring power supply during water shortages. Hydro power is the number-one source of Colombia's renewable energy. The Reliability Charge tender round came just a few days after not a single project was selected in the Andean country's first long-term renewable energy auction, El Tiempo reported. Colombia's National Mining and Energy Planning Unit said the bids received did not comply with the criteria for competition and market dominance. A repeat of the auction with a new set of rules will be launched by the end of June, according to Mines and Energy Minister María Fernanda Suárez, PV Magazine reported.

Not a single project was selected in Colombia's first renewable energy auction last week.

OIL & GAS NEWS

Venezuela's PDVSA Continues to Struggle Amid U.S. Sanctions

A unit of Venezuelan state oil company PDVSA declared a maritime emergency on Tuesday after the German operator of a portion of its tanker fleet ordered the return of 10 vessels due to unpaid fees, according to a company document and sources, Reuters reported. Bernhard Schulte Shipmanagement, or BSM, notified PDVSA's maritime arm, PDV Marina, of its "unilateral decision to deliver the fleet operated by the company due to lack of payment and cash flow for paying pending salaries and staff onboard," according to a notification by PDV Marina's security department, Reuters reported. The decision put PDVSA in a "critical situation to receive the tanker fleet," the document said. The German company last month had confirmed its crews would leave PDVSA vessels in Portugal following unpaid fees to several companies, and a third BSM-operated vessel in Curaçao was seized by shipping companies claiming unpaid bills from the Venezuelan state company. PDV Marina reportedly owes at least $15 million to BSM, according to a source at the company, the wire service reported. More than a dozen tankers with Venezuelan oil have been returned or prevented from leaving because PDVSA has not paid for services, and dozens of suppliers and partners have stopped working for the company for the same reason, according to the report. Meanwhile, Juan Guaidó, whom more than 50 countries recognize as Venezuela's interim president, is reportedly seeking to make a payment on a PDVSA bond backed by the company's U.S.-based refiner, Citgo, Bloomberg News reported last week. Guaidó's team has reportedly asked the United States for permission to use an escrow account to pay the bond. The $71 million interest payment on PDVSA notes maturing in 2020 is due on April 27. "All obligations will be honored since they're key to the protection of state assets," said José Ignacio Hernández, Guaidó's newly appointed

NEWS BRIEFS

Standard & Poor's Slashes Credit Rating, Outlook for Mexico State Oil Firm

Ratings agency Standard & Poor's on Monday cut the credit rating for Mexican state oil company Pemex from B- to BB-, reflecting concern that President Andrés Manuel López Obrador's tax breaks and plans to boost investment may not be enough to bolster the indebted firm, Reuters reported. S&P also downgraded Pemex's outlook to negative from stable, while keeping its global investment grade rating at BBB+. The company registered a debt of nearly $106 billion at the end of 2018, making it the world's most indebted oil firm.

Investment in Peruvian Mining Climbs Back

Mining investment in Peru will reach $5.7 billion this year and $6.1 billion in 2020, Julio Velarde, the country's central bank chief said Tuesday, Andina reported. Mining investment in the Andean nation peaked at around $9 billion in 2013 before dropping sharply to $3.3 billion in 2016, making a slow recovery since then. Velarde also noted mining investment now exceeds 12 percent of the country's total GDP.

Chilean, Argentine Energy Officials Meet to Discuss Electric Integration

Chilean Energy Minister Susana Jiménez and her Argentine counterpart, Gustavo Lopetegui, met last Friday in Buenos Aires, where they discussed advancing the two countries' electric integration and expanding natural gas exports this year, the Chilean government said in a statement. It was the officials' first meeting since Lopetegui was tapped as energy secretary in January. The two countries resumed exports of natural gas last October after a nearly 11-year pause. [Editor's note: See related **Q&A** on Argentina-Chile energy integration in the Aug. 10 issue of the Energy Advisor.]

U.S.-based attorney general. The PDVSA 2020 bond is the only Venezuelan debt security that has not gone into default, since embattled President Nicolás Maduro prioritized it as to not lose the collateral, a 50.1 percent stake in Citgo. Since Guaidó's interim government has moved to take control of the U.S.-based company, Maduro no longer has an incentive to pay the bond, Bloomberg News reported.

Petrobras Registers First Positive Results in Four Years in 2018

Brazilian state oil company Petrobras registered a net income of 25.8 billion reais, nearly $7 billion, in 2018, Petrobras said in a statement last week. It is the firm's first positive result in five years and also the highest since 2011, officials said, Valor Econômico reported. "Petrobras' performance in 2018 was undoubtedly the best in many years, which includes obtaining some historical records, involving free cash flow and adjusted EBITDA, and the interruption of four years of losses," Roberto Castello Branco, who has been head of Petrobras since January, said in a letter, the Rio Times reported. The adjusted earning before interest, taxes, depreciation and amortizations, or EBITDA, rose 50 percent to 115 billion reais (roughly $30 billion), and the company registered a positive free cash flow of 54.6 billion reais. In a securities filing, Petrobras said fourth-quarter net income rose to 2.1 billion reais, compared with a loss of almost 5.5 billion reais in the same period the previous year, Reuters reported. For Castello Branco, the results reflect factors such as higher margins in sales of derivatives and oil exports, a recovery of market share in diesel the regularization of credits with state-owned electric utility Eletrobras and the selling of assets, among others. Despite the positive net income, the results showed oil and gas production fell 5 percent, as compared to a year earlier, to 2.63 million barrels of oil equivalent per day. Petrobras expects this year's oil and gas production to increase to 2.8 million barrels of oil equivalent per day.

FEATURED Q&A / Continued from page 1

is the issue of the heavy crude quality of Venezuelan oil which Citgo is designed to manage while most other refineries are not; and that complicates matters for both, but much more for PDVSA, as its market of prospective buyers shrinks. PDVSA's relations with its creditors are deeply affected already and will surely worsen every day Maduro and chavismo remain in Venezuela. PDVSA bonds are already at rock bottom in the secondary market because of the sanctions. By the end of March, all Americans working as contractors to PDVSA will be banned from continuing to do so. By April, any company that has minimal financial relations with the United States and is buying PDVSA crude must quit or face heavy fines for violating U.S. sanctions. Venezuela will stop paying its creditors and may declare force-majeure; except that this clause does not include commercial sanctions for political or humanitarian reasons."

A **Frank L. Holder, managing director, global head of investigations and regional head of Latin America at Berkeley Research Group:** "Citgo, as a U.S.-based company, is more directly exposed to the U.S. decision to recognize Guaidó, and consequently he has been more successful at having his appointees take over the internal management of the company. Citgo has a factoring contract with a large European bank that is necessary for its survival. A license from Treasury is all that maintains the financing. The firm has essentially severed its ties with the Maduro administration. PDVSA is a marked contrast to Citgo. The Guaidó board has so far been unable to influence the internal organization. They will likely have a great deal of influence in PDVSA's foreign affairs, especially regarding matters based in countries that officially back Guaidó, but current volatility with regards to sanctions makes it unlikely that any foreign entity will do business with either group beyond what is strictly necessary until things become clearer. The existence of two PDVSA boards will push the Maduro administration to do business in unorthodox markets for Venezuelan oil, such as India and China. They are also looking for ownership mechanisms which would allow their foreign assets to escape the sanctions. As for Citgo, out of the 749,000 barrels of crude oil that they refine daily, 200,000 come from Venezuela, meaning that they will have to find a way to replace 27 percent of their crude supply in the short term. This is not a killing blow, but it will severely tax their finances. As for PDVSA, their supply chain operations are severely affected, as well as their capabilities to dispatch and sell hydrocarbon products, resulting in a reduction of the already minimal production due to storage problems as well as having to sell oil to new markets at a lower price. It is hard to imagine a short-term scenario in which debt refinancing or default of corporate issued bonds does not occur."

A **Arturo H. Banegas Masiá, partner at the Latin America and the Caribbean practice group of Akerman:** "The recent ascension of Juan Guaidó as interim president has raised legitimate questions regarding the future composition of the Venezuelan government and control over vital assets, including PDVSA and its subsidiaries. The United States has moved swiftly, in concert with more than 50 other countries, to recognize Guaidó as legitimate president. The Trump administration has also imposed sweeping sanctions on senior members of the Maduro-led government, PDVSA and other critical assets, in an effort to destabilize Maduro and fund the interim administration. Venezuela's National Assembly, led by Guaidó, designated a new board of directors for PDV Holding, Citgo Holding and its subsidiary, Citgo Petroleum Company, which opens the path to securing Venezuela's U.S.-based assets. However, the different boards previously appointed by Maduro claim to remain in office and in control of those assets. Guaidó retained le-

Continued on page 6

Ecopetrol Plans to Spend $500 Million on Unconventionals

Colombian state-run oil company Ecopetrol plans to spend $500 million in exploring unconventional deposits of oil and gas over the next three years, its chief executive said on Tuesday. Felipe Bayón told Reuters in an interview that the proposed $500 million is part of the $12 billion to $15 billion allocated by Ecopetrol to invest between 2019 and 2021. The **debate** over fracking has been contentious and polarizing, as activist groups in the South American country campaigned heavily against the drilling practice due to concerns over the environment. In related news, Bayón also said Tuesday he does not see the need for the government to sell another stake in Ecopetrol, an idea the finance minister supports in order to find new ways of addressing the budget deficit, Bloomberg News reported. The ministry is weighing the sale of an 8.5 percent stake in Ecopetrol, worth about $3.6 billion. Bayón said such a sale could take as long as two years to complete, and in the interim the company is generating value for the government. "I don't think there's a need right now to do the sale," Bayón said in an interview in New York. [Editor's note: See related **Q&A** in the Feb. 11 issue of the daily Latin America Advisor.]

POLITICAL NEWS

Trump Pressures GOP Over Border Emergency Vote

U.S. President Donald Trump on Wednesday urged Republican Party rebels not to support legislation rejecting his invocation of emergency powers for funding more wall construction on the U.S. border with Mexico, Agence France-Presse reported. "Stay United!" Trump tweeted ahead of a Senate vote in which four Republicans are expected to break ranks and join Democrats in blocking Trump's controversial measure. According to some lawmakers, Trump exceeded his authority when he invoked special powers to override congressional opposition to funding for extra border wall construction. However, Trump has said he will respond with a veto, which Democrats likely will not garner enough votes to override. Meanwhile, lawmakers dissected Trump's immigration policies on Wednesday during a contentious hearing, The Hill reported. Republicans saw the venue as an opening to back the president's belief that conditions at the southern border are an emergency, while Democrats asserted that Trump's policies have made border conditions worse. A series of government reports have revealed the chaos and confusion that ensued when the Trump administration's "zero tolerance" policy was rolled out, CNN reported. A Health and Human Services inspector general report, for example, has found that thousands more children had been separated from parents than previously acknowledged. The exact figure is uncertain because there was no system to track them. U.S. Homeland Security Secretary Kirstjen Nielsen said the United States is on track to apprehend 900,000 undocumented immigrants at the southern border this year. Meanwhile, in a surprising turn under leftist President Andrés Manuel López Obrador, Mexican authorities have in some aspects been collaborating with the Trump administration on immigration policy, The New York Times reported last week. Mexican authorities have been blocking migrants at border towns, refusing to allow them onto international bridges, intercepting unaccompanied minors and helping to manage lists of asylum seekers on behalf of the U.S. authorities to limit the number of people crossing the border, according to the report. Breaking with past practice, Mexico's government has also allowed the United States to send more than 120 men, women and children back to Tijuana while they await decisions on their asylum applications.

U.S. Warns Banks Against Commerce With Venezuela

U.S. National Security Advisor John Bolton on Wednesday issued a statement warning banks and financial services companies against conducting transactions with Venezuela under embattled President Nicolás Maduro. "The United States is putting foreign financial institutions on notice that they will face sanctions for being involved in facilitating illegitimate transactions that benefit Nicolas Maduro and his corrupt network," the statement read. "We will not allow Maduro to steal the wealth of the Venezuelan people." Sanctions levied by the United States in recent weeks have been increasingly constricting Venezuela's already struggling oil and gas sector. Meanwhile, Maduro on Wednesday declared Germany's envoy to Caracas persona non grata and gave Amb. Daniel Kriener 48 hours to leave, accusing

NEWS BRIEFS

Mexican Central Bank in Talks with Retailers Over Mobile Payment System

Mexico's central bank is in talks with retailer Amazon.com to launch a new government-backed mobile payment system that would allow consumers to pay for online purchases using QR codes, Reuters reported Wednesday. The bank's head of payments, Jaime Cortina, told the news service that Argentina-based rival MercadoLibre had also approached the bank about adopting the system. Mexico hopes the payment system, known as CoDi, will bring more people into the formal financial sector.

Bolsonaro Unleashes Wave of Criticism Over Tweet

Foes and allies alike condemned Brazilian President Jair Bolsonaro on Wednesday for tweeting an obscene video of carnival revelers that he apparently intended as a sort of culture war shaming tactic, Folha de S.Paulo reported. Congressional allies fear the tweet, which prompted some opponents to call for his resignation, could diminish the newly elected leader's clout amid contentious negotiations over pension reform. With fewer than 100 days in office, Bolsonaro has only a 39 percent approval rating, according to a recent CNT poll.

Peru Rejects Chile's Effort to End Pisco Dispute

Peruvian Minister of Culture Rogers Valencia on Monday rejected a proposal from neighboring Chile to end their dispute over the appellation of pisco, a liquor made from grapes, BBC News reported. "It's a position that we will not accept because pisco is Peruvian," he said. Chilean Agriculture Minister Antonio Walker recently proposed recognizing both countries as producers of pisco in international markets, citing millions of dollars both producers spend in legal fees over the dispute.

him of meddling, BBC News reported. Kriener was among a group of foreign diplomats who greeted opposition leader Juan Guaidó upon his return to Venezuela on Monday. Germany, which recognizes Guaidó as interim president, says the decision will only escalate tensions. Guaidó countered the expulsion by saying his government supports Kriener. "The Ambassador of the Republic of Germany in Venezuela, Daniel Kriener, has our total support and recognition," Guaidó tweeted on Wednesday. In a separate development, Maduro's government arrested U.S. journalist Cody Weddle and his Venezuelan colleague on Wednesday morning, later releasing them. Both Maduro and Guaidó have called on their supporters to march in the streets on Saturday.

ECONOMIC NEWS

Argentine Teachers Stage 72-Hour National Strike

A 72-hour teachers' strike starting Wednesday delayed the start of a new school year for many Argentine students, Reuters reported. Only six of the country's 24 provinces began classes on time. "We are starting this year's classes in the streets, to demand dignified salaries," teachers' union official Eduardo López told local radio. Teachers marched outside schools holding signs calling for salaries that keep up with the South American country's persistently high inflation, among other demands. In the province of Buenos Aires, the largest school district in the country, Governor María Eugenia Vidal said 38 percent of teachers joined the strike, while union leaders said the figure was closer to 90 percent. According to the central bank's monthly survey in February, the median expectation for 2019 inflation rose sharply to 31.9 percent, with expectations for next year rising as well, to 20.3 percent. Teachers received a 32 percent raise in 2018 and want an additional 16 percent increase before negotiating their 2019 contract, according to Reuters. The strike comes ahead of national elections scheduled in October. Voter sentiment on the economy and the pro-market policies of President Mauricio Macri will likely play a major role at the polls, analysts say. [Editor's note: See related **Q&A** on in the Feb. 19 issue of the daily Latin America Advisor.]

U.S. Backs Off Most Extreme Threats to Tighten Cuba Policy

The United States on Monday backed away from a threat to allow Cuban exiles to file suit in U.S. courts against foreign companies operating in Cuba, Agence France-Presse reported. Instead of the sweeping action some had feared (and others hoped for), the Trump Administration will limit legal action to certain Cuban entities only. The European Union, a major source of foreign investment in Cuba, rose up in opposition to the move at a sensitive time for the United States diplomatically, with a coalition to put pressure on Venezuelan strongman Nicolás Maduro potentially at risk. State Department officials acknowledged Europe's concerns were taken into account in reaching Monday's decision, according to the report. U.S. Secretary of State Mike Pompeo announced that some suits would be allowed for the first time under Helms-Burton's Title III starting March 19, but they would be limited to Cuban enterprises controlled at least in part by the military, the intelligence services or security forces. "It is not intended to affect European companies that are currently doing business in Cuba," a State Department official said. "You can sue the Cuban entity or the Cuban sub-entity. This action does not authorize the suit of a European or Japanese or any other company in some other country," the official added. Attorneys at Hunton Andrews Kurth told clients in an email alert that Monday's less-extreme measures should not be seen as the end of the matter. "The Trump administration is actively considering allowing lawsuits under Title III of the Helms-Burton Act," the firm said. The suspension of the Helms-Burton provision for all other suits is valid only for a month, until April 17, so that the new policy's impact can be assessed and "changes made if necessary," according to officials.

FEATURED Q&A / Continued from page 3

gal representation for Venezuela's interests in the United States and was granted with a favorable decision from a U.S. District Court. However, Maduro's representatives have objected to the decision. In the past, similar situations occurred after the Chinese Revolution, and more recently, after Gen. Manuel Noriega's coup in Panama. In both cases, U.S.-based banks refused to render assets to China's Communist Party and to the Noriega regime, and also in both cases, the unrecognized governments brought action against the banks. To decide who would be entitled to represent such countries, U.S. courts deferred to the U.S. executive branch. U.S. courts consistently ruled in favor of the government recognized by the executive. However, while the tug-of-war over control of the assets is settled, this may severely affect all commercial dealings of the companies."

A **Christina P. Maccio, partner at DLA Piper:** "First, there are not two Citgo boards, and Juan Guaidó is not an opposition leader, but rather the interim president. At least 50 countries have recognized him as the only legitimate president of Venezuela. The United States' recognition of Guaidó has far-reaching implications within the U.S. legal system, especially as it relates to Citgo. Under U.S. law, there is only one board that oversees Citgo: the board appointed by Guaidó. While Maduro has threatened a protracted legal battle over control of Citgo, under U.S. legal precedent, there is little probability of success that the Maduro regime or his appointed PDVSA board will be able to successfully assert a legal challenge in the United States. Indeed, under U.S. legal precedent, neither Maduro nor his appointees would have standing to be heard in U.S. court. This leaves the question of PDVSA. The Venezuelan National Assembly and President Guaidó have appointed a PDVSA board. While it is true that there is a struggle for control over PDVSA within the borders of Venezuela, U.S. sanctions seek to deprive the Maduro regime of funds and to isolate it financially. In light of this reality, it is imperative that creditors and counterparties of PDVSA consult with experienced sanctions and commercial counsel for guidance."

A **Juan Pablo Fuentes, economist at Moody's Analytics:** "On Feb. 13, Venezuela's National Assembly named new board members for PDVSA and for PDVSA's U.S.-based subsidiaries; PDV Holding, Citgo Holding and Citgo Petroleum Corporation. The sole objective of this action was to allow interim president Juan Guaidó complete control of Citgo operations in the United States. According to an official release by Citgo, dated Feb. 22, the new board has effectively taken control of Citgo operations. Furthermore, according to press reports, former board members and top executives loyal to Nicolás Maduro—including former chief executive officer Asdrúbal Chávez—have been cut off from the company. With a new board in place, Citgo will now be allowed to operate freely in the United States despite the current strict oil sanctions against the Maduro regime. Citgo's main refineries will still need to find new sources of crude oil, which might cause partial short-term disruptions. For the Maduro regime, the takeover of Citgo operations by Guaidó represents a hard blow. Citgo has been a main source of cash for Maduro amid PDVSA's dire financial situation. Without access to Citgo-generated cash, PDVSA's financial situation becomes even more critical. The appointment of an ad-hoc PDVSA board by the National Assembly was never intended to produce a takeover of PDVSA operations in Venezuela. The struggling oil company remains firmly controlled by the Maduro regime. Yet in the eyes of the U.S. legal system, the new PDVSA board has full authority to name new PDV Holding and Citgo boards—based on the Trump administration's recognition of Guaidó as Venezuela's president."

LATIN AMERICA ENERGY ADVISOR
is published weekly by the Inter-American Dialogue
Copyright © 2019

Erik Brand
Publisher
ebrand@thedialogue.org

Gene Kuleta
Editor
gkuleta@thedialogue.org

Anastasia Chacón González
Reporter
achacon@thedialogue.org

Latin America Energy Advisor is published weekly, with the exception of some major U.S. holidays, by the Inter-American Dialogue
1155 15th Street NW, Suite 800
Washington, DC 20005 **Phone:** 202-822-9002
www.thedialogue.org
ISSN 2163-7962

Subscription Inquiries are welcomed at
ebrand@thedialogue.org